# Evidence-Based Management for Tomorrow's Successful Court Leader

Janet G. Cornell, Court Consultant, Former Court Administrator, Scottsdale City Court, Arizona

**May 2014**



*It is increasingly important for court leaders to use performance measures. It requires strong leadership, risk tolerance, and comfort with change.*

There is a hunger for performance data and sound evidence in the private and public sectors, and progressively more in our courts. There is value in using an orderly, diagnostic, and methodical approach to administer all court operations.

*Evidence-based management* grew in the health-care industry to base medical decisions on solid evidence and knowledge. *Business analytics* are common in the private sector. It is a process whereby CEOs, CFOs, and companies interpret data for business decisions. Other terms include *big data*, *business intelligence*, *results oriented*, *scorecards*, and *dashboards.*

Leaders who are serious about using performance data address these questions (Ibarra, 2013): What is the current level of performance? Are we performing better this year than last? If so, where, and what are the reasons? If not, where are the problems, and why? What are other agencies doing to promote high performance? How can we use this information to continually improve our performance? How can we move our organization from the "we've-always-done-it-that-way" to a "there-is-no-box" way of thinking?

Sound intimidating? You bet it does! However, in recent years, courts have increased their use of performance metrics. Court managers have justified budgets, resources, and grants; explained program operations; and documented program outcomes.

Virtually all the programs profiled in past editions of *Trends in State Courts* required some type of performance information. The NCSC Web site, under performance measures, indicates the varied measurement areas courts can use.

| Court·Performance·Areas¤ |
|---|
| *High-Performance·Court·Framework·¶*<br>*CourTools¶*<br>Court·culture·assessment¶<br>Workload·and·workflow·assessment·¶<br>Case-processing-time·standards·<br>Statistical·reporting¤ |

Indeed, courts have used performance measures for several decades. In the past, data included aggregate numbers of case filings and adjudications. That no longer satisfies the funders or court leaders; the aggregations do little to inform readers about the actual workload or to facilitate accurate analysis of cause and effect. Today, courts continue to work on governance, collaboration, and justice system partnerships. We need performance measures that demonstrate transparency, accessibility, and accountability.

Court performance measures explain operations, substantiate budget and grant requests, and explain the roll out of innovative programs. Documenting and disseminating these metrics broadly for court users and funders constitute an expanded use of data, one that has become more public in recent years. These metrics also present an opportunity for court leaders to be change agents and risk takers.

Why is it difficult to implement and use court performance measures? According to "Why Do So Many Governments Resist Benchmarking" (2013), government agencies resist institutionalizing metrics and benchmarking due to a several factors. Leaders may fears that information disclosure will create comparisons that may pit one entity against another, or that one may not stack up well under the microscope, with unfair perceptions resulting. There is the challenge of data-definition consistency (although differences in actual business operations may explain it) and differences in how something is benchmarked. And there is the time and actual expense for creating agreed-upon comparison measures.

These reasons are also prominent in the court. Add to them the challenge of defining and explaining exactly what a court does, the politically and fiscally charged environment, and the need for judicial and administrative support for publishing and using performance measures.

Why is strong leadership important? Consider the traits of leaders, risk takers, and change agents. All of these traits are needed to implement and sustain performance metrics. A strong leader dedicated to using court performance metrics will demonstrate not only leadership skills, but also full awareness of the risk involved in urging for performance metrics.

| Leadership Traits | Risk-Taking Traits | Change-Agent Traits |
|---|---|---|
| • Honesty | • Controls destiny | • Challenges status quo |
| • Communication | • Makes discoveries | • Calm in adversity |
| • Sense of humor | • Goal driven | • Reflects |
| • Confidence | • Achievement oriented | • Open to learning |
| • Commitment | • Big picture view | • Non-defensive |
| • Positivity | • Scans environment | • Has a vision |
| • Creativity | • Conceptual thinker | • Shows courage |
| • Intuition | • Recognizes patterns | • Takes bold action |
| • Inspirational<br>*Adapted from Prive, 2012.* | • Applies experience *Adapted from Faqs.org, 2014, and Yell, 2013-13* | • Uses teams<br>*Adapted from Johnson, 2013, and Welch and Welch,* |

**"All change in history, all advance, comes from nonconformity. If there had been no troublemakers, no dissenters, we should still be living in caves."**
**Historian A. J. P. Taylor**

Court leaders need to be prepared when using court performance measures. They need to be knowledgeable on what the data are displaying; be skilled in discussing it, even when it is not so positive; and avoid being defensive. One good example is the publication of the cost per court case. If the cost increases after initial publication, this could create questions about why the court could not control the cost. The court manager must be adept at examining reasons while explaining the purposes of the court.

