
WHY ARE Court Performance Measures IMPORTANT TO ATTORNEYS?

By Chad C. Schmucker and Jennifer Warner



Have you ever showed up on time for a court hearing with a nervous client, who could barely afford your services, only to wait in the hallway for an hour-and-a-half before your case was called? Have you ever had a client who wanted to get on with his or her life, but couldn't until the judgment of divorce came through? Have you ever prepared for trial and subpoenaed your witnesses only to have the trial rescheduled at the last minute?

If any of these things has ever happened to you, then court performance measures may help you and your court.

"Measuring" Justice

When we talk about performance measures, judges and attorneys sometimes ask, "Can justice really be measured?" No, we can't measure justice. Justice can't be quantified, and reasonable people can disagree on what justice is.

While we can't measure justice, however, we can measure court activities that advance or hinder justice. There are fundamental principles all judges, attorneys, and the public would

FAST FACTS:

- There are fundamental principles that are important to our judicial system—and some of them *can* be measured.
- The 10 CourTools, established by the National Center for State Courts, are being used in various ways in courts across Michigan to help determine whether court customers, including attorneys, are satisfied and whether the courts are operating in an effective, efficient, and productive manner.
- In March 2012, the State Court Administrative Office launched a new initiative: “Courts Working Smarter for a Better Michigan.”

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Performance measures have already been developed to gauge access to justice, expedition and timeliness of cases, the independence and accountability of the judiciary, and the public’s trust and confidence in the judiciary. And all these areas affect an attorney’s ability to practice.

Performance measures are not a new idea. The State Court Administrative Office first had a task force looking at performance measures in January 1998. The task force reviewed 68 performance measures that were developed by the United States Department of Justice. Then in 2005, the National Center for State Courts (NCSC) took those 68 measures and distilled them into 10 CourTools.¹

The CourTools, along with numerous other measurements, are being used in varying degrees in courts across Michigan. They are used to determine whether court customers, including attorneys, are satisfied and if the court is operating in an effective, efficient, and productive manner. In essence, they can measure if a court is working smarter.

In fact, in March 2012, the State Court Administrative Office launched a new initiative: “Courts Working Smarter for a Better Michigan.”² This initiative is an opportunity for courts to identify performance issues, set goals, and improve performance. It also recognizes the high expectations the public and bar have for the judiciary.

The initiative began with identifying important performance measures and will continue by implementing those measures, providing them to the bar and the public, and refining the measures and goals on an ongoing basis.

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Time is Money

Getting back to the questions presented at the beginning of this article, almost every attorney has waited in court for a hearing to begin either at an additional cost to the client (if paid by the hour) or an additional cost to themselves (if working on a set fee).

Several performance measures are available to help courts determine whether hearings start on time, how frequently trials are rescheduled, and how long patrons wait at the counter for service. The first step in reducing these types of delays is knowing how frequently they occur—and then assessing why they occur.

Your clients want to know how long lawsuits are going to take. While you may have a good handle on time frames in a court where you practice regularly, what happens when you step away from that court and head into new territory? If the new territory is a court that provides rates for time to disposition, then you have the ability to see if the court resolves the majority of its cases within the time guidelines and can advise your client accordingly.

In addition, accurate court records are vital for an attorney to do his or her job. Could you imagine getting a copy of a legal file for appellate purposes, only to find that the file is missing key documents or contains information that should not be in a court file? The NCSC has developed a means to measure the reliability and integrity of court files. A court that regularly reviews the reliability and integrity of its files can identify systematic areas of concern and ensure they are corrected—before you are holding a legal file that is missing critical information for an appeal.

Last, but perhaps most important, courts can measure performance through customer satisfaction surveys. These surveys allow court users, including attorneys, to rank courts in several areas. NCSC’s CourTool on Access and Fairness³ allows users to grade courts on a scale of one to five (one being strongly disagree and five being strongly agree) on a variety of statements designed to measure access to the courthouse and fairness. The following are some examples:

- I felt safe in the courthouse.
- The court made reasonable efforts to remove physical and language barriers to service.
- I was able to get my court business done in a reasonable amount of time.

- Court staff paid attention to my needs.
- I was treated with courtesy and respect.
- The way my case was handled was fair.
- The judge listened to my side of the story before he or she made a decision.
- I was treated the same as everyone else.
- As I left the court, I knew what to do next about my case.

As you can see, the survey allows courts to measure how well they are serving the public and bar. Survey results can be used by a court to identify areas in which performance needs to improve and validate that a court is providing high-quality service to the public.

Various courts throughout Michigan have already implemented these customer satisfaction surveys.⁴

Conclusion

The first step in improving performance is being aware of current performance. Accordingly, performance measurement has made its way across the private sector and into the public sector.

“Courts Working Smarter for a Better Michigan” is an initiative that recognizes the importance of measuring performance and providing the results to the public and bar. High-performing courts benefit the public, litigants, and attorneys.

As Michigan courts continue to work on their performance measures, take some time to let your court know what measures are important to you and your fellow attorneys. ■



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FOOTNOTES

1. National Center for State Courts, *CourTools*, available at <http://www.courttools.org/~media/Microsites/Files/CourTools/CourTools_Trial_Brochure.aspx>. All websites cited in this article were accessed October 1, 2012.
2. Michigan Courts, *Performance Measures* <<http://courts.michigan.gov/administration/admin/op/pages/performance-measures.aspx>>.
3. National Center for State Courts, *CourTools: Access and Fairness*, available at <http://www.courttools.org/~media/Microsites/Files/CourTools/courttools_Trial_measure1_access_and_fairness.aspx>.
4. See, e.g., Wayne County Probate Court <<http://wcpcc.us/>>; Kent County Dashboard, *Circuit Court CourTools* <http://www.accesskent.com/YourGovernment/CountyAdministrator/Dashboard/cc_access.htm>.

