

Implementing Performance Management in the California Courts

October 2007

National Center for State Courts

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Overview

The California Judicial Council is actively engaged in efforts to improve access to justice for the public, equitably distribute budgetary and human resources among the courts, and promote professional and responsive court management. While every state court system's leadership wants resources to be used in an efficient manner to achieve fundamental goals, it is striking that the Council's initiatives emphasize the use of systematic information to determine and document cost-effectiveness and performance.

The Council has encouraged the development of statewide workload standards for both judges and court staff members, has linked workload levels to the state's budgetary process, and most recently directed the pilot testing of a coherent set of performance indicators in two trial courts. Taken together, California is the leader in the national effort to answer a question of vital public policy importance:

How efficiently and effectively do courts use their budget and human resources in delivering service to the public?

The purpose of this report is to highlight essential aspects of the pilot test, which are sufficiently promising to warrant expansion into additional pilot sites as a step toward establishing performance standards on a statewide basis.

The pilot test focused on *CourTools*, a set of ten performance measures developed by the National Center for State Courts. In collaboration with the Office of Court Research at the Administrative Office of the Courts, the NCSC worked with two mid-size superior courts in San Joaquin and San Mateo Counties to apply the measures. Overarching managerial implications of the pilot test are as follows:

- The measures generate useful information to manage cases in a controlled, efficient manner and to contribute to the enhancement of procedural fairness;
- The measures identify where current operations are successful in meeting desired goals as well as opportunities for improvement; and
- The application of the measures through the California Case Management System (CCMS) will require an ongoing commitment to ensuring data availability and quality.

The remainder of this report is divided into five parts. Section I reviews the rationale for performance measurement and explains how the California pilot tests fit into the national concern over court accountability.

Section II suggests what the Council might do to build on pilot efforts. In Sections III and IV, respectively, the CourTools are outlined and the results of their application in the Superior Court of San Mateo County are summarized. Section VI suggests what should be done to guide a potential statewide implementation of performance criteria.

I. Putting the Pilot Tests in Perspective

There is growing national interest in performance measurement as a means to promote effective judicial governance and accountability and, in so doing, help protect institutional independence. These objectives are well summarized in *Resolution 14, In Support of Measuring Court Performance*, adopted in April 2005 by the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA).

CCJ and COSCA call on states to “develop and test a balanced set of performance measures using the CourTools” as a model.¹ The two organizations urge this initiative “to provide the highest quality service to the public” and to meet the need “to promote a better public understanding of the judiciary’s role,” and “for performance standards and measure[s?] that provide a balanced view of court performance.” Therefore, by initiating the pilot test of the *CourTools* measures, the Judicial Council has positioned California among the states leading the way in performance measurement.

At the state level, the importance of attention given to performance is heightened by the passage of Senate Bill 56, which requires the judicial branch to report on “standards and measures that promote the fair and efficient administration of justice.”²

In response, the pilot testing of performance measures shows how the thrust of the recommendations for court improvement from the *California Trust and Confidence Survey (Survey)* can be carried out.³ Simply stated, *CourTools* provides a path for measuring the performance of all individual trial courts consistent with what *Survey* respondents think needs to be done to strengthen the trial court system. Because the *Survey* is a substantial initiative and in many ways was aligned with the pilot testing in the Superior Courts of San Mateo and San Joaquin Counties, the complementary relation between the two initiatives deserves discussion and recognition.

Just as the *CourTools* are premised on the assumption that performance checks are a desired responsibility of the courts, the *Survey* demonstrates the public’s support of this assumption. The greatest gap, according to the *Survey*, between what the California public want and what they think courts in the real world deliver, is information on performance.⁴ The public wants to know more about how courts are doing, information that *CourTools* is intended to provide.

Additionally, the analytical focus of *CourTools* comports with an essential conclusion and recommendation from the *Survey* on the level of analysis on which future performance evaluations should be made. *CourTools* is intended for use by individual

¹ Conference of Chief Justices, August 3, 2005. Accessed April 25, 2007.

<http://ccj.ncsc.dni.us/CourtAdminResolutions/resol14MeasuringCourtPerformance.html>.

