

Justice Indicators and Criminal Justice Reform

A REFERENCE TOOL

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INTERNATIONAL CENTRE FOR
CRIMINAL LAW REFORM
AND CRIMINAL JUSTICE POLICY



THAILAND INSTITUTE OF JUSTICE



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INTRODUCTION

A credible, effective and fair justice system is a key democratic institution, a critical element of a fair and just society, and a pre-requisite for sustainable development. Significant resources are invested in justice systems, but there is surprisingly little information about their performance and whether they meet their goals and satisfy public expectations. There is even less information on the extent to which critical justice reform initiatives meet their objectives.

Technology makes it possible to digitalize, store, analyze and use administrative and other data on a very large scale and at fairly low cost. Using data to monitor, assess and improve performance is routine in both the public and private spheres, but is not so common in the field of justice. There are certainly examples of data being used to improve policing strategies, to improve court scheduling, to assign caseloads, to develop sophisticated risk assessment tools, to facilitate parole decision making, to measure cost-efficiency, and even to increase the overall accountability and transparency of the justice system. However, even among countries that have an extensive data gathering capacity, very few have managed to put this enormous capacity to the service of criminal justice reform and institution building. Developing countries, in particular, face significant obstacles in setting in place the necessary routine data gathering mechanisms to monitor some of the most basic operation of justice institutions. The availability of new technology, it turns out, is not always sufficient to generate good justice performance data.

Justice indicators can be used to summarize and communicate large amount of critical data on various aspects of the justice system. They are useful tools to evaluate performance, draw attention to issues, establish benchmarks, monitor progress, and evaluate the impact of interventions or reforms. Indicators, together with other monitoring and evaluation mechanisms, are essential to making justice institutions more transparent and accountable. They are also necessary for providing valuable feedback to policy makers and reformers.

The use of justice indicators relies on a process through which information about the justice system is collected, packaged and communicated so as to serve as a basis for learning, experimenting and decision-making within that system.

Robust justice indicators are capable of generating a virtuous feedback loop to support organizational change and reforms in systems as complex as the criminal justice system.

The need for high level justice indicators is being recognized and discussed at every level - local, national and international. Several countries have experimented with or are in the process of developing performance and outcome indicators for justice and public safety institutions. In the context of the formulation of the Post-2015 Development Goals, the question of measuring progress towards some specific governance, public safety and justice goals is very present at the international level. Cross-country comparisons have been made by assessing justice institutions against the Rule of Law Index, as part of the World Justice Project.¹ In the context of institution building and peace consolidation in conflict affected and fragile societies, the United Nations Rule of Law Indicators² provide a basis for measuring change over time and progress in aligning justice institutions with rule of law principles. Similarly, human rights indicators have advanced our ability to measure justice systems' compliance with human rights.³

Over the past decade, there have been many attempts to develop and use justice indicators. They have taken place in different contexts, were inspired by different goals, took different forms, had different scope, used various methods and were managed through different processes. As a result, our knowledge of the impact of the use of justice indicators on justice systems, their performance, efficiency, accountability, credibility and transparency, or on public safety and public confidence in justice institutions, is fragmented and incomplete. Nonetheless, a lot of experience has been gathered about the development of justice indicators and much can be learned from it. That experience provides the basis for the present tool.

The goal of this publication is to introduce criminal justice officials to the use of justice indicators and to offer some general guidance on how to develop

¹ World Justice Project (2014). *The WJP Rule of Law Index*. The WJP Rule of Law Index is intended for a broad audience of policy-makers, civil society, practitioners and academics, and aims at identifying strengths and weaknesses in each country under review and at encouraging policy choices that advance the rule of law. It is based on the perceptions and experiences of local residents and it allows for comparisons between countries.
http://worldjusticeproject.org/sites/default/files/files/wjp_rule_of_law_index_2014_report.pdf

² United Nations (2011). *The United Nations Rule of Law Indicators - Implementation Guide and Project Tools*. New York: United Nations.
http://www.un.org/en/events/peacekeepersday/2011/publications/un_rule_of_law_indicators.pdf

³ OHCHR (2014). *Human Rights Indicators - A Guide to Measurement and Implementation*. New York/Geneva: United Nations.
http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf

and apply indicators in support of criminal justice reform and capacity building initiatives. There is not a single “right way” to proceed, nor a list of “right” indicators. Rather it is a question of determining what is important for a particular country and justice system at a given point in time, what information is available or could be available to indicate how the system is performing, and how that data will be used to monitor and improve that system.

This reference tool is divided into six sections. It starts with a general section on performance measurement and justice indicators and a section on the various purposes for which such indicators can be used. This is followed by a section on the development of justice indicators and a section on the sources of data that can be tapped in so doing. A discussion follows of the ways in which criminal justice officials and policy makers can maximize the benefits of using justice indicators. The document concludes with several examples of indicators applied to the criminal justice field.

Justice Indicators

Why measure the criminal justice system’s performance?

There are many reasons for wanting to measure the overall performance of a justice system. The most obvious one is of course the need to identify areas where performance is lacking so that strategies may be devised to enhance it. As the system’s performance is affected by various internal and external factors (economic, technological, demographic, cultural, etc.), the early identification of relevant trends and the impact of these factors on the system’s performance is often crucial to its sustainability. Another reason is the need to measure over time whether justice reforms and capacity building initiatives produce their intended impact on the system and its performance. A third reason is the need for the justice system and those who are responsible for its operation to be held accountable for its performance. There is an obligation on the part of criminal justice institutions/agencies and the criminal justice system as a whole to demonstrate that they perform in accordance with their mandate and in compliance with agreed norms and standards, as well as an obligation to report fairly and accurately on the results they achieve. Finally, reporting on the system’s performance contributes to public transparency and may increase public confidence in justice institutions.

Justice indicators are needed to assess how a justice system is performing overall in terms of its efficiency, effectiveness, credibility, sustainability, and ability to maintain public confidence. They can support an important conversation within and outside the justice system on justice reforms and their impact.

Criminal justice institutions and agencies may already be gathering cost and operational data and generating statistics on their resources and activities, the main aspects of their operations and selected outputs. Much of these data and statistics may eventually prove useful in measuring, monitoring and eventually improving the performance of that system. However they are not sufficient to properly monitor the vital signs of the criminal justice system or the outcomes of its activities, and do not constitute a proper performance monitoring mechanism for the justice system as a whole.

Other tools are needed to help assess how the system is performing overall in terms of its efficiency, effectiveness, credibility, sustainability, and ability to maintain public confidence. Justice indicators can perform that function and support an important dialogue within the justice system and outside the system, with key stakeholders, on needed justice reforms and their impact. That is why there is a growing interest in developing and using such indicators, in spite of the difficulties sometimes associated with that process.

Performance measurement is key to improving justice institutions and promoting human rights and the rule of law. Justice indicators are useful tools to evaluate performance, draw attention to issues, establish benchmarks, monitor progress, and evaluate the impact of interventions or reforms. Indicators, together with other monitoring and evaluation mechanisms, are essential to providing feedback to policy makers and reformers. When made public, these indicators may contribute to the greater transparency and public accountability of the justice system.

How is performance defined?

A perfect agreement does not necessarily exist on what constitute an efficient and effective criminal justice process. Defining performance, efficiency and effectiveness in a manner that accounts for the different and independent roles of the relevant agencies and institutions is itself a challenge. Measuring anyone of these dimensions, an obvious prerequisite to successful reforms, can offer an even greater challenge.

Defining and measuring performance at the individual institutional level may be easier (e.g., police performance, judicial performance, etc.), but it fails to

account for how the performance of any given institution is affected by or affects that of the others and, ultimately, the performance of the system as a whole.

It is often said in relation to performance measurement that it is important to measure what we value, in order that we don't end up valuing only what we measure. Yet, some of the fundamental values of the justice system, such as fairness and equal access, can be difficult to measure. This is why it is critically important to understand how we might be able to measure things that give us important information about the elements of the justice system that we care about, even if we cannot measure them directly or with perfect precision.

Performance obviously needs to be defined in a context-specific manner. For that purpose, prior to any measurement exercise, a process should be in place to articulate the most relevant elements of a justice system's performance, in relation to the system's values, goals, standards, structure, and activities, and the specificity and legal basis of the justice process.



A value-based approach is what is usually proposed. We obviously want to measure what we value. But one has to recognize that many of the values held strongly within various justice institutions often compete with each other. People do not necessarily agree on the relative priorities to be accorded to the different values. For example, governments often feel very strongly about efficiency, and the effective use of scarce resources, while the defence bar and judges may be of the view that fairness is at least if not more important, and civil society organizations may be particularly concerned with equal access.

We need to recognize that a well-functioning justice system is not unidimensional. There is room in a good measurement system to measure different outcomes that are valued and expected by different people. The development of such a measurement system, however, usually starts with making these values and desired outcomes as explicit as possible and relating them to the goals and objectives of the justice system.

A criminal justice system's goals and the strategic objectives of various criminal justice reform initiatives must often also be defined by reference to applicable standards and norms, found in constitutional law and national and international human rights law. Measures of compliance with human rights and other relevant national or international standards can be built into the justice indicators.

How can the system's performance be measured?

Performance measurement has been used most frequently as a management tool for individual sectors of the justice system, whether police, prosecution, courts or corrections. There are a number of reasons for this, including the relative ease at that level of selecting measures, gathering data and developing strategies to influence performance. For example, borrowing from the private sector, some law enforcement agencies have adopted a “balanced scorecard” method of performance management through which a number of financial and non-financial measures, based on operational data, are compared to target values and reported regularly in a simple format to provide managers feedback on the operations of the agency.

Measurement at the sector level is important as we expect the leaders of justice institutions to identify the characteristics of a high performing organization, whether police, prosecution, courts, or corrections, and regularly measure their performance against some standards or benchmarks. This is obviously critical for the effective management of the sector as a whole.

While it may be easier to collect data and develop indicators for individual institutions and agencies within a justice system, it remains critical nonetheless to develop indicators to monitor the outcomes of that system as a whole and how they may be affected by various reform initiatives and other significant factors. It is completely possible – and unfortunately not unusual – that the individual parts of the system may be performing well according to their respective objectives while in some respects they still operate at cross-purposes. In the end, the system may not be achieving the results that the public expects. Just as in the old quip about the health system – “the operation was a complete success, but unfortunately the patient died” – the public, as well as the individuals who come into contact with justice system, whether as litigants, witnesses or jurors, care about the overall outcomes of the system, not just whether individuals or sectors have played their parts diligently.

Although it may be more difficult to create performance indicators for the system as a whole, this is the approach that will ultimately support justice reforms and serve the justice system the best. System-wide indicators allow us to think about and stay focused on the justice system as a whole, rather than looking only at the various relevant institutions in isolation. This is particularly critical as we come to recognize that significant justice system reform requires coordination and collaboration among the various agencies and institutions sectors in order to mitigate the effect of the potentially conflicting approaches and strategies they are respectively pursuing.

The line between an institution-specific approach and a system-wide approach to justice reforms is often blurred as we come to realize the deep interdependencies that exist within the system. For example, while we might think that the goal of timely disposition of cases is a judicial responsibility, in fact strategies for reducing time to disposition will likely have to include police (e.g. prompt investigation, submission of evidence, identification of witnesses), prosecution (e.g., timely assignment of a prosecutor, review of the file, follow-up with police and witnesses), legal aid (e.g., processing of application, assignment of a lawyer), judiciary/court services (e.g., scheduling, case management) and corrections (e.g., on time production of accused in court, on time preparation of reports).

