

*Tentative*

# Trial Court Performance Standards

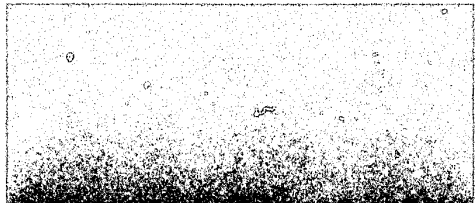
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with Commentary

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NATIONAL CENTER FOR STATE COURTS AND  
THE BUREAU OF JUSTICE ASSISTANCE,  
UNITED STATES DEPARTMENT OF JUSTICE



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Tentative Trial Court Performance Standards with Commentary  
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ACQUISITIONS

# Trial Court Performance Standards

*with Commentary*

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*Commission on  
Trial Court Performance Standards*

*A joint project of the  
National Center for State Courts  
and the Bureau of Justice Assistance,  
United States Department of Justice.*

*Comments on these tentative trial court performance  
standards are welcomed and should be sent to the  
Commission on Trial Court Performance Standards,  
National Center for State Courts, 300 Newport Avenue,  
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# Preface

In August 1987, the National Center for State Courts and the United States Department of Justice, through its Bureau of Justice Assistance, invited the judges, elected and appointed court managers, and scholars whose names are listed in the front of this booklet to form the Commission on Trial Court Performance Standards. The Commission's charge was to develop standards by which to measure the performance of the nation's trial courts of general jurisdiction. The Commission was directed to produce a set of tools in this regard that would prove useful to these courts. Between September 1987 and May 1989, with the assistance of a team of able researchers from the National Center, the Commission developed the tentative performance standards and commentary contained herein.

Although these Tentative Trial Court Performance Standards are the culmination of the first phase of the work of the Trial Court Performance Standards Project, the standards and supporting commentary, as well as the five areas in which they are grouped, are subject to further review and revision. The final standards, commentary, and accompanying measurement system will be presented to the public and the court community in July 1990.

In recognition of the wide interest in and potential impact of these standards, the Commission has approved their circulation in tentative form. The intent is not polemics, but a factual presentation of work in progress. With this publication and a companion videotape, the Commission seeks comments and suggestions for improvement of the standards from judges, elected and appointed court personnel at the state and local level, judicial administration scholars, and other interested individuals and groups throughout the country. They are urged to send their comments and suggestions to the Commission on Trial Court Performance Standards, National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia, 23187-8798. Revisions likely will be made. Ultimately, the Commission hopes that the court community will find the final version of the standards and the accompanying measurement system a useful tool of court management.

ROBERT C. MURPHY  
*Chief Judge, Court of Appeals of Maryland*  
*Chair, Commission on Trial Court Performance Standards*

MAY 1989

# Introduction

*[T]he ordinary administration of criminal and civil justice . . . contributes, more than any other circumstance, to impressing upon the minds of the people affection, esteem, and reverence towards the government.*

Alexander Hamilton—*The Federalist* No. 17 (1787)

Although interest in determining how well courts are performing is not new, the current focus of attention on performance measurement—the collection, analysis, and use of empirical information about the results of court practices—is a relatively new phenomenon. Until very recently, court reform has focused on the structures and machinery of the courts, not their performance, and on the needs of judges and court personnel, instead of directly on the needs of those served by the courts. No agreed upon performance standards exist for trial courts of general jurisdiction. There is little explicit guidance in the literature of judicial administration on how to measure trial court performance. In August 1987, the National Center for State Courts and the Bureau of Justice Assistance responded to this need for standards and a system of measurement by creating the Trial Court Performance Standards Project to develop measurable performance standards for the nation's general jurisdiction state trial courts.

The Standards Project focuses on what trial courts should accomplish with the means at their disposal. It represents a shift from *resources* (e.g., the number of judges and the availability of trained administrators to support the efficient operation of courts) and *processes* (e.g., master versus individual calendaring, automated data processing, and one-day/one-trial jury service) to *outcomes* and their measurement. This emphasis on results is consistent with current demands for increased accountability throughout government and industry. Courts, like other public institutions, are being called upon to account for and improve their performance.