² California Legislature, September 22, 2006. Accessed April 25, 2007.

http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0051-0100/sb_56_bill_20060922_chaptered.pdf.

³ *Trust and Confidence in the California Courts: A Survey of the Public and Attorneys. Part I: Findings and Recommendations*. Judicial Council of California/Administrative Office of the Courts, 2005.

⁴ *Id.*, Recommendation 1, p. 6; Recommendation 5, p. 7; and Recommendation 1, p. 33.

courts and subdivisions within a single jurisdiction. Interestingly, this framework aligns closely with a critical observation made by attorney respondents to the *Survey*. They see substantial differences in how courts perform.⁵ On the basis of this and other findings, the authors of the *Survey* recommend that performance measurement of individual courts become a focus in the future.⁶

Finally, the substance of the results from the pilot testing and the *Survey* highlight the importance of individual court assessment embodied in *CourTools*. The findings from the Superior Court of San Mateo County, for example, are not identical to the more general, statewide pattern found in the *Survey*. Whereas racial and ethnic groups have different assessments of court performance, the groups rating the San Mateo court most positively are not the same groups giving high marks statewide. And the court divisions in San Mateo receiving higher performance ratings are not the same ones rated most highly statewide. Of course, some findings are similar; for example, the value of court Web sites is viewed positively by court users in San Mateo as well as statewide. However, the initial pilot test results suggest that important variation in performance exists among courts around the state, which calls for individual court assessment to be understood fully.

Thus, the California trial courts are well situated to use the *CourTools* performance measures as one key ingredient in developing a statewide performance measurement system. The Judicial Council is in a prime position to create meaningful statewide standards and service levels for individual trial courts by implementing a standardized set of measures in a consistent manner. A clear signal from the Judicial Council regarding the direction of branchwide performance measurement now will provide an appropriate degree of certainty and the necessary lead time for the Administrative Office of the Courts (AOC) and the superior courts to put in place the data integrity, training, and technological and management systems to sustain the effort. For all these reasons, the pilot tests lead to several recommendations to maximize the benefits from *CourTools* in a cost-effective manner.

II. What Can and Should the Judicial Council Do to Build on the Pilot Tests?

Four key suggestions speak to the positive roles that the Judicial Council and the AOC can play in establishing policy direction, refining what court performance should mean in California, ensuring data quality, and clarifying how performance information is part of the ongoing, regular routine of rendering justice. They are as follows:

1. Establishing Performance Measurement as a Matter of Statewide Public Policy

Courts focus on what they know actually matters. The Judicial Council and AOC should declare performance measurement and the use of performance results as activities expected of every superior court. Just as judges and court staff members purposefully and

⁵ *Id.* at p. 18.

⁶ *Id.*, Recommendation 2, p. 3; Recommendation 4, p. 18; Recommendation 1 and 4, p. 35; A Proposed Program of Research, pp. 36-37.

deliberatively give attention to procedural events in every case, court personnel should devote time to documenting how well they treat their customers and the efficiency of case processing practices. Judicial branch leadership can assist individual courts by communicating the message that performance measurement and dissemination are integral areas of work for the state's trial court system. The message should indicate that key aspects of performance measurement are uniform, with the same indicators to be applied across all judicial bodies and subject to comparative inquiry and interpretation. With clear policy direction and well-defined steps to assess readiness, trial courts can knowledgably begin the work of performance measurement.

2. Refining the Measures of Performance

The Judicial Council and AOC should consider supporting additional pilot tests to ensure that different superior court contexts are reflected in what is being measured and how the results are used to diagnose the effectiveness of court business practices. Because performance measurement is a significant undertaking and a matter of statewide public policy, it is essential to take into account the diversity of California's communities. Lessons learned from the initial two pilots are helpful and instructive, but the Superior Courts of San Mateo and San Joaquin Counties do not capture the full spectrum of environments shaping how courts operate. Two additional pilot sites are now being considered, one in a considerably larger, primarily urban population center and one in a considerably smaller, primarily rural area. The goal is to accumulate broader experience under variable conditions to strengthen future statewide implementation of performance assessment. To facilitate receptivity by all courts, the Judicial Council and AOC should demonstrate that they are proceeding in a purposeful, well-grounded manner and are cognizant of the variation among courts.

