Performance Measures - Canada's Experience

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ICCLR/TIJ Ancillary Meeting – Justice Indicators

Canada's Justice System

- Responsibilities for the criminal justice system are determined by the Constitution
- Criminal law is the responsibility of the federal government
- Administration of justice is the responsibility of the provinces
- Performance measurement largely falls to provinces- each with slightly different systems, including measurement

Having data doesn’t mean it is used

- Data about the criminal justice system has been gathered in Canada for over 50 years
- Administrative data comes from and is used by the local and provincial levels, but also collected and published by Statistics Canada, which permits comparison among provinces, despite significant differences in systems
- Significant resources devoted to collection, but limited attention to communicating data effectively
- No culture, especially in courts, of using data systematically to understand trends and identify appropriate reform
- Skepticism about the data – reliability, sufficiency and credibility
- Perceptions, as well as the views of experts, tend to over ride data

Although mostly workload data, much is still useful for performance measurement

- **Policing** – crime rates, crime severity, homicides, domestic violence
- **Courts** – new and completed cases, pending cases, time to disposition, # of appearances, % of cases stayed or withdrawn, dispositions (conviction, guilty plea, not guilty, peace bond)
- **Corrections** – youth and adult sentences (community and custody), % of early release, recidivism
- **Victimization survey** every 5 years – experience of victimization, reasons for reporting (or not)