This booklet proposes 22 separate performance standards for general jurisdiction trial courts. They are grouped in five performance areas: (1) access to justice, (2) expedition and timeliness, (3) equality, fairness, and integrity, (4) independence and accountability; and (5) public trust and confidence. These groupings represent an alternative way of assessing the

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fundamental purposes of trial courts, such as doing and appearing to do individual justice in individual cases; resolving disputes; upholding federal and state constitutions; working independently of, but in cooperation with, other branches of government; promoting the rule of law; protecting individuals from the arbitrary use of government power; making a formal record of legal proceedings; and encouraging behavior in accordance with societal norms as expressed in statutes, ordinances, and regulations. Standards in two of the performance areas—**expedition and timeliness**; and **equality, fairness, and integrity**—emphasize the courts' fundamental dispute resolution functions. The standards in the three performance areas of **access to justice, independence and accountability, and public trust and confidence** focus on the functions of trial courts as organizations and their relations with other organizations and the public.

The standards and accompanying commentaries are presented in a uniform format. First, a brief introduction precedes each of the five groups of standards. Within each group, succinct statements—the “black letter” standards—represent the conceptual benchmarks of performance. Finally, each standard is explained and clarified by commentary.

Standards in the area of **access to justice**—presented first because they refer to the initial entry into the judicial system—require that the structure and machinery of the courts be accessible. Standards grouped under the heading of **expedition and timeliness** relate not only to the prompt and efficient resolution of disputes but to all court activities. Standards in the performance area of **equality, fairness, and integrity** require that trial courts provide due process and individual justice in each case, treat similarly situated litigants equally, and ensure that their actions, and the consequences thereof, are consistent with established laws and regulations. Standards in the area of **independence and accountability** require that trial courts, as a vital component of our tripartite system of government, be independent of and have parity with the legislative and executive branches of government. Additionally, they require that courts be accountable for what they do with the resources at their disposal. Finally, the standards in the last performance area, **public trust and confidence**, acknowledge that a primary object of the administration of justice in a democratic society is to instill public trust and confidence that the courts are being fairly, efficiently, and effectively operated.

The focus of the standards and the accompanying measurement system is the individual general jurisdiction state trial court viewed as an *organization*, thereby stressing the importance of court work as a group activity. The working group involves not only judges but all individuals, both inside and outside of the court, who perform judicial and administrative court functions, including judges, clerks, administrators, managers, probation officers, and other court personnel, as well as private lawyers, public defenders,



prosecutors, and social service providers (e.g., psychiatrists, social workers, and community mental health workers).

This booklet describes work in progress. Through the Commission on Trial Court Performance Standards, the National Center for State Courts and the Bureau of Justice Assistance aim to develop a measurement system by which the performance of trial courts can be improved. The articulation of "black letter" trial court performance standards is the first step in the development of a coherent performance measurement system for the courts.

The last two sections of this booklet place the development of the tentative standards into context. The first of these describes the goals, objectives, and activities of the Trial Court Performance Standards Project. The final section outlines a measurement system for trial courts that is currently under development as part of the Standards Project. The core of this system are the performance standards contained in this booklet. The system includes measures by which one can gauge levels of performance in accordance with the standards, methods of data collection by which the measures can be applied, and specification of the kinds of data necessary to gauge performance.

# *Performance Standards with Commentary*

## 1. ACCESS TO JUSTICE

Trial courts should be open and accessible. Because location, physical structure, procedures, and the responsiveness of its personnel affect accessibility, the five standards grouped under the heading of access to justice require a trial court to eliminate barriers to its services. Such barriers can be geographic, economic, and procedural. They can be caused by deficiencies in language and knowledge of individuals participating in court proceedings. Additionally, psychological barriers can be created by mysterious, remote, unduly complicated, and intimidating court procedures.

The intent of the first two standards is to bring law into the open where people can see and use it. Standard 1.1 requires the trial court to conduct its business openly. To ensure that all persons with legitimate business before the courts have access to its proceedings, Standard 1.2 requires trial courts to make their facilities safe, accessible, and convenient to use. Accessibility is required not only for those who are guided by an attorney but also for all litigants, jurors, victims, witnesses, and relatives of litigants. Access to trial courts is also required by many others—for example, beneficiaries of decedents in probate matters, parents and guardians in juvenile cases, persons seeking information from public records held by the court, employees of agencies that do business with the courts (e.g., investigators, mental health professionals, sheriff's deputies, and marshals), and members of the public require access to the courts.