A set of high-level indicators can be developed to measure various aspects of the justice system's performance. Criminal justice systems are complex and multi-dimensional. They involve multiple institutions, many of them constitutionally or otherwise mandated to function independently from the others. The systems' goals are equally complex and are rarely understood uniformly by all those concerned.

Performance measurement involves considering numerous dimensions of these systems. A single indicator is never sufficient to capture such complexity. For all these reasons it can be very useful to design a comprehensive set of performance indicators, based on a relatively small number of simple and unequivocal key performance indicators (KPIs).

There are only a few examples of national institutions or justice systems with a comprehensive and effective set of performance indicators. Some of these will be presented briefly in the last section of this publication.

What are justice indicators?

Indicators are indirect measures of elements that taken together can measure trends over time and progress towards specific goals and objectives. Justice indicators are high-level measures that allow the synthesis of complex information to produce easily interpreted statements relating to change over time in any of the numerous aspects of the justice system's performance. The most useful indicators of performance are typically those that can tightly link values, goals, activities and outcomes.

Key Performance Indicators

A KPI is a metric, but a metric is not always a KPI.

A KPI reflects strategic performance drivers whereas metrics may simply be the measurement of a given activity or an output.

There is no consistent and coherent framework to identify and develop justice indicators. Different approaches exist that reflect the varied objectives behind such measurement exercises. As a result, there remains a certain amount of ambiguity and scepticism about the use of quantitative indicators to measure

“To varying degrees, indicators are removed and simplified from the outcome of interest in order to make it possible to measure them easily, frequently, and at low cost. Their value lies in the fact that they are expected to correlate with the desired outcome, but the correlation is rarely perfect: changes in most indicators are fundamentally ambiguous.”

(Vera Institute of Justice, 2013)

complex concepts such as fairness, justice, integrity. Some may argue that these concepts can never be fully measured statistically, that their qualitative nature is essential and can never be reduced to a number. Others will say that it is possible to use reasonable and logical proxies for these concepts, particularly when an extended set of indicators is used to better capture their complexity.

Indicators tend to be proxies of the outcomes or concepts they measure. It is usually quite difficult to measure the outcomes of the criminal justice system directly. Indicators are developed in order to capture and summarize information about

fairly high-level concepts relating to important or desired characteristics of the criminal justice system, or the outcomes of the reforms being introduced. If they are developed carefully, they will correlate closely with the desired characteristics or outcomes.

The usefulness of justice indicators is sometimes challenged on the basis of their lack of validity or reliability. The validity of an indicator is assessed in terms of the extent to which it measures what it purports to measure. This includes the degree of agreement between a theoretical concept (e.g., transparency) and the specific measures (e.g., ease of access to public records) used as indicators of that phenomenon (i.e., construct validity), and the degree to which the indicator or set of measures represent all aspects of the phenomenon it is meant to describe (content validity).

Are there different types of indicators?

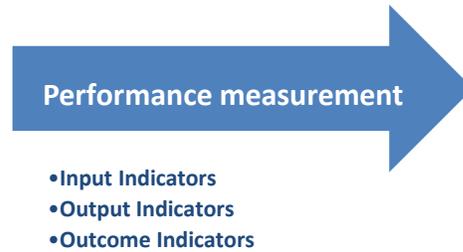
There are of course many kinds of useful justice indicators. However, it is possible to distinguish between major categories of justice indicators: outcome or strategic indicators; output indicators; and, input or activity indicators. All three types of justice indicators are relevant to performance management.

Outcome or strategic indicators can be system-wide indicators and apply to the justice and public security sector as a whole. They may also apply to national institutions, such as the police, the judiciary or the prosecution. They measure performance against the broad objectives of the justice system (e.g., public safety, public confidence, fairness, etc.). The system's *effectiveness* is the primary focus.

Output indicators measure the *efficiency* of specific institutions against their own objectives, normative standards, targets, or benchmarks.

Input indicators measure workload, activities, and the resources of specific institutions and the progress they make in the implementation of a policy, a programme, or a reform.

There are many different ways of presenting data that can be useful for the purpose of creating indicators, including: proportions, ranks, or dichotomous indicators. For example, timeliness in case disposition could be reflected in a breakdown of the percentage of cases resolved by a specific time, for example, 30 days, 90 days, 180 days, etc. The same information could be used to rank different court locations or prosecutor offices in terms of timeliness, or it could be used to determine whether those locations achieved a specified target for disposition. As well, several indicators can be combined into an index to form a single summary measure.



The most effective indicators to drive reform, as well as to measure progress towards safety and justice, are not copied from others, or imposed from the outside, but rather are system specific. The choice of indicators and how they are formulated must reflect the system in question. It preferably results from an inclusive process involving all relevant stakeholders.

Some performance measurement initiatives focus on monitoring the justice system's efficiency, including attempts to monitor the system's performance in achieving certain efficiency targets. Others focus on measuring the system's outcomes, including through the measurement of public perceptions and people's experience of the justice system.

As well, there are attempts to measure the performance of the system in relation to some of its basic values and objectives, for example, access to justice, or in relation to some normative national or international standards, for

example, human rights standards. Indicators of human rights can be useful in articulating and advancing claims on duty bearers and for formulating policies and reforms that facilitate the realization of human rights.

Finally, there are initiatives that focus on measuring progress as a result of system reform initiatives, or towards objectives such as capacity building. In these instances, the indicators and the related data collection systems are often developed either as a complement or an alternative to program evaluations.

There are numerous examples of outcome indicators to measure the performance of justice systems or their institutional components. These indicators often focus on outcomes relating to the following dimensions:

- Access to justice – social equity – regional accessibility
- Equality before and under the law - discrimination
- Public confidence – public trust and respect
- Crime reduction / prevention
- Public safety – public order – fear of crime
- Probity and integrity
- Responsiveness to change
- Sentencing, reliance on imprisonment, or prison overcrowding
- Offender accountability – reintegration – prevention of recidivism

It is neither necessary nor feasible to measure everything. Choices must be made about a set of key indicators. The choice of indicators will be dictated by the purpose to be served by the indicators, the availability of data, and the level of resources that can be dedicated to the task. While doing so, one must remember that indicators can be implemented (and measured) incrementally as an institutional capacity to measure them is developed. It may make sense to start with a few important indicators and then add to them over time as capacity develops.

A number of factors should guide the selection, development and implementation of a comprehensive set of justice indicators, including the need for clarity about the scope of the measurement exercise, a preference for actionable and dynamic indicators, and the need for stable yet flexible measures.

**CLEARLY
DEFINED
SCOPE**

The scope of the processes, decisions, outputs and outcomes to be covered by a set of indicators tends to be defined by the overall objectives of the exercise and by some practical considerations, such as the availability or accessibility of data. The depth and breadth of the factors to be covered by

the indicators needs to be determined, keeping in mind that the scope of the overall instrument can increase over time.

ACTIONABLE

Preference should be given to indicators that refer to actionable issues, that is, characteristics that can reasonably be expected to be influenced by policies, reforms, and strategic activities.

DYNAMIC

The choice of justice indicators should privilege “dynamic” indicators, that is, indicators with a demonstrated capacity to capture and reveal some of more subtle changes in outcomes and performance. Indicators are most revealing when the same measure is tracked over time, or at least against some baseline data. Successive or periodic data collection exercises make it possible to identify trends and to observe changes in various aspects of the justice system’s performance. However, in some instances, high-level indicators may not be sufficiently sensitive to short-term changes and they may need to be complemented by other sources of information.

FLEXIBLE

Measuring change over time is typically a crucial part of the exercise, but the justice system is itself constantly changing making some attempts to measure its performance obsolete. The indicators must be capable of being adapted to changing circumstances and yet remain stable enough to identify change and trends.

What characterizes a useful set of justice indicators?

Given the general purpose of performance measurement and experience to date, one may conclude that a useful set of justice indicators is one that is:

- Value-based and therefore linked to the core values of the justice system and to the relevant normative standards with which the system is expected to comply;
- Easily understood and unambiguous;
- Developed through an inclusive and consultative process, but measured or verified independently;

- Limited to a relatively small number of valid performance measures (or key performance indicators - KPIs) applied regularly, consistently and at a reasonable cost;
- Multidimensional in order to capture the complexity of the justice system and the justice process, as well as the various aspects of the system's performance;
- Composed of dynamic indicators capable of revealing subtle changes in the relatively short-term, as well as trends over longer periods of time;
- Based on measures and data that are reliable, relatively uncontroversial and validly represent, in clear terms, the justice system's expected outcomes;
- Able to offer sensible feedback to managers and policy makers involved the justice reform process;
- Able to generate findings that can readily and more or less intuitively be understood by key stakeholders, including members of the public; and
- Capable of generating or integrating the use of benchmarks and performance targets.

PURPOSE OF JUSTICE INDICATORS

Justice indicators cannot answer all of our questions and will never even come close to addressing all our information needs. They do not replace a proper assessment of the system or an impact evaluation. Their value in terms of causal analysis tends to be limited. They are only one tool in the tool bag of reformers and conscientious justice leaders.

Justice indicators can serve different purposes, many of them compatible with each other, but their purpose should always be as clear as possible. As measures of performance and accountability, they can enable worthwhile reform and effective strategic activities. However, they can also be problematic or become a useless burden on the system. This is why the purpose of the indicators and the process through which they are implemented must be carefully articulated and hopefully become the object of a consensus within the system.

There is rarely a major investment in performance measurement unless it is as part of a performance enhancement exercise. To the extent that a set of justice indicators is meant to support a particular performance improvement

strategy, it is necessary to articulate exactly how the proposed measurement system is to be linked to the performance management and improvement objectives. Similarly, to the extent that the indicators are meant to promote greater accountability for results within the system, it will be necessary to clarify where the responsibility lies for ensuring that the system generates specific outcomes.

A useful perspective is one where “justice indicators” are seen mainly as a way to monitor how the system is performing under changing circumstances, how it is facing new challenges or responding or not to our efforts to improve its performance. Indicators are particularly useful when they are “dynamic” and therefore able to measure change over time with a reasonable degree of confidence. They become even more useful when they can be related to changes observed over time through other key social indicators (e.g., economic development, urbanization, etc.).

In the right context, indicators may spur reforms. Understanding what is happening in the justice system is only the first step. Ideally, the regular measurement of justice indicators should be integrated into the reform process and some kind of strategic framework for improving the justice system (possibly at different levels). A comprehensive set of justice indicators can support the kind of integrated planning at the system-wide level that is normally required to design and implement deeper criminal justice reforms.

Jurisdictions using data to measure performance sometimes relate their indicators to specific performance targets. In addition to simply monitoring changes over time, targets are set that the system or its diverse components must seek to achieve. Another related approach involves benchmarking the performance of the system (or one of its components) either against a comparable system or in relation to a stated norm or standard. Finally, there have been attempts to use indicators as a basis for estimating the economic impact of improved performance and the cost-effectiveness of various measures, as well as attempts to link the application of performance indicators to resource allocation.

What are the benefits of linking indicators to performance targets?

It is possible to define indicators in relation to specified outcomes and efficiency targets to be achieved. The setting of performance targets is primarily a performance improvement initiative; the measurement of certain variables tends to be determined by that particular objective. A performance measurement system primarily or exclusively defined by reference to performance targets has one overall purpose: to change behaviour and direct

change in a specific direction. Targets are often set in a situation where a specific performance issue has been identified that needs to be addressed.