The reality is that leaders do not always have all the answers. They are torn between ensuring stability in current operations while moving the organization forward, which causes instability and involves risk and change. We know that courts are currently faced with fiscal scrutiny and a highly political environment that needs a succinct message about what courts do.

Hon. Kevin S. Burke (2012) asserts that courts desperately need risk-taking leaders who do not fear failure. Why should a court leader take this risk? Evidence-based decision making creates credibility. The *Harvard Business Review* notes that a sure way to gain influence is to be a trailblazer and to translate complex information into an understandable message (Mikes, Hall, and Millo, 2013). It is good business practice to have a deep knowledge of the work, its volumes, and outcomes. There are benefits if the leader has evidence and data and can clearly articulate the court's accomplishments.

So what are the benefits of using analytics? Courts collect abundant data (analytics) in many areas of court operations. Some reasons for broad and comprehensive use of performance data include:

> The use of metrics and data creates a legacy of transformation as individuals become accustomed to analyzing operations for continued improvement. This establishes an expectation of regular self (organization)-assessment.

> It provides documentation for the responsible expenditure of public funds. And, data driven decisions drive smarter decision-making. Documenting and publishing data supports transparency, accountability and credibility.

> More importantly, using performance data demonstrates results-based government and striving for the best informed outcomes based upon evidence (Miller and Dolan, 2012).

Governments have touted benefits of using performance metrics, including focus on improvement rather than reduction in government size; data comparison as the first of many steps in evaluating performance; emphasis on program evaluation, not simply targeting weak areas; and strong employee engagement in data production and use, which ultimately benefits the organization (see "Why Do So Many Governments Resist Benchmarking," 2013).

The expected results of using court performance measures include:

1. Interest and support from the funding agency and local government leaders for regular updates using the data, indicating an increased interest in and understanding of the business of the court;
2. Availability of performance data to understand the work of the court and to talk realistically about the court business;
3. Greater data accessibility to leaders and decision makers, internally and externally to the court, about the court's workload and work products; and
4. Increased confidence in court operation and its management, which is particularly useful in tight fiscal times.

Courts use data for reengineering, to tell the courts' story, to justify new programs and explain resource utilization, and to document accomplishments. Courts commonly produce aggregate data, but it does not always truly paint the picture of court business.

In 2010 Scottsdale (Arizona) City Court leadership encountered funding-agency criticism that the court was not leading change needed for fiscal cuts. The court was necessarily subtle in promoting itself and talking about the importance of its work.
Presentations on the *CourTools* measures were given to the city council and citizen budget commission. Court credibility resulted and the environment changed. The court published metrics indicating work volumes and results and *CourTools* measures.
Performance measures were used in the court budget documents and the annual report. Council members supported ongoing data sharing. Using metrics to talk about court operations made the difference.

The Lubbock County Judicial Branch in Texas has used *CourTools* since 2005, with success and recognition for its balanced scorecard of performance measures. It garnered positive comments about increased accountability and laid the foundation for strategic action to make improvements.

Beyond these two examples, other trial courts in Arizona, Illinois, Indiana, Maryland, Michigan, Minnesota, Missouri, Texas, Utah, and Washington State are using and publishing court performance measures. All are good models to emulate.

How does one get started in using performance measures? There are models for courts to consider if they are going to use evidence-based management and court-based performance metrics. The *CourTools* and *High Performance Court Framework* concepts are a starting point. Checking with other courts that use performance measures is another. The NCSC Web site includes examples of metrics, which may be models to jump start the work. Finally, there is merit in taking a risk and establishing new ways of measuring. This may mean creating new ways of talking about the work that a court does, or finding innovative ways of displaying information. Examples include counting the number of services provided for litigants ("touch points," or instances of direct contacts), conducting an operational task inventory, or compiling data in a "dis- aggregated" fashion for a clearer picture of work volumes. Courts that have boldly expanded their use of court-based performance metrics have reported positive reactions from funders and the public.

Court leaders who have deployed counting and performance mechanisms have noted these lessons:

- ✓ Be willing to start small and start somewhere—use a sampling or pilot process;
- ✓ Clearly define the data to be collected and ensure that data acquired and published are what was intended and useful;
- ✓ Evaluate whether resources are sufficient to both execute sustain production of the data;
- ✓ Review other court Web sites to determine the types of data published (learn from them);
- ✓ Determine which measures are important and vital, and which will best tell the court's story, for resources or for informing the public;
- ✓ Continually review and refine metrics to ensure they actually measure performance;
- ✓ Openly share performance metrics with court staff and court users; and
- ✓ Use performance measures and data for public or media inquiries.