Because a trial court may be accessible to most and still hinder access to some, Standard 1.3. requires the court to provide opportunities for the effective participation of all who appear before the court, including those with linguistic difficulties and handicapping conditions. Standard 1.4 urges that all court personnel accord respect, courtesy, and dignity to all with whom they come into contact.

Standard 1.5 acknowledges that there are financial and procedural barriers to access to justice. It requires that the fees imposed and procedures established by the trial court be fair and reasonable. Recognizing the importance of public records to access to justice, the standard also requires public records be preserved and made available at a reasonable cost.

### **Standard 1.1. Public Proceedings**

**The court conducts its proceedings and other public business openly.**

#### *Commentary*

This standard requires the trial court to conduct all proceedings openly, both contested and uncontested matters, that are public by law or custom. The court must specify proceedings to which the public is denied access and assure that the restriction is in accordance with the law and reasonable public expectations. Further, the court must ensure that its proceedings are, in fact, accessible and audible to all participants, including litigants, attorneys, members of the public in the courtroom, and all court personnel.

### **Standard 1.2. Safety, Accessibility, and Convenience**

**Court facilities are safe, accessible, and convenient to use.**

#### *Commentary*

Standard 1.2 considers three distinct aspects of court performance: the security of persons and property within the courthouse and its facilities; access to the courthouse and its facilities; and reasonable convenience and accommodation of those unfamiliar with the court's facilities and proceedings. It urges a trial court to be concerned about the centrality of its location in the community that it serves, the adequacy of parking facilities, the availability of public transportation, the degree to which design features of the court provide a secure setting, and the internal layout of court buildings, including the signs used to guide visitors to important locations. Because the attitudes and behavior of trial court personnel can make (or fail to make) the courthouse safe, accessible, and convenient to use, Standard 1.2 pertains to trial court personnel as well by requiring them to facilitate safety, accessibility, and convenience.

### **Standard 1.3. Effective Participation**

**All who appear before the court are given the opportunity to participate effectively without undue hardship or inconvenience.**

#### *Commentary*

Standard 1.3 focuses on the manner in which a trial court accommodates all participants in its proceedings—especially those who have language difficulties or mental and physical handicaps. Accommodations made by the court for disabled or handicapped individuals include the provision of interpreters for the deaf, and special courtroom arrangements or equipment for blind and speech-impaired litigants.

#### **Standard 1.4. Courtesy, Responsiveness, and Respect**

**Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact.**

##### *Commentary*

The intent of Standard 1.4 is to make the justice system more accommodating and less intimidating to use. A responsive court ensures judicial officers are available to meet both the routine and exceptional needs of those it serves. These requirements are particularly important in the understanding shown and assistance offered by court personnel to those unfamiliar with the trial court and its procedures. The mien of the court should not be aloof or arrogant. It should reflect the value and dignity of all individuals who come before the court.

#### **Standard 1.5. Affordable Costs of Access**

**The costs of access to the trial court's proceedings and records—whether measured in terms of money, time, or procedures that must be followed—are reasonable, fair, and affordable.**

##### *Commentary*

Litigants and others who use the services of the trial court (e.g., nonlitigants who require records kept by the courts) face three financial costs that can be barriers to effective access to the trial court: court fees, third-party expenses (e.g., deposition costs and expert witness fees), and lawyers' fees. Standard 1.5 requires that the trial court minimize its own fees for access and participation in its proceedings and, wherever and whenever possible, scale its procedures and those of others under its influence or control to the reasonable requirements of a matter before the court. Means to achieve this include the simplification of procedures and reduction of paperwork in uncontested matters, the use of volunteer lawyers to do *pro bono* work, simplified pretrial procedures, and establishment of appropriate alternative methods for resolving disputes, such as referral services for cases that might be resolved by mediation, court-annexed arbitration, early neutral evaluation, tentative ruling procedures, and special settlement conferences.

Although a trial court may control more readily its own fees, it can reduce the overall cost of litigation by, for example, conducting telephone conferences and by making it easier for citizens to handle uncontested matters (e.g., name changes, stepparent adoptions, and uncontested divorces) without legal representation. As a general rule, simple disputes should be resolved at low cost by uncomplicated procedures. Procedural accessibility should be enhanced by clear, concise, and understandable language in instructing the parties, witnesses, and jurors about rights, responsibilities, completing necessary forms, attending hearings, and using court facilities and resources.