Performance management obviously involves a lot more than setting goals and targets and holding people accountable for achieving them. Organizational change is a complicated matter, particularly when it involves complex systems such as the criminal justice system. It raises questions of leadership, culture, incentives, communication, and capacity, among many others.

There is no doubt that indicators can support organizational change by helping monitor progress towards strategic goals, whether or not they are defined in terms of normative standards, benchmarks, or performance targets. However, it is doubtful that target setting, with or without adequate incentives, is in itself sufficient to produce improvement in organizational performance. The table below identifies some of the approach's main advantages and disadvantages.

Linking Indicators to Performance Targets

Advantages

- The approach offers an opportunity to set visionary or aspirational goals for the system
- The approach is based on clear goals that are readily understandable, both within and outside the justice system
- The goals and target statements provide a clear focus for reform efforts
- The precise nature of the targets facilitates direct measurement
- Indicators to measure progress towards targets are relatively easy to develop
- Indicators are perceived as actionable
- The approach can be motivational for people working within the system
- The approach emphasizes the responsibility and accountability of leaders and managers within the system

Disadvantages

- It can be difficult to ensure the targets are relevant to the entire sector it applies to
- It may be difficult for individual institutions or agencies to understand how they can contribute to achieving a system wide target
- It is important to ensure that the indicators are actually measuring what they are intended to measure
- There can be confusion and misinterpretation
- Individuals and agencies may get involved in "gaming" and focus on influencing the measurement rather than on improving their performance
- Efforts of one part of the justice system to meet compulsory targets may unwittingly affect the ability of other parts of the system to meet their own targets or undermine their conscientious efforts to improve their own performance

Example: Justice on Target (Ontario – Canada)

In Canada, the province of Ontario’s “Justice on Target” initiative was implemented to address concerns (substantiated in the province’s administrative data) that cases were taking longer to complete and requiring more court appearances to do so. A target was set by the provincial Minister of Justice, that there should be an overall reduction of 30% in the number of appearances and a 30% reduction in the time to complete a case. However individual court locations had various problems – some were more efficient than others - so eventually (after many years) the target was re-framed in terms of achieving, or making progress towards, completing a specific percentage of cases within a target timeframe, taking into account case complexity. Thus the target was re-framed to recognize the different circumstances – and achievements – of different locations.⁴ A system to measure and report progress towards these targets was developed. The progress is reported publicly on the Ministry of the Attorney General website.⁵

Should indicators be defined in relation to specific benchmarks?

Some justice indicators may use a benchmark as a point of reference against which change and progress can be measured. A benchmark is a reference point defined by an existing standard, a minimum requirement, the performance of another agency, or a measure of past performance.

Many governments and agencies have already instituted systems based on benchmarking (as a form of rigorous performance management, or results-based management). The use of benchmarks is particularly useful when trying to interpret the information generated by indicators. In some instances, benchmarks are set ex-post facto, as a result of the use of indicators.

The use of the level of performance achieved in one system (or organization) as a benchmark or point of comparison to assess the performance of another system brings with it some methodological challenges. Difficulties are frequently encountered in choosing suitable comparators and addressing discrepancies resulting from diverging contexts or different measurement tools.

⁴ Ministry of Attorney General of Ontario. *Benchmarks for Effective Criminal Courts*. <http://www.attorneygeneral.jus.gov.on.ca/english/jot/benchmarks.asp>

⁵ See: <http://www.attorneygeneral.jus.gov.on.ca/english/jot/achievements.asp>

Defining Indicators in Relation to Benchmarks

Advantages

- A benchmark can serve as a performance target (with the same advantages and inconveniences)
- An opportunity is created for sharing a common vocabulary regarding progress and measurement among various stakeholders
- A benchmark can provide a basis for interpreting observed variations in the indicators
- A benchmark may offer an external validation of performance rather than letting those working in the system determine what is to be considered “good enough”

Disadvantages

- It can be hard to find appropriate comparators.
- Using benchmarks from other systems or jurisdictions can create methodological or analytical confusion, especially if there are significant differences in the context and problems facing the other systems.

Are there benefits to linking indicators to resource allocation?

Another interesting question is whether justice indicators ought to be linked to resource allocation, budgeting and the overall reward structure of justice institutions. The simple idea behind such initiatives is to attempt to incentivize efforts to improve performance and, sometimes also, to penalize poor performance. The indicators, in that context, are erected as arbiters of performance. In the process an incentive is unfortunately also created for those agencies that, in competitive bids for limited resources, concentrate on influencing measured outcomes instead of improving performance. Actions are thus taken to raise the organization’s score on various indicators without any change or reform applied to the system.

However, many central government agencies and auditors advocate in favour of aligning resource allocation to performance. If anything, it could be considered an emerging but already strong trend in western countries. The idea of “paying for success” in government contracting is gaining momentum in several countries. In the U.K., for example, the funding of private prisons and probation and social reintegration services is being linked to indicators of

recidivism.⁶ Another example is provided by the RECLAIM OHIO program, a legislated performance-based funding partnership between Ohio State and local governments to expand the use of effective, cost-efficient, community-based options for lower-risk juvenile offenders and thus reduce the reliance on incarceration as the primary response to youth crime. The program provided incentive funds to state counties using a formula based on the number of youth with felony charges involved in the court system, with deductions made for each day a youth spends in a correctional institution instead of being treated through a community-based program. Simple quantitative indicators helped measure the impact and cost-effectiveness of the initiative, which is credited with having reduced the number of juvenile admissions to correctional facilities by more than 80% over a ten-year period.⁷

At the same time, however, there are also frequent complaints by justice system leaders, managers and practitioners that performance is not sufficiently reflected in resource allocation. For example, a recent OECD study revealed that many member countries reported that performance data was “less influential” during budget cuts than budget expansion.⁸

In Canada, the federal Parliamentary Budget Officer, in its 2014 *Analysis of Performance Budgeting during Recent Fiscal Consolidation*, examined whether targets were met or not and whether this affected budgets (over 3 years). It found no significant link between a department’s performance and its budget growth. It appeared that financial resources had not been reallocated from low-performing to high-performing programs. In fact, the opposite appeared to be true: low-performing programs were actually more likely to get increased funding.⁹

Are some difficulties to be anticipated with the use of indicators?

One may ask how a criminal justice system typically reacts to justice indicators and other efforts to measure and improve its performance. Three

⁶ U. K., Ministry of Justice, *Transforming Rehabilitation – A Strategy for Reform*, London, May 2013. See also: House of Commons Justice Committee (2014). *Crime Reduction Policies; A Co-ordinated Approach? – Interim report on the Government’s Transforming Rehabilitation Program*, 22th Report of Session 2013-14, London, 22 January 2014.

⁷ Department of Youth Services, State of Ohio (2013). RECLAIM OHIO. <http://www.pewtrusts.org/en/research-and-analysis/reports/0001/01/01/statelocal-partnership-in-ohio-cuts-juvenile-recidivism-costs>

⁸ Marcel, M. (2014). *Budgeting for Fiscal Space and Government Performance Beyond the Great Recession*. *OECD Journal on Budgeting*, 13 (2): 9-47.

⁹ Shaw, T. and F. Wong (2014). *Analysis of Performance Budgeting During Recent Fiscal Consolidation*. Ottawa: Office of the Parliamentary Budget Officer, August 14, 2014.

major difficulties can readily be identified based on the experience to date: (1) various forms of active resistance to efforts to measure performance; (2) facing the political, methodological, and practical challenges that threaten the maintenance of a stable and consistent measurement process; and, (3) gaming.

Resistance to the development of justice indicators can usually be expected and must be addressed. There is no perfect agreement on the usefulness of performance measurement within the justice system or on the need for system-wide performance indicators. Resistance to measurement may be a result of a general resistance to change, organizational inertia or a vested interest in maintaining the status quo. On the other hand, it may also be due to a fear of being evaluated, particularly for things that may be at least in part out of the control of any justice institution.

Botero and his colleagues expressed the view that the “most fundamental barrier appears to be a deeply rooted culture among government officers and practitioners in this field that is hostile to measurement”.¹⁰ “In all corners of the planet”, they added, “judges and lawyers often act as if they were allergic to numbers, or when these numbers are collected, they are neither systematically analyzed nor publicly disclosed”.¹¹

As well, as Chris Stone observed, in matters of government, indicators are instruments of power.¹² Performance measurement is always about power. All justice system stakeholders are keenly aware of that fact. They tend to be concerned about any undeclared agendas and power play potentially hiding behind what is presented as simple measurement exercise.

The relative instability of the indicators used to measure performance is another difficulty to be confronted. Ad hoc, and sometimes self-serving, measures are sometimes preferred, for various reasons, to long-term and more stable measures of performance. The use of system-wide and high-level justice

¹⁰ Botero, J. C., Martinez, J, Ponce, A, and C. S. Pratt (2012). “The Rule of Law Measurement Revolution: Complementarity Between Official Statistics, Qualitative Assessment and Quantitative Indicators of the Rule of Law”, in Botero, J. C., et al. (Eds.), *Innovations in Rule of Law*, The Hague Institute for Internationalisation of Law and the World Justice Project, pp.8-11, p. 9.

¹¹ *Idem*.

¹² See : Christopher E. Stone (2011). *Problems of Power in the Design of Indicators of Safety and Justice in the Global South*. Cambridge (MA): Program in Criminal Justice Policy and Management, Harvard Kennedy School.
<http://www.hks.harvard.edu/content/download/67426/1242514/version/1/file/Indicators-ProblemsOfPower.pdf>. Stone argues that, therefore, “indicators should be designed, from the bottom up, supporting local ambitions and building on the legitimate sources of authority close to the operations they seek to influence”.

indicators typically requires a long-term commitment to performance measurement. It dictates that stable indicators be adopted and consistently measured over time without being constantly revised for political or other expedient reasons. It also implies that the data used for these indicators are collected in a reliable and consistent manner. Meeting these conditions requires political commitment, effective and consistent leadership, the mobilization of all relevant stakeholders, as well as dedicated resources.

Finally, all performance measures have their limitations and may invite perverse and unintended consequences. Performance measurement potentially affects the whole incentive structure within an organization or a system. Reform efforts must be careful to incentivize the right programs and activities. In the worst cases, identifying measurable outcomes and submitting them to rigorous measurement may ironically lead to a decrease in performance. In particular, an analysis of the behaviour flowing from target-driven performance measurement systems has shown that both individuals and organizations have engaged in “gaming”, that is, finding ways to influence the measurement outcomes and make it appear that the target has been reached. Some observers have argued that the unwitting creation of perverse incentives and behaviours is the inevitable by-product of target-based performance measurement and management.¹³

The risk of gaming behaviour cannot be eliminated completely. However, the selection and crafting of the indicators to be measured can sometimes alleviate that problem. Conducting regular audits of the data used to populate the indicators is another effective method of mitigating that difficulty. Finally, a systems approach to performance management focusing on system-wide performance measures, may offer another way to potentially reduce gaming and improve performance measurement.¹⁴

Davis, in his review of best practices in police performance measurement, notes that:

“(…) it is important in designing a system of performance measures to keep in mind the possibility that the act of measuring may affect the behavior of officers in ways that are unintended and contradictory to agency goals. By employing a mix of outcomes and outputs, including survey measures in the mix of indicators, and adjusting indicators to make

¹³ Guilfoyle, S. (2011) "On Target?—Public Sector Performance Management: Recurrent Themes, Consequences and Questions", *Policing*, Volume 6, Number 3, pp. 250–260.