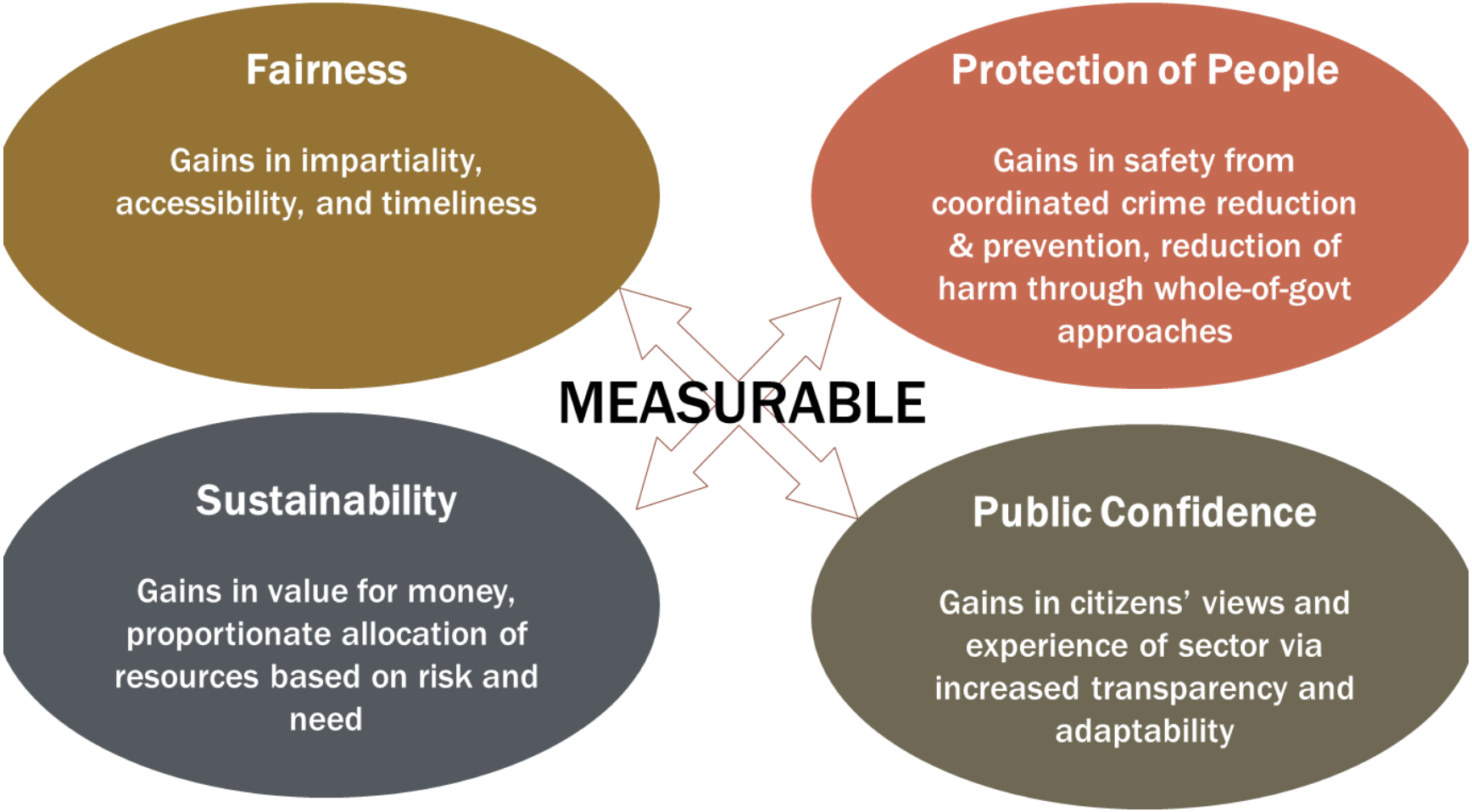
British Columbia's experience

- Efforts at performance measurement were criticized by government's internal auditors as being:
  - Too limited in scope
  - Not consistent over time
  - Unrelated to any reform strategy
  - Not used systematically
- Structure for performance measurement set by legislation
- Strategic vision for the sector informed by consultation with a broad cross section of justice representatives as well as key stakeholders

BC's Approach

- Performance measures established for entire justice system, not individual components
- Collaborative approach to identify both goals and measures – process included government and non-government participants
- Time consuming, but greater credibility
- Measures are probably more cautious than they might be if set without consultation

Vision for the Sector



Indicators

FAIRNESS

- Rates of self-representation at Provincial Criminal Court appearances

- Timely justice:
  - Judicial stay of proceedings (delay)
  - Next available date for trial in Provincial Court: criminal (adult and youth), civil and family
  - Percentage of criminal cases resolved in Provincial Court within 30/60/90 days

- Aboriginal overrepresentation
  - Remanded
  - Sentenced to custody

  As a proportion of overall intake, relative to non-Aboriginal intake

SUSTAINABLE

- No measures ready

PROTECTION OF PEOPLE

Reconviction rates

Youths receiving (a) first community sentence (b) first custody sentence, not reconvicted in BC in five years;
% of adult offenders not reconvicted in BC within two years of release;
Rate of reoffending - high-volume offenders

Road safety

Casualties involving high-risk driving/100,000
Fatalities and serious injuries /100,000

PUBLIC CONFIDENCE

No measures ready

Some conclusions for useful performance measures

- Speak to the core functions/stated objectives of the institution
- Are legitimately derived and well governed, not arbitrarily imposed
- Are maintained in a consistent form over time
- Are public, not secret
- Measures which illuminate “core values” (eg fair treatment) are rarely found in operational data
  - Without perceptual data from surveys we cannot capture people’s experience and perspectives, and this costs more than using operational data
  - Available administrative or operational data skews measures towards legal process and efficiency rather than core outcomes
- The collaborative and inclusive approach required a recognition of the multi faceted nature of the justice system and that different sectors have different priorities