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Trial courts have in their possession the records of their own public proceedings as well as important documents generated by others (e.g., police records and laboratory analyses of evidence). These records must be available to those who are authorized to receive them. Standard 1.5 requires that the court maintain a reasonable balance between its actual cost in providing documents or information and what it charges users.

### 2. EXPEDITION AND TIMELINESS

Courts are entrusted with many duties and responsibilities that affect those involved with the courts, including litigants, jurors, attorneys, witnesses, criminal justice agencies, social service agencies, and members of the public, both individually and generally. The repercussions from untimely court actions in any of these involvements can be serious to the court, the persons directly concerned, and the community at large.

A trial court should meet its responsibilities to everyone affected by its actions and activities in a timely and expeditious manner (i.e., one that does not cause delay). Unnecessary delay engenders injustice and hardship. It is a prime cause of diminished public trust and confidence in the courts.

Defining delay requires distinguishing between the amount of time that is acceptable for case processing and the time that is not acceptable. National and statewide authorities have made this distinction by articulating time standards for case disposition. To meet these standards, case-processing time must be measured beginning with arrest or issuance of a summons in a criminal case or from the date of filing in a civil case.

The three performance standards under the heading of **expedition and timeliness** draw attention not only to the prompt resolution of cases, a requirement expressed by Standard 2.1, but also more generally to the expectation that all trial court functions be performed within a proper, suitable, and reasonable time. Expedition and timeliness are not synonymous with speed of case processing. Standard 2.2 acknowledges the importance of expedition and timeliness in all activities in which the court engages, such as providing information and disbursing funds. Finally, Standard 2.3 emphasizes the importance of expedition and timeliness in anticipating, adapting to, and implementing changes in law and procedure.

### **Standard 2.1. Case Processing**

**The trial court accepts and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.**

#### *Commentary*

The American Bar Association, the Conference of Chief Justices, and the Conference of State Court Administrators have urged the adoption of time standards for expeditious caseload management. Timely disposition is defined in terms of the elapsed time a case requires for consideration by a court, including the time reasonably required for pleadings, discovery, and other court events. Any time beyond that necessary to prepare and to conclude a case constitutes delay.

The requirement of timely case processing applies to the trial as well as to pretrial and posttrial events. The court must control the time from civil case filing or criminal arrest to trial or other final disposition. Early and continuous control establishes judicial responsibility for timely disposition, identifies cases that can be settled, eliminates delay, and assures that matters will be heard when scheduled. Control of the trial itself will reduce delay and inconvenience to the parties, witnesses, and jurors. In the course of and following a trial, the court must make decisions in a timely manner. Finally, ancillary and postjudgment or postdecree matters need to be handled expeditiously to minimize uncertainty and inconvenience.

In addition to requiring courts to comply with nationally recognized guidelines for timely case processing, Standard 2.1 urges courts to manage their caseloads to avoid backlog. This may be accomplished, for example, by terminating inactive cases and disposing of as many cases as are filed.

### **Standard 2.2. Compliance with Schedules**

**The trial court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.**

#### *Commentary*

In addition to case-processing time guidelines, an effective trial court establishes and abides by schedules and guidelines for administrative activities not directly related to case management. Moreover, it meets reasonable time schedules set by those outside the court for filing reports or providing other information stemming from court activities. When disbursements of funds are involved, payment is made promptly. Standard 2.2 requires that regardless of who determines the schedules, once established, those schedules are met.

As public institutions, trial courts also have a responsibility to provide information and services to those they serve. Standard 2.2 requires that this be done in a timely and expeditious manner. The source of the information requests may be internal or external to the court. Services provided to those within the court's jurisdiction may include legal representation or mental health evaluation for defendants; protective or social services for abused children; and translation services for some litigants, witnesses, or jurors.

Timely disbursement of funds held by the court is particularly important. Fines, fees, restitution, child support payments, and bonds are categories of monies that pass through the court in the process of disbursement to the recipients of the funds. Depending on the category involved and the laws of a given jurisdiction, the recipients may include funding agencies (e.g., state, county, city), public agencies (e.g., police academy, corrections boards), and individuals (e.g., litigants and victims). In addition, courts oversee disbursements of funds from their budgets. These funds go to other branches and units of government, vendors, jurors, litigants, or witnesses. For some recipients, delayed receipt of funds may be an accounting inconvenience; for others, it may create personal hardships. Regardless of who the recipient is, when a trial court is responsible for the disbursement of funds, expeditious and timely performance is crucial.