¹⁴ Idem, p. 257.

comparisons fairer, performance measures can become an effective tool to promote accountability and adherence to agency strategic goals.”¹⁵

For example, most governments are interested in reducing levels of crime, which is often expressed as reducing the crime rate. However the most commonly used indicator of the level of criminal activity is the amount of crime reported to police. Police are thus in the position to influence the “crime rate” by changes in record keeping practices rather than reducing criminal activity in the community. It is possible to guard against this unsatisfactory development by using several indicators of criminal activity, such as self-reported victimization, and monitoring how these various measures relate to each other over time. This can also help to determine when increased levels of reporting are an indication of a more responsive justice system rather than increased levels of criminal offending, for example the increased reporting of domestic violence and sexual assault experienced in many countries is generally considered to reflect an improved justice system response rather than an increase in this type of criminal behaviour.

DEVELOPING JUSTICE INDICATORS

The process of developing a set of credible and useful justice indicators can be at least as important as the nature and content of the indicators that will be chosen. Justice indicators, as mentioned before, are necessarily context-specific and they must therefore be chosen and developed nationally or locally by people who fully understand that context as well as the complexity of the justice process and the outcomes it is meant to achieve.

Who decides what is to be measured and how?

There is rarely an immediate consensus about how to define the desired outcomes of the justice system and how to measure them. The justice system is multifaceted and it pursues several important objectives. For example, some stakeholders may prefer to define the desired outcome of the criminal justice process in terms of fairness or access to justice, while others might give priority to timeliness and efficiency. Given that both access to justice and efficiency are important and related dimensions of the system performance, different indicators are typically needed to measure these two types of outcomes as well as others.

¹⁵ Davis, R. C. (2012). *Selected International Best Practices in Police Performance Measurement*. Santa Monica: Rand Corporation, Centre on Quality Policing, p. 5.

When developing justice indicators, an initial step usually consists of seeking agreement on what outputs and outcomes can and should be measured and, if so, for what purpose. It is important for such decisions to be made very deliberately and in consultation with relevant stakeholders, including those individuals and agencies responsible for implementing the indicators and those using them.

Having identified the outputs and outcomes to be measured, there will remain the task of defining them and constructing valid indicators that reflect them as faithfully as possible.

Ultimately decisions must be made about what is to be measured and how. Possible decision-makers include:

- ***Politicians or the legislature.*** A political decision about justice indicators has the advantage of being quick, responsive to public concerns, and often focused on overall system issues. On the other hand, those working in the system may believe that the decisions do not reflect a full understanding of the constraints of the system, and they may undermine efforts to identify more appropriate indicators. Even in such circumstances, the politically imposed indicators usually need to be operationalized and that leaves room for consultation and experimentation.
- ***Leaders of specific institutional components of the justice system.*** This process can take advantage of the leaders' in-depth knowledge of their respective institutions. However, their focus may be more on operational issues and measures of efficiency than on outcomes. The performance of the system as a whole may not be addressed at all by any of the indicators that will be adopted.
- ***A consultative process involving key justice stakeholders.*** The advantage of a broad consultative process is that it may help identify a range of justice related concerns, establish broadly supported priorities for the system, and consensus around the desired outcomes. The disadvantage is that the process can be very time-consuming and can test the commitment of stakeholders and their leaders. Resistance to performance measurement can manifest itself throughout that process in the form of various stalling tactics and delays.

The importance of consultation and consensus building can hardly be overstated because the collaboration of all stakeholders is likely to be required throughout the measurement process, as well as to implement changes to

improve the system. The process of selecting and refining justice indicators should ideally be one through which key stakeholders agree on the process, methodology, benchmarks, and indicators. This should include prior agreement on how the findings generated by the indicators will be utilized in terms of influencing future planning and strategic decisions.

A monitoring process that is tied to a decision-making cycle (and presumably commissioned by key stakeholders) is much more likely to be meaningfully utilized than one that is generated on the sidelines, for instance by a third party.¹⁶

Finally, it is most important to invite key representatives of the media to participate in discussions about justice indicators. After all, to a very large extent, they will be responsible for communicating performance information to the population and contributing to the transparency of the process.

What are the main practical and methodological considerations?

Policy-makers and managers responsible for various aspects of the justice system often feel like they are “flying blind”, or having to make decisions without all the relevant data about the functioning of the system and the impact of their own decisions on that system. The prospect of using key performance indicators and getting some feedback on the outcomes of their decisions may be appealing to them. They may develop unrealistic expectations about what the justice indicators can deliver and the amount of detailed information they will actually receive as a result of the exercise. Obviously, a simple set of key justice indicators cannot address all information needs of all stakeholders. Given the significant investment usually required to develop and implement key justice indicators, some of the agencies and people involved in that process may be disappointed at first by the fact that the indicators do not do enough to satisfy their own information needs.

Some of the stakeholders may also be disappointed by the fact that justice indicators are much better at identifying and describing trends than explaining them. It is crucial therefore to manage the stakeholders’ expectations, and in particular not to exaggerate what the performance measurement system can actually achieve.

¹⁶ De Coning, C. and P. Romita (2009). *Monitoring and Evaluation of Peace Operations*. International Peace Institute.

The choice and the crafting of valid indicators is not a simple task. It involves some technical and methodological challenges, but the latter should not be exaggerated. Methodologically, the development of valid indicators is not much more complicated than the development of a good program evaluation design. The real difficulties oftentimes lie somewhere else.

The dialogue facilitated by the justice indicators, as they are being chosen, defined and developed and later when they yield some findings, is sometimes more important than the indicators themselves.

The practical challenges involved tend to stem from the need to: mobilize all relevant stakeholders and secure their collaboration; sustain stakeholders' interest and commitment to the project over a substantial period of time; identify and obtain access to available sources of data; compensate for the lack of outcome

data among the data generated by various justice agencies; and, secure the technical and financial resources to carry out the project and keep it alive long enough to be able to measure significant trends. Needless to say, strong and consistent leadership as well as diligent and effective project management are essential to the success of such an endeavour.

The development of indicators always occurs within a specific political, cultural and institutional context. The process is influenced by things such as the level and history of communication and collaboration between various justice institutions or agencies, the fierceness of the competition for resources among them, the relative independence of these agencies, the level of sophistication of their governance mechanisms, or the presence of effective leadership. Coming to broad agreement about the purpose to be served by the proposed justice indicators, how they are defined, how they will be measured, and what will be done with the findings will require a solid process and sufficient time and resources. The success of such a process can have a significant impact on the eventual use and usefulness of the data generated by the indicators.

The lack of available data on the operations of the various components of the justice system is almost always a serious obstacle. The fact that the data definition, collection and reporting practices of the various agencies are not standardized and often incompatible is another. Additionally, there is also the disappointing fact that data on institutional and system outcomes are rarely collected, and when collected rarely shared openly.

When developing justice indicators, there is always a temptation to limit these indicators to those that can be measured with existing operational data.

Making the optimum use of available administrative data is both a good principle and an excellent starting point. However, limiting the development of justice indicators to an exercise in repackaging and rebranding existing operational data is usually a mistake. The data in question are typically collected for different purposes and stored in a segregated form. Case-base, disaggregated data are often unavailable. Their potential use as a measure of performance and system-wide outcome can be severely limited.

Good justice indicators are vetted and tested before they are implemented and closely monitored to ensure that they remain valid and serve the purpose for which they were intended.

A very practical issue that needs to be resolved as part of the process is that of determining whether a proposed indicator or set of indicators are actually measurable, and if so, how, at what expense, by whom, and over what period of time. Measurability refers in part to being able to measure a proposed indicator with reasonable effort and costs.

The concept of measurability refers to a number of methodological requirements to produce valid, accurate and comparable data for the indicators under examination. Measurability is different from data availability.

There are different ways of approaching the issue of measurability. On the one hand, a simple summary rating of the measurability of various proposed indicators may provide a practical basis for making decisions about the indicators to be retained and implemented. For example, the United Nations Office on Drugs and Crime (UNODC), in its report “Accounting for Security and Justice in the Post-2015 Development Agenda”, rates the measurability of the various indicators on a simple four-point “measurability scale”.¹⁷ On the other hand, determining whether an indicator is measurable requires an understanding of the potential sources of data for that indicator, a detailed knowledge of the already available data and their strengths and limitations, and the ability to pre-test the proposed data collection method for that indicator. Pre-testing and re-testing the indicators are very important parts of the process.

When implementing new justice indicators, there should be an assessment of the national capacity (or the potential or evolving capacity) to collect and analyze reliable data to populate the indicators. There should also be an

¹⁷ UNODC (2013). *Accounting for Security and Justice in the Post-2015 Development Agenda*, Vienna, UNODC, October 2013.

assessment of the presence of the requisite levels of ongoing (including long-term) support for the exercise.

The following questions should be considered in selecting justice indicators:

- How accurately and comprehensively do the selected indicators describe the main aspects of the justice system we wish to monitor?
- How measurable are the proposed indicators?
- How can the indicators be measured, and what type of data do they require?
- How closely does each indicator measure what it is purporting to measure (validity)?
- Are the data to be used for each indicator reliable?
- How comparable are the selected indicators over time?
- What changes can we expect to identify using the selected indicators and over what time period must they be measured?
- What resources are required to measure the selected indicators?
- How frequently must data be collected?
- Who can collect these data and are they prepared and able to do so?

Should national indicators be linked to global indicators?

A number of global or international justice, security or rule of law indicators exist that can perhaps be used to monitor the performance of a country's justice and criminal systems. These broad indicators are typically not very dynamic and are generally used to permit comparisons between countries. To allow such international comparisons and the ranking of countries regarding various aspects of their justice system, the indicators are developed centrally and are not adapted to the prevailing situation in each country submitted to the exercise. Their usefulness at the national level is quite limited. If nothing else, however, they can encourage countries to develop their own indicators.

Linn Hamnergren, like others, has noted that global indicators are of limited use to reformers "because (1) they operate at too high a level; (2) they consequently fail to capture the types of changes promoted by reform; and (3)

they are too easily gamed”.¹⁸ She suggests that a focus on developing good data on actual performance at the country level, with careful analysis of existing administrative data supplemented by public opinion and user surveys, is more likely than global indicators to give countries a concrete basis for understanding their actual performance, and thus develop reform strategies to address identified problems.

International indices and indicators such as those generated by the World Justice Project or the European Commission for the Efficiency of Justice¹⁹, can be helpful to support requests for donor assistance, to explain the need for reform and provide some information about relative country rankings. However there are a number of other disadvantages to using these measures, including the following:

- They do not adequately take into account significant differences among countries in what is being measured
- Countries’ relative rankings rarely change, which can be frustrating and demoralizing
- Because many countries lack good data about the various aspects of their justice system, there is a tendency to accept a variety of dubious proxies, rather than focusing on the development of good databases

Having noted the drawbacks involved in relying on global or international indicators, it is probably necessary to acknowledge the importance of such indicators for mobilizing global action. In the context of the ongoing discussion about the Post-2015 Global Development Goals, State representatives and experts have emphasized the need for a voluntary, State-led, participatory, evidence-based and multi-tier process to monitor progress.²⁰ Many States and civil society organizations have been advocating for the establishment of autonomous goals, targets and indicators for security and justice.²¹ Global

¹⁸ Hammergren, L. (2011). “Indices, Indicators and Statistics: A View from the Project Side as to their Utility and Pitfalls”, *Hague Journal on the Rule of Law*, 3: 305-316.