3. Focusing on the Use of Performance Measures

The Judicial Council and AOC should work with individual superior court management teams to devise strategies for using the results of performance measurement in the most effective and meaningful manner. Establishing performance measures does not automatically ensure implementation. Performance measurement is no more self-executing than any other type of policy. However, the Judicial Council and AOC can serve as catalysts by providing training materials and programs geared to the successful use of performance results. The focus of such efforts should be on the kind of observations that performance indices can render and the types of managerial implications that flow from alternative observations. To the extent the AOC and Judicial Council show interest in and concern for how performance indicators are used, individual courts are more likely to conform to the contours of a statewide performance measurement system. The willingness to embrace performance measurement is enhanced if clear ideas and steps courts can take to use the results are articulated and discussed. For this reason, the Judicial Council and AOC should take the initiative and make education on the use of performance part of its agenda for promoting this new concept.

4. Enhancing Automated Sources of Information for Performance Measurement

The challenges of compiling data appropriate to the performance initiative should not be minimized. Encouraging and monitoring compliance with statewide data standards will be a major undertaking for the Judicial Council and AOC. This effort will require a significant staff commitment and should be accommodated in the budget.

However, a workable strategy to further develop and improve relevant data sources is already under way. The Judicial Branch Statistical Information System (JBSIS) data model provides a sound basis for much of the data required for the case flow performance measures. In addition, considerable effort is currently directed at building, testing, and refining the California Case Management System. Once deployed, the CCMS is anticipated to provide the data necessary for conducting a wide range of performance measures. Thus, California faces the question of whether to wait for full implementation of CCMS or proceed with exploring performance measurement now. Recently the state of Massachusetts faced the same question. The decision of the Massachusetts AOC was to proceed, and, having implemented statewide case flow measures, they concluded that this had been a “fruitful decision.” Work on performance measurement informed the final development of their new statewide case management system and helped ensure that the system was providing the appropriate data consistently.

Thus, leadership by the AOC and Judicial Council is central to establishing a workable, ongoing, and cost-effective court performance measurement system. These four recommendations target spheres of activities that combine statewide unity of purpose and diversity of experiences to define what should be measured and how the results can best be used.

III. What Exactly Are the *CourTools*?

Useful performance measures consist of indicators providing interpretable results both for internal management and performance assessment by a broad audience of litigants, attorneys, policymakers, and taxpayers. Too many measures blunt the focus of assessment and cloud a clear sense of the results’ importance and utility. Hence, the *CourTools* focus on ten essential areas of court operations.

Measure	Definition
1 Access and Fairness Survey	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.

IV. Results

Because the measures capture important and multifaceted aspects of court operations, the results are rich in their interpretability and provide a wide body of detailed data. As an example, results from one key measure regarding the San Mateo court are presented here. This example illustrates the kind of conclusions that can be drawn and how the results can be presented to a wide audience of judges, court staff members, the Judicial Council, policymakers, and members of the public via the Internet.

CourTools Measure 1: Access and Fairness

Definition: Ratings of court users on the court's accessibility and its treatment of customers in terms of fairness, equality, and respect.

Purpose: Many assume that "winning" or "losing" is what matters most to citizens when dealing with the courts. However, research consistently shows that positive perceptions of court experience are shaped more by court users' perceptions of how they are treated in court, and whether the court's process of making decisions seems fair. 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 and improve court management practices.

Access survey questions

1. Finding the courthouse was easy
2. The forms I needed were clear and easy to understand
3. I felt safe in the courthouse
4. The court makes reasonable efforts to remove physical and language barriers to service
5. I was able to get my court business done in a reasonable amount of time
6. Court staff paid adequate attention to my needs
7. I was treated with courtesy and respect
8. I easily found the courtroom or office I needed
9. The court's Web site was useful
10. The court's hours of operation made it easy for me to do my business

If you are a party to a legal matter and appeared before a judicial officer today, please complete the following additional questions:

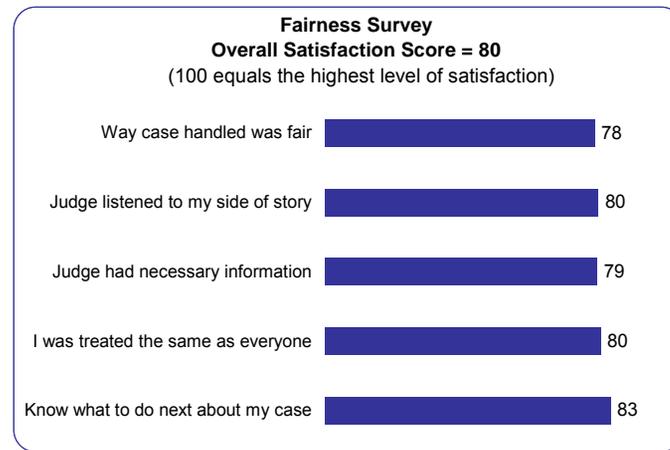
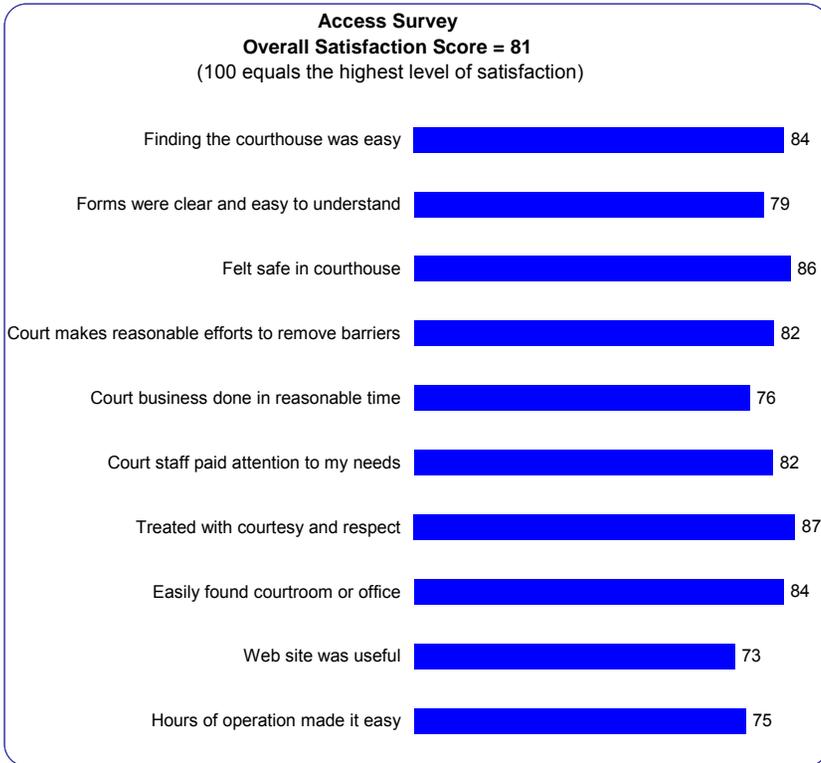
Fairness survey questions

11. The way my case was handled was fair
12. The judge listened to my side of the story before he or she made a decision
13. The judge had the information necessary to make good decisions about my case
14. I was treated the same as everyone else
15. As I leave the court, I know what to do next about my case

Everyone leaving the courthouse in each San Mateo County court location was asked to fill out a brief survey. The survey was administered throughout the county on June 14, 2006, after being pilot tested in the Northern Branch in March 2006.

- The survey was available in both English and Spanish. Respondents included people involved in all case types processed from all five court locations: Hall of Justice, Northern Branch, Annex, Central, and Juvenile.
- Of the roughly 2,500 individuals who visited the five court locations that day, 642 people completed surveys (approximately 25% response rate), and the sample appears representative.
- Each of the 15 questions has five possible responses ranging from Strongly Disagree (1) to Strongly Agree (5). The closer the average score is to "5," the more positive is the public's opinion of the court.
- To facilitate understanding of the survey results, the average responses are multiplied by 20 so that they are placed on a 100-point scale. The goal is to make it easier to comprehend the averages as well as think about them in percentage (of excellence) terms.

CourTools Measure 1: Access and Fairness Survey



• People who visit the court in San Mateo tend to have positive views of how they are treated. Whatever their reason for entering the courthouse, whether obtaining information, making a payment, or attending a hearing, the respondents indicate a high level of satisfaction.