### **Standard 2.3. Prompt Implementation of Law and Procedure**

**The trial court promptly implements changes in law and procedure.**

#### *Commentary*

Tradition and formality can obscure the reality that both the law and procedures affecting court operations are subject to change. Changes in statutes, case law, and court rules affect what is done in the courts, how it is done, and those who conduct business in the court. It is incumbent upon the trial court to assure that mandated changes are implemented promptly and correctly. Whether a change can be anticipated and planned or must be reacted to quickly, Standard 2.3 requires that the court make its own personnel aware of the changes and promptly notify court users of such changes to the extent practicable. It is imperative that changes mandated by statute, case law, or court rules be integrated into court operations as the changes become effective. Failure to do so opens the court to criticism for failure to comply with the law or required procedures.

### 3. EQUALITY, FAIRNESS, AND INTEGRITY

Trial courts should provide due process and equal protection of law to all who have business before them, as guaranteed by the federal and state constitutions. Equality and fairness demand equal justice under law. The exercise of judicial discretion may be warranted by the nature of a case, characteristics of the parties' claims, and legitimate social concerns.

Integrity should characterize the nature and substance of the trial court's procedures, decisions, and the consequences of those decisions. That is, the decisions and actions of a trial court should adhere to duties and obligations imposed upon it by relevant law, procedural and administrative rules, policies, and ethical standards. What the trial court does and how it does it should be governed by its legal and administrative obligations; and what occurs as a result of the court's decisions should be consistent with those decisions.

The actions and decisions of the court, their legal and factual antecedents, as well as their consequences, should be well integrated. Integrity refers not only to the lawfulness of court actions (e.g., compliance with constitutional rights to bail, legal representation, trial by jury, and a record of legal proceeding) but also to the results or consequences of its orders. A trial court's performance is diminished when, for example, its mechanisms and procedures for enforcing its child support orders are ineffective or altogether nonexistent. It also is diminished when summons and orders for payment of fines or restitution are routinely ignored. The court's authority and its orders should guide the actions of those under its jurisdiction both before and after a case is resolved.

The demand for equality, fairness, and integrity is articulated by six performance standards. The first standard encompasses the all-important legal concept of due process and requires the trial court to adhere to relevant law, procedural rules, and policy when acting in its judicial and administrative capacities. The equality and fairness afforded to litigants and disputes is determined not only by judges and court personnel but also by juries. Recognizing that perfect equity cannot always be expected of juries, Standard 3.2 requires that trial courts do their utmost to encourage equality, fairness, and integrity by ensuring that those called for jury represent the population from which they are drawn. Standard 3.3 focuses on what many consider the essence of justice. It requires that those decisions and actions of a trial court be based on legally relevant factors consistently applied in all cases. It requires that those decisions and actions be based on individual attention to cases. In accord with the call for integrity in a court's performance, Standard 3.4 also urges trial courts to render decisions that



clearly and specifically state the issues addressed and how compliance with their decisions can be achieved. Clarity is a prerequisite for both compliance and enforcement.

Standard 3.5 encourages a trial court to assume responsibility for enforcement of its orders, thereby making the judicial process complete. Finally, Standard 3.6 requires the prompt and accurate preservation of trial court records. Records of the decisions of the court and the process followed to arrive at the decisions constitute, in an important sense, the law. The accuracy of the records and reliable access to them are fundamental to the achievement of a trial court's purpose.

### **Standard 3.1. Fair and Reliable Procedures**

**Trial court procedures faithfully adhere to relevant laws, procedural rules, and established policies.**

#### *Commentary*

The first standard in the area of **equality, fairness, and integrity** draws from the concept of due process, including notice and a fair opportunity to be informed and heard at all stages of the judicial process. Fairness should characterize both the court's compulsory process and discovery. Effective trial courts respect the rights of confrontation, cross examination, impartial hearings, and the right to legal counsel. Standard 3.1 requires fair judicial processes through adherence to constitutional and statutory law, case precedent, court rules, and other authoritative guidelines, including policies and administrative regulations. The adherence to established procedures and principles contributes to the court's ability to achieve predictability, reliability, integrity, and satisfaction of the parties. Because of its centrality to the court's purpose, Standard 3.1 implicates standards in the areas of **access to justice and public trust and confidence**, which emphasize that justice must be "perceived to have been done" by those who directly experience the trial court's adjudicatory process and procedures.