¹⁹ European Commission for the Efficiency of Justice (2014). *Report on "European judicial systems – Edition 2014 (2012 data): Efficiency and quality of justice"*. Brussels: Council of Europe. http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp

²⁰ See: United Nations (2014). *The Road to Dignity by 2030: Ending poverty, transforming all lives and protecting the planet*. Synthesis report of the Secretary-General on the post-2015 sustainable development agenda. 4 December 2014. A/69/700.

²¹ For example, see: Safeworld (2013). *Addressing Conflict and Violence - A vision of goals, targets and indicators*. London: Safeworld Briefing, February 2013. <http://www.saferworld.org.uk/downloads/Post-2015-4th-goals,targetes-and-indicators-FINAL.pdf>. Also, UNODC (2013). *Accounting for Security and Justice in the Post-2015 Development Agenda*, Vienna: United Nations Office on Drugs and Crime, October 2013.

goals, targets and indicators, it is frequently argued, are needed to uphold progress.

SOURCES OF DATA AND METHODS

What the main sources of data of justice indicators?

There are usually several data sources from which one can derive a particular indicator. The main sources include: administrative data, whether computerized or manual; survey data; observation data.

The choice of a data source tends to be largely contextual and dictated by various contingencies. There is rarely only one correct choice: some data sources are more reliable than others; some data sources are more expensive to use; some are more readily available; and some are updated more frequently; etc. All data sources have strengths and weaknesses: the key is to understand those when choosing one course or another.

Is it important to rely on more than one source of data?

It is generally appropriate to use a cluster of indicators, preferably based on different data sources. By aggregating the results of conceptually related indicators it becomes possible to measure complex and multifaceted areas of institutional performance, such as transparency and accountability. In addition, considering a group of related indicators together may help reduce ambiguities and biases that can arise when indicators are interpreted in isolation. Finally, measuring concepts using baskets or groups of indicators drawn from a variety of data sources has the added advantage of compensating for potential limitations in any one source of data.

Composite indices or indexes comprised of several indicators are widely used because they can offer a single measure for a complex concept. The use of such indexes can be controversial because it can be difficult to come to an agreement on the selection of the component indicators and their relative weights within the index.²²

As was observed in the United Nations Practitioners' Guide to Benchmarking: "Combining indicators can be extremely useful in order to: (1)

²² Composite indicators are typically calculated as a weighted average of a number of more specific indicators. An example of this would be a "crime severity index". These composite indicators (indexes) can be controversial because of the subjective element necessarily involved in selecting, scaling and weighting of the indicators. In the case of the ROLI, a decision was made not to weigh the different indicators that form a basket – they all receive the same weight.

verify measurements by combining indicators measured by different types of data, and (2) obtain a multi-dimensional picture of a phenomenon by combining indicators that when put together provide “more than the sum of the parts”.²³

Administrative Data

Justice indicators are often compiled from administrative data generated by justice institutions in the course of their work, generally for management purposes. Administrative data, because they are already being collected by the various institutions and agencies, are a convenient source of data for the construction of justice indicators. In practice, however, they are generally more useful for the construction of input and output indicators than for outcome indicators. Administrative data typically provide much more information about what the system and the individual institutions are doing (e.g., arrests, charges, referrals, number of contacts, etc.) than about the results or outcomes of these activities. Limitations of the availability of administrative data affect not only the coverage of indicators but also their quality.

Criminal justice statistics, for example, where they are regularly produced, can provide the basis for developing some useful performance indicators. An effective system for collecting, analyzing and disseminating information on crime and criminal justice is a prerequisite for effective crime control and prevention. Countries find themselves at various stages of developing comprehensive criminal justice statistics. In many countries, the coverage, reliability, validity and integrity of criminal justice statistics is in question. In all instances, the use of criminal justice statistics as performance indicators should be preceded by a review of the quality of these statistics and their limitations. In some instances, the development of indicators on the performance of the criminal justice system will go hand in hand with the development of credible and reliable criminal justice statistics.

The lack of resources is often blamed for the poor quality of criminal justice and other justice statistics. However, as reported by Anna Alvazzi del Frate, “lack of training, lack of commitment either from the government or heads of responsible institutions, lack of proper legislation, fear of misuse of the data or insufficient information on the good use that can be made of statistics, equally represent serious obstacles”²⁴.

²³ United Nations (2010). *Monitoring Peace Consolidation United Nations Practitioners' Guide to Benchmarking*. New York: United Nations, p. 40.

²⁴ Alvazzi del Frate, A. (2010). “Crime and Criminal Justice Statistics Challenges”, in Harrendorf, S. et al., *International Statistics on Crime and Justice*. Helsinki: HEUNI-UNODC.

According to Alvazzi del Frate, one of the main prerequisites to the development of a solid system of crime and criminal justice statistics is “the commitment and motivation of relevant government agencies to introduce a strategic approach to the collection and analysis of crime and criminal justice statistics”.²⁵

Automation of information management systems is often crucial, particularly considering the very large number of cases and activities to be monitored. However, in the interim, it is also possible to make more effective use of manual records in measuring the impact of specific reforms.²⁶

The integrity and credibility of the administrative data are crucial. The independence of the measurement process must be assured. There is a need for independent audits of the administrative data available for constructing key justice indicators in order to ensure that they remain reliable and credible. There is a potential role to be played by an Auditor General/Comptroller General Office, or whatever credible oversight organizations might exist in a particular country. If there are no governmental oversight organizations, consideration can be given to involving credible NGOs.

Survey Data

How useful are public surveys to generate data for justice indicators?

Household surveys are likely to continue to be one of the most valuable sources of information for many aspects of the criminal justice system (e.g., public confidence, access to justice, etc.).

Surveys can be an important source of information. And while surveys are sometimes thought to provide information that is less objective and thus less reliable than data generated through other means, much depends on the questions asked and often on how and when they are asked.

For example, if public survey respondents are asked “how safe do you feel in your neighbourhood”, that may be more important information than their answer to the question “how safe do you think your country is”, because they have more direct experience of safety issues in their own neighbourhood.

²⁵ Idem, p. 167.

²⁶ Hammergren, L. (2011). *Malaysia Court Backlog and Delay Reduction Program- A progress report*. August 2011. World Bank, Poverty Reduction and Economic Management Sector Unit East Asia and Pacific Region, p. ix.

Similarly, if a survey asks people who have been in court, whether as a defendant, accused, witness or juror, about their experience, the basis of their response is likely to be a more informed one than if members of the general public are asked about the functioning of the justice system, since they may not have a lot of information on which to base that judgment. There is thus an important distinction to be made between indicators of experience, behaviour or activity and indicators of opinions or beliefs. Exit surveys of various kinds can be a very useful source of information about people's experiences of or opinions about the justice system.

"National crime victimization surveys provide a valuable source of information to policy makers and can be used to understand the level and nature of both personal and household crime, as well as people's perceptions of safety in the community and their confidence in law enforcement agencies. Both actual and perceived risks of crime can be indicators of community well-being."

UNODC and UNECE (2010).

Public perception or opinion data can be volatile as they can change abruptly depending on events and circumstances. Foglesong examined the use of surveys as the source of indicators of "public safety." He described several ways to manage the volatility of public perceptions of crime and insecurity, especially their susceptibility to influences over which governments have little or no control.²⁷ In his view, surveys can be sources of reliable insights about public safety as well as create incentives for governments to use their results.

Victimization surveys produce robust data and measures of outcomes on which reliable indicators of the criminal justice system's performance can be based. These surveys are regularly conducted in many countries, either as standalone surveys or as part of broader social surveys. Victimization surveys often measure both the experience and the perceptions of respondents and sometimes also their opinions. The surveys typically include questions about the respondent's experience of victimization, whether they reported to the authorities and the reasons for not reporting, their fear of crime, and their satisfaction with the criminal justice response. The methodology for such surveys has been tested and has improved considerably over the years.²⁸ Some pre-tested examples of justice performance indicators

²⁷ Foglesong, T. (2014). *Better Servants of Development: Improving Surveys as Sources of Indicators of Public Safety*. Cambridge (MA): Program in Criminal Justice Policy and Management, Harvard Kennedy School.

²⁸ UNODC and UNECE (2010). *Manual on Victimization Surveys*. Geneva: United Nations Office on Drugs and Crime and United Nations Economic Commission for Europe.

based on public surveys can be found in the United Nations Rule of Law Indicators.

Can surveys of experts provide data for some justice indicators?

Surveys of experts or “key informants” are frequently used as a basis for generating justice indicators. The method, for example, is used extensively by the United Nations Rule of Law Indicators and by the World Justice Project. That method can be quite controversial, for many reasons, but it is unfortunately often the only practical method possible when reliable administrative or other data are simply not available. For example, when administrative data on prison management do not exist, surveying experts who have access to prisons may be an acceptable substitute. However relying on expert opinion is fraught with difficulty, since even experts are likely biased towards what are seen as the more interesting or notable situations rather than the majority of routine matters. For example, most criminal lawyers, prosecutors and judges assume that a far higher percentage of cases go to trial than is actually the case, because these are the more memorable cases²⁹.

The United Nations Practitioners’ Guide to Benchmarking notes that:

“Where there is no existing data, information can be gathered using non-statistical survey methods. These rely not on representative population samples but on information gathered from select groups of knowledgeable people or on consensus reached among different persons on a panel. The key is to identify informants or other sources that can provide reliable information on a particular subject. The main advantage of these methods is that they can provide data that are sufficiently reliable for the purpose at hand while requiring fewer resources than statistical surveys.”³⁰

Public surveys are subject to some manipulations and there are often concerns about the quality of a particular survey, its coverage, the representativeness of its sample of respondents, or the formulation of the questions. The credibility of justice indicators based on data gathered through surveys can be adversely affected when the surveys are poorly conducted or not conducted independently. There are ways to maximize the credibility and usefulness of the indicators based on survey data. One of them is to ensure that

²⁹ For a discussion, see: Singer, M. J. (2014). “Attorney Surveys of Judicial Performance: Impressionistic, Imperfect, Indispensable”, *Journal of the American Judicature*, 98, 20-30.

³⁰ United Nations (2010). *Monitoring Peace Consolidation - United Nations Practitioners’ Guide to Benchmarking*. New York: United Nations, p. 36.

they are conducted independently by credible and competent private or academic organizations. For example, the Calgary Police Commission, which is the independent civilian body to which the police service is accountable, commissions each year both a public survey and a survey of police officers to assess public confidence in police performance in that community and any concerns police officers might have with the way policing services are delivered. The indicators on the public survey and the findings for 2014 are available in the Commission's "2014 Citizen Survey Data Report".³¹

Maximizing the Benefits of Justice Indicators

Reporting on justice indicators is only useful if the information is regularly used to inform operational decisions, to hold the institutions accountable for their level of performance and to inform the public. Ideally, using indicators is an on-going process where the indicators are developed, measured, reported, discussed openly and used to inform reform and performance improvement strategies. This is more likely to happen if the users of the information, particularly the management of the different institutional components of the justice system, have already bought into the strategic goals and measures of performance. At the same time, the justice indicators will only contribute to the overall transparency and accountability of the justice system if the public is informed of relevant findings through the media. For this to occur, the media need to understand the indicators, their purpose, their strengths and limitations, and have full and timely access to the relevant data.

Who are the potential users of the justice indicators?