- Overall access score: 81 percent
- Overall fairness score: 80 percent

• The survey provides court leaders with the information needed to make informed decisions and to take action where necessary to improve the quality of service delivery.

• One important distinction is whether customer concerns focus more on court processes or court personnel. In San Mateo, the judges and staff tended to be rated more highly...

- Treated with courtesy and respect
- Court staff paid attention to my needs
- Judge listened to my side of the story
- I was treated the same as everyone

...than some items related to court *processes*:

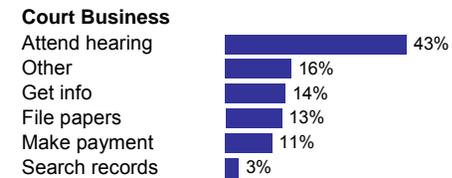
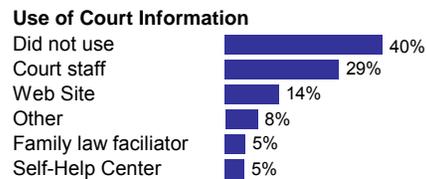
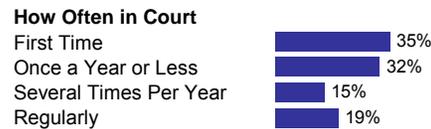
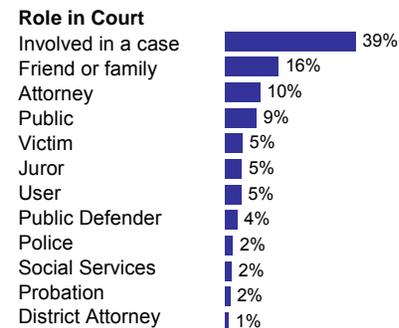
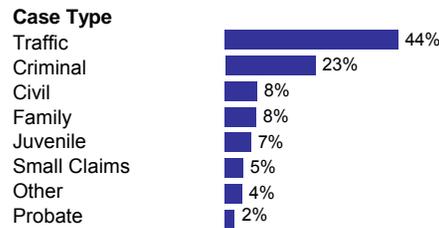
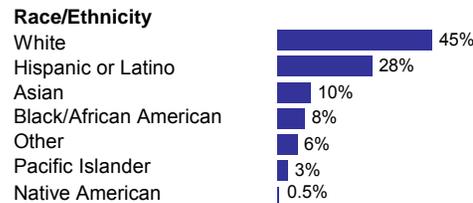
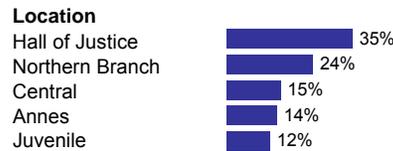
- Forms were clear and easy to understand
- Court business done in reasonable time
- Web site was useful
- Hours of operation made it easy

CourTools Measure 1: Access and Fairness

The survey results take on greater significance when important characteristics of the respondents are taken into account. Nine factors: age, location, sex, race/ethnicity, case type, role, how often in court, information sought, and court business provide a profile of who comes to court and the nature of their business. Finally, the demographics help assess whether the survey results are representative of all court customers.

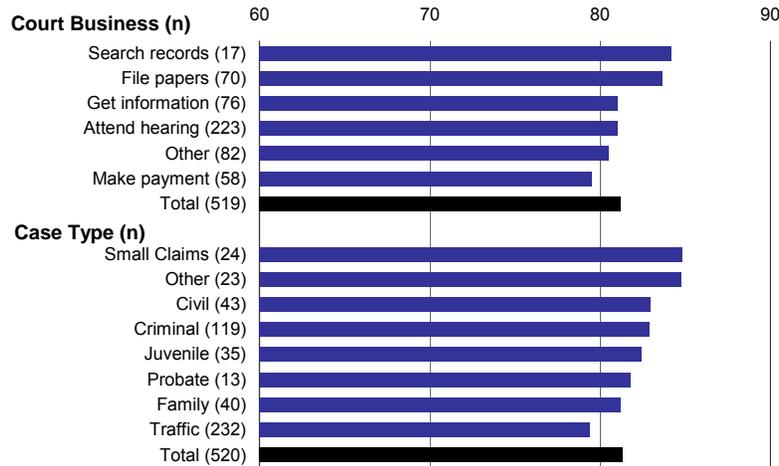
- Observations:
 - Most people visited the Hall of Justice (35%) or the Northern Branch (24%).
 - Almost three-quarters of the respondents are White (45%) or Hispanic (28%).