### **Standard 3.2. Juries**

**Jury lists are representative of the jurisdiction from which jurors are drawn.**

#### *Commentary*

Courts cannot guarantee that juries reach decisions that are always fair and equitable. Nor can they guarantee that the individuals chosen through *voir dire* are representative of the community from which they were chosen. Courts can, however, provide a significant measure of fairness and equality by assuring that the methods employed to compile source lists and to draw

the venire provide jurors who are representative of the total adult population of the jurisdiction. Thus, all those individuals qualified to serve on a jury should have equal opportunities to participate, and all parties and the public should expect that jurors are drawn from a representative pool.

Standard 3.2 parallels the American Bar Association's *Standards Relating to Juror Use and Management* (1983). These standards emphasize that jury duty should not be denied or limited on the basis of any factor discriminating against a "cognizable group" in the jurisdiction served by the court. Such a group can be "an economical, occupational, social, religious, racial, political, or geographical group in the community such as physicians, blacks, Protestants, or welfare recipients." Procedures designed to achieve representativeness include combining regularly maintained lists of registered voters and licensed drivers and using random selection procedures at each step of the jury selection process.

### Standard 3.3. Court Decisions and Actions

**Trial courts give individual attention to cases, deciding them without undue disparity among like cases and only upon legally relevant factors.**

#### *Commentary*

Standard 3.3 requires that litigants receive individual attention without variation due to judge assignment or legally irrelevant characteristics of the parties such as age, race, and gender. Persons similarly situated (e.g., criminal defendants faced with or found guilty of similar offenses and having similar personal histories) should receive similar treatment. It further requires that the court's decisions and action be in proper proportions given the nature and magnitude of the case and the characteristics of the parties. Variations should not be predictable from legally irrelevant factors nor should the outcome of a case depend on which judge within a court presides over a hearing or a trial. The standard refers to all decisions, including sentences in criminal cases, the conditions of bail, the amount of child support ordered, and the appointment of legal counsel.

### Standard 3.4. Clarity

**Decisions of the trial court unambiguously address the issues presented to it and make clear how compliance can be achieved.**

#### *Commentary*

An order or decision that sets forth consequences or articulates rights, but fails to tie the actual consequences resulting from the decision to the antecedent issues, breaks the connection required for reliable review and enforcement. A decision that is not clearly communicated poses problems

both for the parties and to judges who may be called upon to interpret or apply it.

Standard 3.4 requires that it be clear how compliance with court orders and judgments is to be achieved. Dispositions for each charge or count in a criminal complaint, for example, should be easy to discern, and terms of punishment and sentence should be associated clearly with each count upon which a conviction is returned. Noncompliance with court pronouncements and subsequent difficulties of enforcement sometimes occur because orders are not stated in objective terms that are readily understood and capable of being monitored. An order that requires a minimum payment per month on a restitution obligation, for example, is more clear and enforceable than one that establishes an obligation but sets no time frame for completion. Decisions in civil cases, especially those involving unraveling tangled webs of multiple claims and parties, also should connect clearly each issue and its consequences.

### **Standard 3.5. Responsibility for Enforcement**

**The trial court takes responsibility for the enforcement of its orders.**

#### *Commentary*

Courts ought not direct that certain things be done, and certain actions taken, and then allow those bound by its orders to honor them more in the breach than in the observance. Standard 3.5 encourages a trial court to ensure that its orders are enforced. The integrity of the dispute resolution process is reflected in the degree to which parties adhere to awards and settlements arising out of them. Noncompliance signals miscommunication, misunderstanding, misrepresentation, or lack of respect or confidence in the courts.

Obviously, a trial court cannot assume *total* responsibility for the enforcement of, and compliance with, all of its decisions and orders. Court responsibility for enforcement and compliance varies from jurisdiction to jurisdiction, program to program, case to case, and event to event. It is common and proper in some civil matters for a trial court to remain passive with respect to judgment satisfaction until called upon to enforce the judgment. Nevertheless, no court should be unaware of or unresponsive to realities that cause its orders to be ignored. Patterns of systematic failure to have civil judgments satisfied, child support paid, and criminal sentences fulfilled are contrary to an important purpose of the courts, undermine the rule of law, and diminish the public's trust and confidence in the courts. Monitoring and enforcement of proper procedure and orders relating to the duty of parties while cases are pending is within the scope of this standard.