Clarity is required about whom the users of the indicators are likely to be, how they will be involved, what their needs for information are, and what they are prepared to contribute to the performance measurement process. All stakeholders should be engaged in the process, at least all those who will benefit from or be affected by the use of justice indicators and the reform or performance improvement initiatives they are linked to. Identifying the potential users of the justice indicators may itself be a demanding task. As it is not always possible to involve all stakeholders and potential users of the indicators, it may also be necessary to have a process in place to identify and mobilize all those who may be key to the success of the initiative.

³¹ Calgary Police Commission (2014). *2014 Citizen Survey Data Report*.
<https://www.calgarypolicecommission.ca/sites/default/files/CPC%20Citizen%202014%20-%20Data%20Report%20October%207%202014%20FINAL.pdf>

How to mobilize potential users and get them involved?

Stakeholders must be able to see the value in developing and systematically using indicators. Their usefulness, however, should neither be over- nor under-sold. In the process, it often becomes important to address people's fears or scepticism about the value of using indicators. For example, some people may worry that the government may be tempted to use the indicators to impose its views and perhaps infringe upon the independence of the judiciary. Members of the defence bar may fear that the indicators may play into the government's focus on efficiency rather than on what they consider to be the more important goals of fairness and access to justice. The development of justice indicators therefore calls for a collaborative process that can accommodate the variety of perspectives on the performance of the justice system. In fact, there is often a need to convince people to dare to measure the hard things. Ideally, all key stakeholders should develop a strong sense of ownership over the justice indicators and their application.

Building a capacity to measure justice indicators

The implementation of justice indicators depends on the building and strengthening of a capacity to gather and analyze valid and reliable data. For many countries, the lack of reliable criminal justice statistics or weak information management systems will be a major obstacle to the development of justice indicators. The task may be complicated by the degree of administrative centralization of the criminal justice system as well as the degree of centralization of criminal justice data collection and processing. Depending on these factors, the development of indicators at the national level may not always be the best starting point. The usefulness of the project may have to be demonstrated on a smaller scale, or even on a pilot basis in one location.

The collection of reliable and comprehensive criminal justice statistics is very important, but it is not always given a high priority. The development of a national system of criminal justice statistics is a complex process. It requires the participation and cooperation of many components of the system. Experience shows that information programmes will not develop without the commitment of senior criminal justice managers, technical and technological support, and a significant investment of resources. In most countries, records (of varying quality and reliability) are kept for operational purposes, but those responsible for these records tend to pay little attention to the potential non-operational (statistical or strategic) use of these records. Without the commitment of senior

managers, conversion of official records into usable statistical data becomes a difficult proposition.³²

At the beginning of a project to implement justice indicators, care must be taken to carefully appraise the data environment and to assess the data generating capacity of the agencies that must be involved. There will likely be a need to take measures to build or improve the data gathering capacity of the agencies involved and to experiment with various types of indicators. The implementation of the indicators may itself need to be delayed until a data gathering capacity is developed and tested.

How should the performance indicators be reported to users?

The findings generated by the justice indicators cannot be selectively reported or reported only if they fit the political agenda of the moment. Their real strength usually resides in the fact that they are measured independently and made public. This is what makes them valuable from a public accountability and transparency perspective. At the same time, it is also important to choose the appropriate timing for sharing the results with key officials and, eventually, the public. Key officials should have an opportunity to prepare for responding to the results before they are publicized. Representatives of the media should receive appropriate briefing and training if necessary to help them understand and report accurately on the indicators.

Reports on indicators must be produced and released in a timely manner, while the information they summarize is still fresh and potentially useful for strategic planning and for accountability and transparency purposes. Scorecards and dashboards, using visual metaphors (dials, gauges, arrows, traffic lights, etc.) are a useful way for organizations to present performance information to executives and staff. These tools, however, must be based on a deeper understanding of what constitutes a good justice indicator - an indicator that can

“Just as a criminal justice system must be effectively planned and managed, so too must a criminal justice statistics system.”

“The development of a national system of criminal justice statistics is a complex process. It requires the participation and cooperation of many components of the system, including the police, prosecutors, courts and corrections. Experience shows that information programmes will not develop without the commitment of senior criminal justice managers.”

United Nations (2003). *Manual for the Development of a System of Criminal Justice Statistics*, p. 3.

³² United Nations (2003). *Manual for the Development of a System of Criminal Justice Statistics*. New York: United Nations, Department of Economic and Social Affairs, Statistics Division.

deliver valuable information for justice reforms and performance enhancement initiatives.

Interpreting the indicators

The interpretation of justice indicators may require some familiarity with systems thinking.³³ For example, the potential and somewhat obvious links between police corruption, judicial inefficiency, police lack of investigative capacity and pre-trial detention are not immediately evident by simply looking at the data revealed by justice indicators. However, that kind of interpretation is something that justice indicators can support, at least to some extent, provided that there is a process in place for reviewing and discussing the indicators' findings.

Unlike other forms of evaluation and measurement, high level indicators do not typically lend themselves to causal analysis. In themselves, they are not capable of supporting a systematic causal analysis of the changes observed in the criminal justice system. They may facilitate the formulation of tentative causal hypotheses about what is being observed at that level, but the testing of these hypotheses typically requires other means and different kinds of data.

For example, measuring “time to case disposition” over a period of time may provide an indication of whether timeliness is an issue, but further data and analysis are required to understand the causes of delay and thus inform strategies to address it. Data with respect to the percentage of prisoners in pre-trial detention will give an indication of whether more people are being incarcerated before being convicted than after conviction. However it will be important to understand whether this is because of delays in disposing of cases, or whether judges are detaining increasing numbers of people prior to disposition.

Most importantly, justice indicators can support a process whereby stakeholders formulate, discuss and test their own interpretations of ratings and observed trends, and identify options for strategic actions they could take to instigate positive changes. In the process, they may also identify the need for other indicators or for collecting other kinds of data.

³³ See: USAID (2013). *Systems Thinking in Conflict Assessment - Concepts and Application*. Washington (D.C.): U.S. Agency for International Development

Regular review of the indicators

To measure change over time, it is important to use measurement methods and indicators that remain relatively stable. However, it is equally important to have in place a process to periodically review the indicators and their validity, the reliability of the data they are based on, their ability to meet the expectations of stakeholders, and how they are likely to fare politically. The review should also consider the extent to which the indicators are or could be used to support strategic planning and the reform process. Finally, it is also crucial to ascertain, as much as is feasible, how the justice system and its various components are actually adapting to the performance measurement initiative and whether any perverse effects were inadvertently created.

Knowledge management

There must be a focal point for the management of the justice indicators process over time. Justice indicators can significantly contribute to an organization's learning process in the area of justice reform and capacity building. For the learning to take place, however, the information and experience gathered must be disseminated and available to potential users in order to become applied knowledge. There needs to be a well structured knowledge management strategy to implement the justice indicators and the findings and strategic actions they generate over time. The knowledge, experience and lessons accumulated during the process must be systematically captured and made readily available to all stakeholders.

Examples of Justice Indicators

System-wide indicators

An interesting example of indicators to monitor the impact of system-wide reforms is offered by Scotland where reform of the justice system has been placed at the heart of the Government's public service reform agenda. The country has adopted a National Performance Framework that contains high-level indicators of Scotland's performance including for the justice system. Below this level, the government has adopted a set of coherent indicators based on the expected justice outcomes, as well as the measurable benefits and outputs of the change programmes.

In 2012, the Scottish Government announced its Strategy for Justice.³⁴ The strategy includes a broad vision, three national outcomes, eight justice system outcomes, and 24 indicators designed to provide key information about the extent to which the system is achieving the desired outcomes.

The entire scheme, including the indicators, their definitions and some of the detailed data supporting them, can be found on the Scottish Government's Justice Dashboard.³⁵ This Justice Dashboard provides an overview of progress towards improving justice outcomes. It displays information on selected high-level indicators for each of the eight justice outcomes within the overarching Justice Strategy.

The scheme is a good example of how the many components of criminal justice reform can come together, starting with a vision for the system, then identifying national objective, then specific objectives for the justice system, and finally indicators which can help us assess whether the institutions, programs and policies which we have in place are helping us achieve the overarching vision.

Another interesting example of a process to develop justice indicators is the work currently undertaken in British Columbia. As part of a strategic plan for the justice and public safety sector, a process is in place to develop and implement a comprehensive set of performance indicators to monitor progress in addressing the "performance gaps" identified, after consultations, by the province's Justice and Public Safety Council.³⁶

Justice Reform and Performance Measures (British Columbia – Canada)

The British Columbia (Canada) justice system performance measurement approaches were criticized for being too limited in scope, inconsistent over time, unrelated to any strategy for reform of the justice system, and not used in any systematic way. Legislation was enacted to address these concerns, the Justice Reform and Transparency Act, creating a structure for strategic planning and performance measurement for the entire justice and public safety sector.

The key elements of a strategic vision of the justice system were agreed to through a process of consultation with internal and external stakeholders from all parts of the

³⁴ Scottish Government (2012). *The Strategy for Justice in Scotland*. Edinburgh: The Scottish Government. <http://www.scotland.gov.uk/Resource/0040/00401836.pdf>

³⁵ <http://www.scotland.gov.uk/About/Performance/scotPerforms/partnerstories/Justice-Dashboard>

³⁶ British Columbia Justice and Public Safety Council (2014). *Strategic Plan for the Justice and Public Safety Sector - April 2014 to March 2017*. Victoria: Ministry of Justice of British Columbia. http://www.justicebc.ca/shared/pdfs/Strategic_Plan_2014.pdf

justice system. The justice indicators developed to date are in relation to:

- Fairness: rates of self-representation, timely resolution of cases, rates of overrepresentation of aboriginal people at all stages of the justice process;
- Protection of people: Reconviction rates (adult, youth and repeat offenders), and road safety (high risk driving, fatalities and serious injuries).

Indicators are being developed for the other two identified core values of *sustainability* and *public confidence*. The process has been slow because of the challenge of reaching agreement on how to measure workload (and changes in workload) in different parts of the system in order to inform indicators of sustainability, as well as the need to reach beyond operational data for information about public confidence, for example through public surveys, which requires additional expenditures.

Other areas of performance to be addressed include measures of the way the justice system treats the most vulnerable, including victims of violence and people with mental illness, as well as exploring questions of the quality of representation and incidents of miscarriages of justice.