- Sixty-seven percent of respondents were first time visitors or attended court less than once per year.
- Forty-three percent of the visitors were in court to attend a hearing and 39 percent were involved in a case.
- Most respondents came to court due to either a Traffic case (44%) or a Criminal case (23%).
- Sixty percent of customers said that they made use of some type of information (e.g., Court Staff, Self-Help Center, Web Site, and/or the Family Law Facilitator).



CourTools Measure 1: Access and Fairness

Overall Access Score

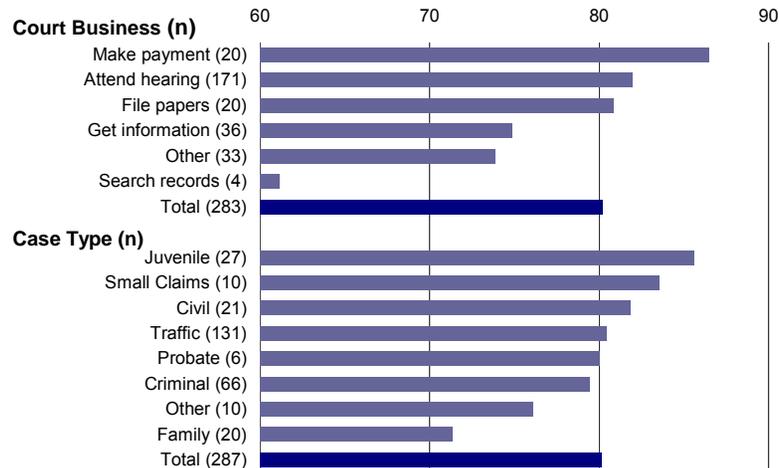


These tables show the relationships between case types and court business and Access and Fairness scores. The overall scores are the average scores for the 10 Access questions taken together and the average scores for the five Fairness questions taken together.

Access

- With respect to court business, Access scores tend to be very positive (above 80) regardless of what court business the respondent was engaged in on the day of the survey.
- Access scores, on average, are also high across the various case type divisions. The traffic division is the only area where customers rated access below 80. This finding is worthy of further inspection because of the large number of people visiting the court on traffic-related matters.
- The lowest score comes from individuals who are making a payment. The court should examine ways to streamline procedures for making payments and to reduce waiting times.

Overall Fairness Score



Fairness

- Given that only people who had appeared before a judicial officer were asked to complete the Fairness section of the survey, the vast majority of respondents who answered these questions indicated they were in court to attend a hearing. These people had very positive views of the court (above 80).
- Nearly 70 percent of people completing the Fairness section of the survey were involved in a Criminal or Traffic case. Both groups rated the court positively in terms of fairness with average scores of approximately 80.
- Individuals attending a hearing in family court were least satisfied in terms of fairness and suggest further investigation and follow-up action by the court.

CourTools Measure 1: Access and Fairness

Average Scores by Court Location

Survey Question	Average Scores					
	Northern (n = 144)	Central (n = 94)	Annex (n = 86)	Hall of Justice (n = 210)	Juvenile (n = 78)	Total (n = 642)
<u>Access</u>						
1 Finding the courthouse was easy	82	87	84	86	78	84
2 Forms were clear & easy to understand	73	82	83	81	78	79
3 Felt safe in courthouse	81	88	88	87	85	86
4 Court removes barriers	80	82	84	83	81	82
5 Court business done in reasonable time	68	81	81	79	72	76
6 Court staff paid attention to my needs	73	84	86	85	81	82
7 Treated with courtesy and respect	83	87	89	86	90	87
8 Easily found courtroom or office	78	89	86	85	84	84
9 Web site was useful	74	72	72	75	70	73
10 Hours of operation made it easy	68	77	78	79	74	75
	(n = 65)	(n = 46)	(n = 44)	(n = 106)	(n = 71)	(n = 331)
<u>Fairness</u>						
11 Way case handled was fair	68	81	86	78	82	78
12 Judge listened to my side of story	74	80	87	77	82	79
13 Judge had necessary information	70	78	85	79	84	79
14 I was treated the same as everyone	68	84	86	81	83	80
15 I know what to do next about my case	75	87	84	83	86	83
Overall Access Average	76	83	83	83	79	81
Overall Fairness Average	71	82	86	80	83	80