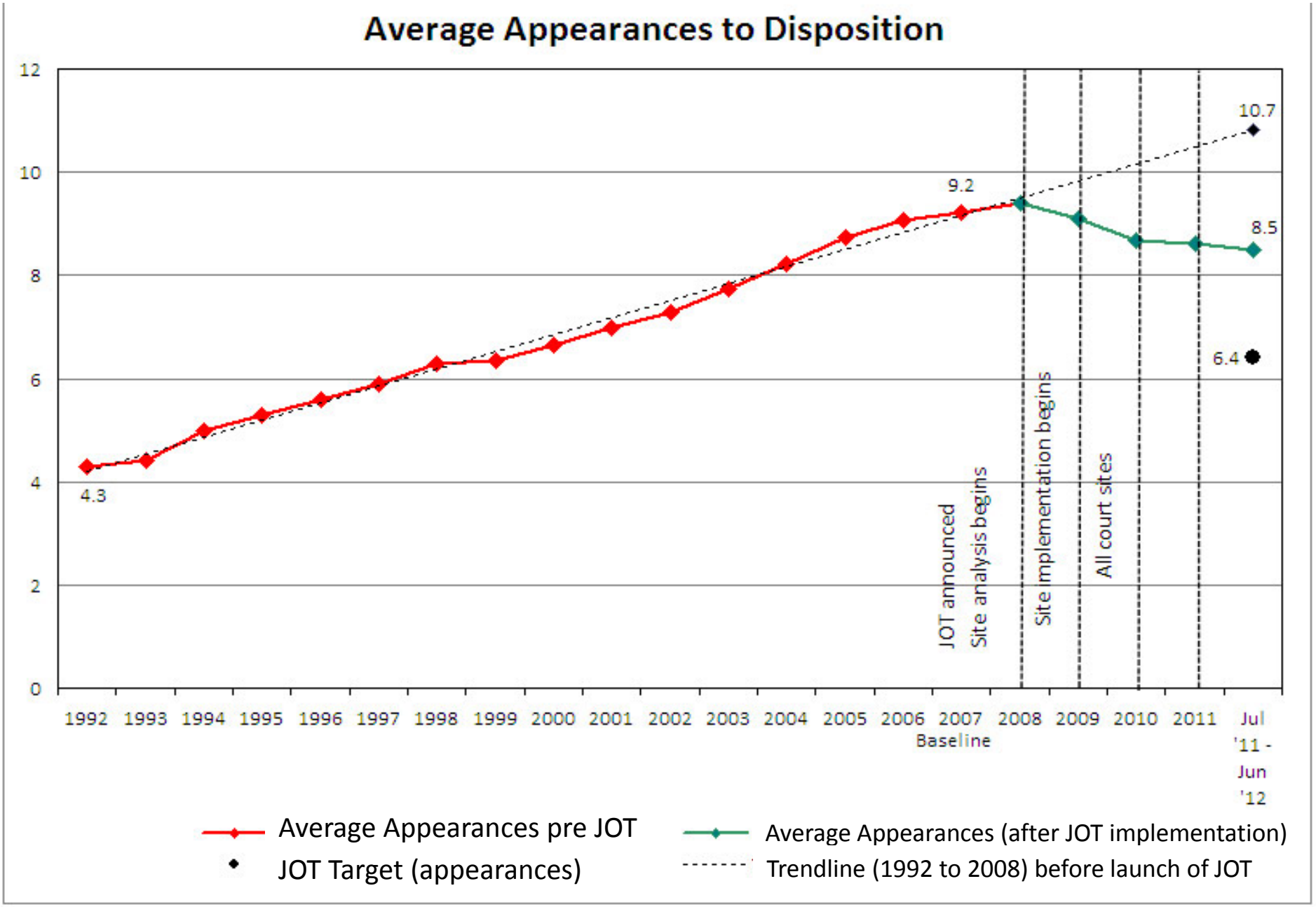
Ontario –Justice on Target

- Concern, substantiated in operational data, that criminal cases were using more court time and taking longer to complete
- The Attorney General set a target of a 30% reduction in the number of days and appearances required to dispose of cases
- Objectives:
  - Develop local processes to deal more quickly with less complex cases
  - Free up more resources to manage the most serious and complex cases in the system
  - Use data to measure progress
  - Collaborative bottom up issue identification and solution development
  - Required a culture shift

Local Implementation

- Each court location created a reform team under the leadership of the senior judge
- All parts of the justice system participated – prosecutors, defence counsel, legal aid, court services, probation, police
- Goal was to identify local problems, challenges and solutions
- Recognition that court delay was not just a judicial/court problem
- Regular review of data/progress
- Support from central team of experts

Measuring progress



Lessons Learned

- A system-wide target did not account for differences in cases and court locations
- After 4 years, moved to benchmarks for different types of cases:

Case Type	Days	Appearances
Less Complex	90	5
More Complex	240	10

Effective Strategies

- Local leadership teams that met regularly to discuss ways to improve criminal case possessing in their court location
- Regular review of data
- Support from a team of experts
- An understanding and sharing of best practices
- Governance tables with representation from all justice participants to foster collaboration and shared accountability
- Strong leadership from the judiciary, as well as champions in each stakeholder group

Conclusions

- If measures are not developed collaboratively, collaboration will still be necessary for effective implementation
- Culture change is vital – using data and indicators as a crucial part of understanding the system and potential reforms
- Indicators can be broad (ie fairness) or focused (time to trial), depending on the priorities of the jurisdiction. Both can be helpful15
- In Ontario, even though the measures – time to disposition and appearances – appeared quite limited in scope, they required the involvement of all parts of the justice system to achieve the changes
- Changes can take a long time to achieve – partly because of the need to experiment, partly because of the time required to ensure collaboration of key partner