See: *The Justice Reform and Transparency Act* (2013)

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/13007

In New Zealand, the Ministry of Justice adopted a Justice Performance Framework based on fairly straightforward indicators that are measured annually so that trends and the direction of change may be identified.³⁷ The New Zealand Police also uses a set of simple but fairly comprehensive performance indicators. In both cases, the performance data are publicly accessible on the web and in annual reports.³⁸

In 2005, the Canadian Centre for Justice Statistics published a report on Criminal Justice Indicators. It includes performance indicators which it defined as "useful in assessing how the components of the criminal justice system and the system overall are performing".³⁹ The report presented a number of performance indicators where the data are available in Canada, organized according to the following five general goals of the criminal justice system: (1) public order, safety and national security through prevention and intervention;

³⁷ New Zealand, Ministry of Justice (2013). *Justice Performance Framework*. <http://www.justice.govt.nz/publications/global-publications/s/statement-of-intent-20112014/what-we-will-do#our-performance-framework>

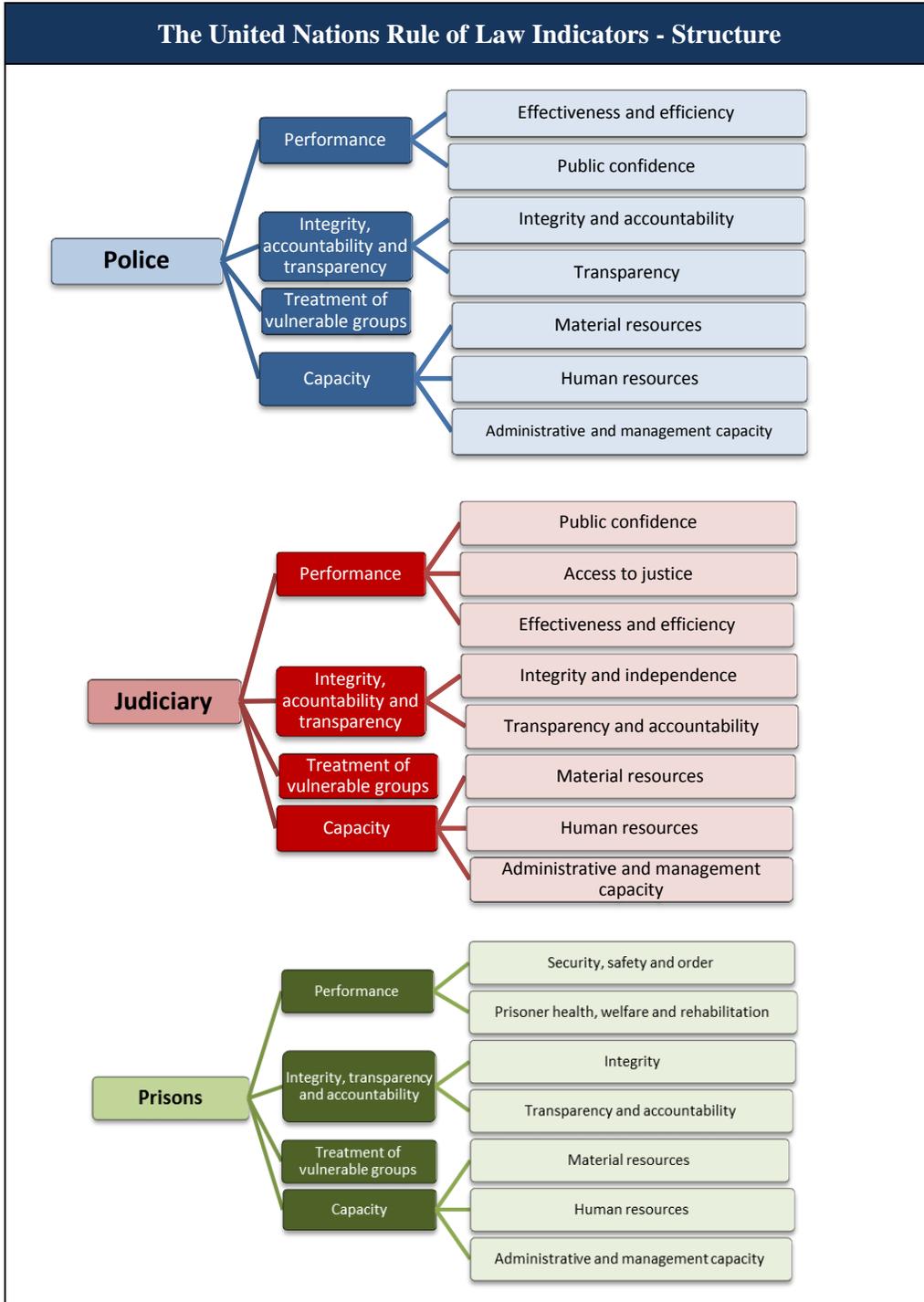
³⁸ New Zealand Police Key Performance Indicators 2013. <http://www.police.govt.nz/about-us/publication/new-zealand-police-key-performance-indicators-2013>
See also: New Zealand Police (2013). *Annual Report 2012-2013*. <http://www.police.govt.nz/sites/default/files/publications/annual-report-2013.pdf>

³⁹ Gannon, M., Mihorean, K., Beattie, K., Taylor-Butts, B. and R. Kong (2005). *Criminal Justice Indicators - 2005*. Ottawa: Statistics Canada, Canadian Centre for Justice Statistics (catalogue no. 85-227-XIE), p. 11. <http://publications.gc.ca/Collection-R/Statcan/85-227-XIE/0000585-227-XIE.pdf>

(2) offender accountability, reintegration and rehabilitation; (3) public trust, confidence and respect for the justice system; (4) social equity and access to the justice system for all citizens; and, (5) victim needs served.

The United Nations Department of Peace Keeping Operations (DPKO) and United Nations Office of Commissioner on Human Rights (OHCHR) have developed indicators to measure change over time in the implementation of the rule of law, within the criminal justice system, in post-conflict situations. Recognizing that the rule of law is a fundamental aspect of peace building and related efforts to rebuild credible criminal justice institutions, the *United Nations Rule of Law Indicators* (135 in total, organized in 25 distinct groups) are applied to measure four key dimensions of criminal justice institutions: performance; integrity, transparency and accountability; treatment of members of vulnerable groups; and, institutional capacity.⁴⁰ The structure of the instrument around these four broad and essential dimensions of the rule of law is one of its greatest strengths. The instrument covers criminal justice institutions, defined as: the police; the prosecution, the defence bar, and the courts; and prisons. The indicators have been implemented in Haiti, Liberia, South Sudan, and more recently in Afghanistan.

⁴⁰ DPKO – OHCHR (2011). *The United Nations Rule of Law Indicators – Implementation Guide and Project Tools*. New York: The United Nations.
http://www.un.org/en/events/peacekeepersday/2011/publications/un_rule_of_law_indicators.pdf



Law enforcement performance indicators

An impressive review of international best practices in police performance measurement was published by RAND's Centre on Quality Policing.⁴¹ There have been several police reform programmes, in different countries, directed at achieving various performance targets.

Until 2010, Great Britain had implemented what was probably the most elaborate framework of police performance management in the world, together with a performance measurement framework.⁴² In 2010, with the change in government, the framework was abandoned.⁴³

Scotland has adopted performance indicators for the police, found in the Scottish Policing Performance Framework (SSPF), that reflect the breadth and variety of policing activity across the country. An annual report is produced which does not attempt to identify causes for any observed trend, but simply offers a starting point for identifying and discussing trends, best practices, and areas for improvements. There are 38 indicators, grouped under the broad topics of service response, public reassurance and community safety, criminal justice and tackling crime, sound governance and efficiency, and context measures (i.e., basic data about workload collected by police departments).⁴⁴

In Northern Ireland, every three years, the Northern Ireland Policing Board and the Police Service of Northern Ireland adopt a policing plan, based on wide consultations and information on past performance and new challenges. The policing plan includes: policing objectives, performance indicators, and measures. Targets and measures are set to enable the Policing Board to hold the Police Service to account. Current targets, expected outcomes and indicators can be consulted in the "Policing Plan 2014-2017".⁴⁵

⁴¹ Davis, R. C. (2012). *Selected International Best Practices in Police Performance Measurement*. Santa Monica: Rand Corporation, Centre on Quality Policing. http://www.rand.org/content/dam/rand/pubs/technical_reports/2012/RAND_TR1153.pdf

⁴² Some of the guidance material developed by the Home Office (U.K.) about the statutory police performance indicators and the implementation of the Policing Performance Assessment Framework has been archived, but it can still be consulted at: <http://tna.europarchive.org/20100419081706/http://www.police.homeoffice.gov.uk/performance-and-measurement/performance-assessment-framework/index.html>

⁴³ See: de Maillard, J. and S. P. Savage (2012). "Comparing Performance: The development of police performance management in France and in Britain", *Policing and Society*, 22 (4): 363-383.

⁴⁴ Scottish Government. *Scottish Policing Performance Framework*. <http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/PoliceSPPF>

⁴⁵ The Northern Ireland Policing Board and The Police Service of Northern Ireland - *Policing Plan 2014-2017*. http://www.nipolicingboard.org.uk/35865_nipb_policing_plan.pdf

The New Zealand Police have adopted a strategic plan (2011-2015), which includes a number of indicators that are used to monitor progress against specific targets. Baseline data, for the year 2008/09, will be used to measure the progress achieved by 2014/15 towards the following targets: a 13% decrease in recorded crime; a 19% reduction in police (non-traffic) apprehensions resolved by prosecution; an increase in public trust and confidence; an increase in satisfaction with police services; an increase in feelings of safety; and, an increase in the proportion of our staff that are actively engaged.⁴⁶

Court performance indicators

Several indicators are typically used to assess judicial performance and thus to monitor backlog and delay reduction programs. They may include judicial productivity, clearance rates, average time to disposition for closed cases, age of cases, the size of the backlog of cases (cases carried over to a new year), etc.⁴⁷ There are many examples of indicators used to monitor the impact of judicial reform projects, several of them funded by the World Bank and other international organizations. In the United States, the National Centre for State Courts has developed several tools to assist in measuring the performance of different types of courts, including specialized courts, such as mental health courts and drug courts.⁴⁸

The indicators developed in Malaysia, as part of the project to reduce court backlog and delays, are an interesting example of indicators developed as part of a performance improvement initiative. In that case, some of the more usual judicial performance indicators were not included, given that the main focus was on tracking the progress achieved by the reform, as opposed to measuring the overall performance of the courts. The indicators have allowed the Malaysian judiciary to track the results achieved. They may not have covered all important dimensions of court performance, but they provided a basis for building a more comprehensive set of indicators. The assessment of the

⁴⁶ New Zealand Police Strategic Plan 2011- 2015.
<http://www.police.govt.nz/sites/default/files/publications/strategic-plan-2011-2015.pdf>

⁴⁷ Clarke, T. M. (2008) *A Unifying Framework for Court Performance Measurement: Final Report*. National Centre for State Courts.
<http://cdm16501.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/1079>

⁴⁸ National Centre for State Courts – *Performance Measurement – Resource Guide*
<http://www.ncsc.org/Topics/Court-Management/Performance-Measurement/Resource-Guide.aspx>

program produced by the World Bank gives an excellent idea of usefulness of the indicators in question.⁴⁹

Ontario's "Justice on Target" Strategy

Existing justice indicators in the province of Ontario (Canada) were revealing that criminal cases were taking longer to complete and using more court time with seemingly unproductive court appearances and adjournments. In June 2008, the Attorney General announced a goal for the justice system of achieving within four years an across the board 30% reduction in the number of days and appearances required to dispose of criminal cases. However, the strategy to achieve the identified target was left to individual court locations, recognizing that the circumstances of each court location, and potential solutions, might be different.

The judiciary took the lead in a number of locations, and all parts of the justice system, from police through court services, prosecution, defence bar, legal aid and corrections, were involved. The goal was to identify the problems they faced in their location as well as to find appropriate solutions to deal more quickly with less complex cases in order to free up more resources to manage the most serious and complex cases. There was a commitment to use justice indicators and other data to measure progress, which was in itself a culture shift for the justice system.

Data were communicated regularly to participants. Provincial level data were provided quarterly while site-specific data were provided bi-monthly so that participants could see the impact of their own efforts. Receiving that kind of feedback was essential to the success of the initiative.

While there was an appreciation of the usefulness of data to understand operations, there was concern that a provincial target was not sufficiently sensitive to local variation. As a result, the Justice on Target strategy (JOT) moved to a case-based benchmark approach, taking case volume and case complexity into account. This permitted all locations to work towards meeting or exceeding an accepted good practice or benchmark. Efficient local processes were developed to deal more quickly with less complex cases to free up more resources available to manage the most serious and complex cases in the system.