- The results provide insight into where court customers are satisfied with the existing level of service and also targets of opportunity for change and action by the court.

- Fairness scores are high in most court locations. One very positive finding is the average score of 83 on Q15, indicating that individuals who see a judicial officer know what to do next about their case as they leave the courtroom.

- Access results show that the lowest average responses across all court locations are for:
 - timeliness in conducting business (Q5)
 - website was useful (Q9)
 - convenient hours of operation (Q10)

- These results indicate time and convenience is an issue for court users across all court locations. Overall scores of 76 on Q5, 73 on Q9, and 75 on Q10 suggest the court focus on and assess ways to ensure business is completed in reasonable time frames, takes clear advantage of the Web, and offers convenient hours of operation.

- Visiting the court is something most respondents do once a year or less. For many, finding out or remembering where to go and determining the steps required to complete a successful visit is challenging. The court might wish to explore a greater use of court staff to greet and direct those coming to the court.

V. Implications for Potential Statewide Implementation

The lessons learned from the pilot test are many and can be outlined as follows:

1. Implementation Requires Sufficient Start-up Time

Courts need time to organize their implementation team, develop a strategy, and communicate their objectives to the bench and to court employees, as well as to justice system partners and the public. A court must also be prepared to integrate the information derived from performance measurement into its management processes.

2. Data Must Be Complete and Accurate

Courts focus on what they believe actually matters. The history of workload assessment in California and other states demonstrates that courts can and will commit to improving the accuracy and consistency of data when the data is used for key decisions by policymakers at the state level. In addition, as data quality improves, the benefits of investing in education on the uses of data for management and in support materials, such as better management reports, increase.

The performance measures draw on both existing data (e.g., the measures related to case flow management, the collection of fines and fees, and the management of juries) and original data (e.g., the *Survey* information from the public and from court employees). While some court data is carefully defined and organized, most of it has not been subject to the kind of close examination that ensures accuracy. Improvements in data quality require the close collaboration of IT staff members and operations staff and managers. The CCMS by itself will not automatically correct this situation—only close attention to the data consistent with its agreed-upon role in informing management decisions ensures that it will achieve the necessary standards of technical excellence and utility.

3. Create a Sustainable System of Performance Measurement

A court executive team should demonstrate long-term commitment to the use of performance measurement to its internal and external constituencies. The ultimate value of performance measurement lies in a court's ability to measure the quality of service delivery over time and to build improved ways of doing business into regular, routine court management practices.

4. Statewide Assistance with Implementation

The AOC should guide the statewide implementation of performance measurement in the context of its ongoing efforts to improve the completeness and accuracy of trial court caseload data. The AOC should expand its program of data auditing to ensure that the data required for meaningful performance measurement is being generated at the trial court level. In addition, the AOC Office of Court Research should remain actively engaged with the CCMS development team to ensure that required data elements are clearly defined and integrated into the system.

5. Incorporate *CourTools* in Overall Response to Senate Bill 56

Initial results gathered through the pilot test shows the promising utility of *CourTools* in helping courts produce relevant information on court performance outcomes. Hence, the *CourTools* measures should be considered as part of the judicial branch response to Senate Bill 56, which requires the California courts to report on “standards and measures that promote the fair and efficient administration of justice.”

VI. Summary

The recent pilot tests of performance using *CourTools* propel the California courts toward excellence in constructing a durable and feasible means of producing clear and comprehensible information on fair, efficient, and affordable court services. Tests have uncovered challenges to and prospects for wider implementation both in California and elsewhere in other state court systems. To solidify the lessons learned for California, this report proposes an active and continued role for the Judicial Council and the AOC in the measurement of performance.