Finally, it is suggested that court managers consider these elements when the court either begins counting or expands upon what may already be in place:

What *key performance areas* or categories are important to the court?

Are there *ways and methods to capture* a count for a certain measure? Can the counting mechanisms really be created to produce the measures? What is already in place? What needs to be created?

What *process or forum is required* to make real use of the data? Is it regular management

meetings for review and discussion? Is it regular publication of a report or document?

What is *needed by the funding body*? How can we turn bland statistics into a good story and tailor it for the audience? In what ways can performance measures encourage dialogue about the court role?

It is valuable and rewarding for a court to have a "statistical presence" and to be outcome driven. Court leaders who create and use performance measures, should maximize use of all types of data. Those who publish and share data demonstrate thorough knowledge of court operations, show strong leadership, tolerate risk, establish credibility, and promote change. This results in visibility about the important work that a court does every day. This should be the goal of a strong court leader.

*Reports are part of the National Center for State Courts' "Report on Trends in State Courts" and "Future Trends in State Courts" series. Opinions herein are those of the authors, not necessarily of the National Center for State Courts.*

## References

Burke, K. S. (2012). "Leadership Without Fear." In C. R. Flango, A. M. McDowell, D. W. Saunders, N. E. Sydow, C. F. Campbell, and N. Kauder (eds.), *Future Trends in State Courts 2012,* pp. 14-19. Williamsburg, VA: National Center for State Courts.

Conference of State Court Administrators (2008). "White Paper on Promoting a Culture of Accountability and Transparency: Court System Performance Measures," December. http://www.victimsofcrime.org/docs/restitution-toolkit/a6_2008-white-paper-perfmeasure.pdf?sfvrsn=2

Cornell, J. G. (2014). "Court Performance Measures: 'What You Count, Counts,' 29:1 *Court Manager* 14.

— (2012-13). "One Court Looks at Itself in the Mirror: The 'Bucket List' Project—A Low Tech Self Review," 27:4 *Court Manager* 8.

*CourtTools*, National Center for State Courts. http://www.courtools.org/Trial-Court-Performance-Measures/Reports-from-Courts.aspx

Faqs.org (2014). "Risk-Taking Behaviors," Health. www.faqs.org/health/topics/15/Risk-taking-behaviors.html

Ibarra, P. (2013). "What Is Successful Government?" Management Insights, Governing.com, September 25.

www.governing.com/columns/mgmt-insights/col-successful-government-measuring-quality-performance.html,

Johnson, C. (2013). "Are You an Agile Content Creator? 6 Traits of Change Agents," Content Marketing Institute, August 19. contentmarketinginstitute.com/2013/08/agile-content-creator-traits-change-agents

Mikes, A., M. Hall, and Y. Millo (2013) "How Experts Gain Influence," *Harvard Business Review,* July-August, pp. 3-6.

Miller, L., and R. Dolan, Jr. (2012). Government Analytics for Dummies." New York: John Wiley and Sons, 2012. www.govloop.com/profiles/blogs/government-analytics-for-dummies-a-limited-edition-ebook-from-ibm,

Prive, T. (2012). "Top 10 Qualities that Make a Great Leader," *Forbes,* December 9. www.forbes.com/sites/tanyaprive/2012/12/19/top-10-qualities-that-make-a-great-leader/,

Slayton, D. (2010). "How Are We Doing?: Using CourTools as a Dashboard for Your Court." Presentation, National Association for Court Management Annual Conference, New Orleans, July. https://nacmnet.org/sites/default/files/conferences/PastConferences/PastConferences/2 010Annual/How%20are%20We%20Doing.pdf , Lubbock, TX.

Welch, J., and S. Welch (2008). "What Change Agents Are Made Of," *Bloomburg Businessweek,* October 8. www.businessweek.com/stories/2008-10-08/what-change-agents-are-made-of

"Why Do So Many Governments Resist Benchmarking?" (2013). Smart Management, Governing.com, September. www.governing.com/columns/smart-mgmt/col-governments-resist-benchmarking.html

Yell, G. (2012-13). "Top Tips for Effective Risk Taking," *The Treasurer,* December- January, pp. 58-59. www.treasurers.org/node/8606