Reductions in delay and the number of appearances were observed. Effective strategies included:

- Local leadership teams which met regularly to discuss ways to improve criminal case processing in their court location;
- Regular review of data;
- Support from a team of experts;

⁴⁹ Hammergren, L. (2011). *Malaysia Court Backlog and Delay Reduction Program- A Progress Report*, August 2011, World Bank, Poverty Reduction and Economic Management Sector Unit East Asia and Pacific Region. http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/09/23/000333037_20130923151414/Rendered/PDF/632630Malaysia0Court0Backlog.pdf

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- An understanding and sharing of best practices;
- Governance tables with representation from all justice participants to foster collaboration and shared accountability; and
- Strong leadership from the judiciary, as well as champions in each stakeholder group.

The Justice on Target initiative is a good example of the use of a few simple indicators measured over a long time to monitor the impact of a new initiative to improve efficiency. It speaks to how indicators/data can be used to support reforms.

Source: Some Lessons Learned from Ontario's Justice on Target Strategy Associate, Chief Justice Maisonneuve and Susan Kyle, Reinventing Justice Symposium, Montreal, January 2015.

Indicators to monitor specific reforms and strategic initiatives

Many initiatives have focused on measuring the impact of reform and capacity building initiatives on various institutional components of the criminal justice system. In most of these instances, the data gathering systems were often developed either as a complement or an alternative to a program evaluation. For example, the New Zealand Police's strategic initiative to “prevent crime and crash” among Māori, for example, includes a statement of specific targets and outcomes to be monitored throughout the initiative.⁵⁰

The United Nations Development Programme recently released a guide for the rigorous monitoring and measurement of the impact of programmes and reforms in the rule of law, justice and security sector.⁵¹

Juvenile justice indicators

One area that has received special attention is that of juvenile justice and the efforts made to bring juvenile justice practices in line with international standards and to protect children's rights. Vietnam, for example, has set in place a long-term process to implement national juvenile justice indicators as part of a broader set of child protection indicators. UNODC and UNICEF have

⁵⁰ *The Turning of the Tide - A Whānau Ora Crime and Crash Prevention Strategy; 2012/13 2017/18*, p. 11. <http://www.police.govt.nz/sites/default/files/publications/the-turning-of-the-tide-strategy-2012-13-2017-18.pdf>

⁵¹ UNDP (2014). *Why, What and How to Measure? A User's Guide to Measuring Rule of Law, Justice and Security programmes*. http://www.undp.org/content/dam/undp/library/crisis%20prevention/UNDP_CPR_ROLMEGuide_August2014.pdf

developed a “Manual for the Measurement of Juvenile Justice Indicators”,⁵² and UNODC has published a short guide on “Criteria for the Design and Evaluation of Juvenile Justice Reform Programmes”⁵³

The American Prosecutors Research Institute, together with National Center for Juvenile Justice and the Balanced and Restorative Justice Project, advocated for utilizing a system of performance outcomes and measures for juvenile justice systems. They published a monograph and a guide to offer tools for juvenile justice systems and organizations to determine the impact and cost-effectiveness of their interventions. The approach is based on three core objectives and several intermediate outcomes to be monitored closely:

- *Community Safety*: declining juvenile crime rate; juvenile offender crime desistance in early adulthood; short-term post-supervision re-offending; short-term in-program recidivism
- *Competency Development*: resistance to drugs and alcohol; academic/educational competency; occupational competency; and, community competency;
- *Accountability*: completion of restitution; completion of community service; and, system accountability or victim satisfaction.⁵⁴

Indicators of access to justice

Access to justice, as a measurable outcome of the justice system, has also received a lot of attention. The concept is a complex one and several different

⁵² UNODC/UNICEF (2006). *Manual for the Measurement of Juvenile Justice Indicators*. New York: United Nations.
http://www.unodc.org/pdf/criminal_justice/Manual_for_the_Measurement_of_Juvenile_Justice_Indicators.pdf

⁵³ UNODC and Interagency Panel on Juvenile Justice (2011). *Criteria for the Design and Evaluation of Juvenile Justice Reform Programmes*. New York: United Nations.
http://www.unodc.org/pdf/criminal_justice/Criteria_for_the_Design_and_Evaluation_of_Juvenile_Justice_Reform_Programmes.pdf

⁵⁴ American Prosecutors Research Institute (2006). *Performance Measures - Measuring What Really Matters in Juvenile Justice*. Alexandria (VA): APRI
http://www.ndaa.org/pdf/measuring_what_really_matters_06.pdf
Also: American Prosecutors Research Institute (2006). *Guide to Developing and Implementing Performance Measures for the Juvenile Justice System*. Alexandria: APRI.
http://www.ndaa.org/pdf/performance_measures_jj_system_06.pdf

approaches have been suggested for developing suitable indicators.⁵⁵ In the area of criminal justice, indicators of public legal education, access to legal representation (including the prevalence of unrepresented accused), access to legal aid and quality of legal assistance, victim satisfaction, restitution and victim's access to redress and compensation have been developed and successfully applied in many jurisdiction.

In conclusion, despite the challenges, developing and implementing justice indicators is a critical tool for criminal justice reformers.

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⁵⁵ See for example: The Canadian bar Association (2013). *Access to Justice Metrics - A Discussion Paper*. http://www.cba.org/CBA/Access/PDF/Access_to_Justice_Metrics.pdf

GLOSSARY

There is no perfect agreement on the definition of any of the concepts in this paper. The reader may nevertheless find the following working definitions useful:

Accountability: Obligation to demonstrate that work or service has been performed in accordance with mandate and in compliance with agreed norms and standards, and to report fairly and accurately on results and performance.

Attribution: Identifying what is to be credited or held responsible for an observed change or results being achieved; identifying a causal link between observed changes and specific reforms or interventions.

Benchmark: A benchmark is a reference point that is defined by an existing standard, a minimum requirement, the performance of another agency, or past level of performance. It is often expressed as a predetermined value of an indicator based on normative or empirical considerations. It provides the basis of a comparison between that predetermined (and in some cases desired) value and the observed value of an indicator.

Combined indicators: Combining indicators can be extremely useful in order to: (1) verify measurements by combining indicators measured by different types of data, and (2) obtain a multi-dimensional picture of a phenomenon by combining indicators that when put together provide “more than the sum of the parts”.

Effectiveness: the extent to which a programme or a system attains its objectives and expected accomplishments and delivers the desired outcomes.

Efficiency: a measurement of how well inputs (funds, expertise, time etc.) are converted into outputs.

Impact: A measurement of the sum of the significant effects of a programme or system, positive or negative, direct or indirect, intended or unintended, expected or unforeseen, on its beneficiaries and other affected parties.

Index refers to sets of variables that, in combination, are meant to provide an indicator of certain phenomena, but where the behaviour of each single variable in the index does not necessarily or fully correspond to the behaviour of the phenomena in question.

Indicator: Quantitative or qualitative factor or variable that provides a simple and reliable means to measure a particular attribute, to measure achievement, to reflect trends and changes related to reforms and other interventions, and to help assess the performance of an organization, an agency, or a whole system, such as the justice system.

Outcome: The expected or achieved effects of an intervention, a capacity building initiative, or a reform.

Outcome evaluation: A selective exercise that attempts to systematically and objectively assess progress towards or the achievement of an outcome. It covers a set of related projects, programmes and strategies intended to bring about certain outcomes. It attempts to assess how and why outcomes are or are not being achieved.

Output, outcome and system-wide impact indicators: variables that measure different points in the chain of cause-effect relationships between a strategy and its system-wide impacts. Outputs are measures of an agency's internal performance that correlates with desirable system outcomes. System outcomes are measures relevant to the goals and objectives of that system.

Perceptual data: usually, but not necessarily, data collected through statistical surveys in which people are asked about their views on topics such as security, satisfaction with police services, feelings about safety. They can also be collected through focus groups, interviews with key informants, etc.

Performance: The degree to which an agency or a system operates in accordance with specific standards or criteria and achieves results with respect to stated goals and objectives.

Performance measurement: A systematic process of using performance data and indicators to track progress towards planned results, improve resource allocation, and improve performance.

Performance metrics: performance metrics measure an organization's activities and performance. They focus primarily on quantifiable outputs and are meant to support activities to increase or improve performance.

Performance monitoring: A continuous process of collecting and analyzing data to compare how well an organization or a system is operating against expected results.

Proxy indicator: A proxy is a variable that is assumed to reflect the behaviour of the phenomena in question, and which thus can be used as a single indicator to measure change of the phenomenon. The assumed reflection may be based on theoretically verified correlations or on observed correlations not fully understood or theoretically verifiable. In some ways, however, all indicators can be said to be proxies.

Qualitative data: Information that is used to exemplify an interpretation or an analysis, but which is not quantified. For example, "Progress achieved in getting the new anti-corruption legislation adopted and proclaimed" would be an indicator that would provide context to understand whether, for example, prosecution practices should already be expected to reflect the new legislative framework.

Quantitative data: Data to which a measure can be attached that can be quantified. Data can be measured on different scales (nominal, ordinal, interval, ratio).

Depending on the scale used, different levels of statistical analyzes become feasible.

Reliability: Consistency or dependability of data, with reference to the quality of the instruments, procedures and analyzes used to generate indicators.

Target: A specified result, often expressed as a benchmark or an indicator, that a program, a reform, and organization, or a system is intended or expected to achieve.

Validity: The extent to which an indicator or the data upon which it is based measure what they purport to measure. *Construct validity:* The degree of agreement between a theoretical concept (e.g., transparency) and the specific measures (e.g., ease of access to public records) used as indicators of that phenomenon. *Content validity:* The degree to which a measure or set of measures represent all aspects of the phenomenon it is meant to describe.

RESOURCES

- American Prosecutors Research Institute (2006). *Guide to Developing and Implementing Performance Measures for the Juvenile Justice System*. Alexandria (VA): APRI.
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The International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR)



**INTERNATIONAL CENTRE FOR
CRIMINAL LAW REFORM
AND CRIMINAL JUSTICE POLICY**

The International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR) is an international institute based in Vancouver, Canada. Founded in 1991, ICCLR is a joint initiative of the Government of Canada, the University of

British Columbia, Simon Fraser University, the International Society for the Reform of Criminal Law, and the Province of British Columbia. Officially affiliated with the United Nations (UN) pursuant to a formal agreement in 1995 between the Government of Canada and the UN, ICCLR contributes to the priorities of Canada and the UN in the field of criminal law and criminal justice through its activities. The mandate of the Centre is to promote the rule of law, democracy, human rights, and good governance in criminal law and the administration of criminal justice, domestically, regionally and globally. It undertakes the development and delivery of technical assistance programs, develops tools and manuals, conducts research and policy analysis, and actively supports international cooperation to fight against serious crimes.

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The Thailand Institute of Justice (TIJ)



The Thailand Institute of Justice (TIJ) was established by the Royal Thai Government in 2011. Affiliated with the Ministry of Justice, TIJ aims to promote excellence in research and capacity-building in crime and justice. Building on Thailand's engagement in the UN Commission on Crime Prevention and Criminal Justice and the UN Crime Congresses, TIJ serves as a bridge that transports global ideas to local practice, including in enhancing domestic justice reform and the rule-based community within the ASEAN region.

TIJ's primary objectives are to promote the implementation of United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) as well as other relevant UN standards and norms, especially those related to women and children. TIJ also gears its work towards important cross-cutting issues on the UN agenda such as the rule of law, development, human rights, peace and security.

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