Standard 3.5 applies also to those circumstances when a court relies upon administrative and quasi-judicial processes to screen and to divert cases by

using differentiated case-management strategies and alternative dispute resolution. Noncompliance is an issue when the trial court sponsors such programs or is involved in ratifying the decisions that arise out of them.

### **Standard 3.6. Production and Preservation of Records**

**Records of all relevant court decisions and actions are accurate and properly preserved.**

#### *Commentary*

Fairness, equality, and integrity depend in substantial measure upon the accuracy, availability, and accessibility of records. Standard 3.6 requires that trial courts preserve an accurate record of their decisions, orders, and judgments as well as of their proceedings. Relevant court records include indexes, dockets, or various registers of court actions maintained for the purpose of inquiry into the existence, nature, and history of actions at law. Also included are the documents associated with particular cases that make up official case files and the verbatim records of proceedings.

Preservation of the case record entails the full range of responsible records management practices. Since records may affect the rights and duties of individuals for generations, their protection and preservation over time is vital. Systems must ensure that the location of case records is always known, whether the case is active and in frequent circulation, inactive, or in archive status. Inaccuracy, obscurity, loss of court records, or untimely availability of such records seriously compromise the court's integrity and subvert the judicial process.

## **4. INDEPENDENCE AND ACCOUNTABILITY**

The judiciary must assert and maintain its distinctiveness as a separate branch of government. Within the organizational structure of the judicial branch of government, trial courts must establish their legal and organizational boundaries, monitor and control their operations, and account publicly for their performance. Independence and accountability permit government by law, access to justice, and timely resolution of disputes with equality, fairness, and integrity. They engender public trust and confidence. Courts must both control their proper functions and demonstrate respect for their coequal partners in government.

Because judicial independence protects individuals from the arbitrary use of government power and ensures the rule of law, it defines judicial administration and legitimates its claim for respect. A trial court possessing institutional independence and accountability protects judges from unwarranted pressures and operates in accordance with its assigned responsibilities

and jurisdiction within the state judicial system. Independence is not likely to be achieved if a trial court is unwilling or unable to manage itself, to establish and support effective leadership, to operate effectively within the state court system, to develop plans of action (including obtaining resources necessary to implement those plans), and to measure accurately and account publicly for its performance.

The five standards in the performance area of **independence and accountability** combine principles of separation of powers and judicial independence with the need for comity and public accountability. Standard 4.1 requires the trial court to exercise authority and management and to realize the principle of separation of powers, including the interdependence of the three branches of government. Standard 4.2 requires a trial court to obtain adequate resources and to account for their use. Standards 4.3 and 4.4 extend the requirements for accountability: first, by requiring a trial court to maintain its professional integrity and to accord proper respect to all with whom the court communicates and, second, by informing the public of its programs and activities. Finally, Standard 4.5 acknowledges that the court's organizational character and activities must allow for adjustments to emergent events, situations, or social trends.

#### **Standard 4.1. Independence and Comity**

**A trial court maintains its institutional integrity and observes the principle of comity in its governmental relations.**

##### *Commentary*

In order for a trial court to persist both in its role as enforcer of legal norms and as part of a separate branch of state government, it must develop and maintain its distinctive and independent status. It must be conscious of its legal and administrative boundaries and vigilant in protecting them.

Effective trial courts resist being absorbed or managed by other branches of government. A trial court compromises its independence, for example, when it merely ratifies plea bargains or perfunctorily places its imprimatur on decisions made by others. Effective administration enhances independent decision making by trial judges.

A court's independent status, however, must be achieved without damage to the reciprocal relationships that must be maintained with others. Trial courts are necessarily dependent upon the cooperation of other components of the justice system over which they have little or no direct authority. For example, elected clerks are vital components of the judicial process, yet many function, as to some matters, independent of trial courts. Sheriffs and process servers perform both a court-related function and a law-enforcement function. If a trial court is to attain institutional independence,

it must clarify, promote, and institutionalize effective working relationships with other components of the justice system. The boundaries and the effective relationships between the trial court and other segments of the justice system, therefore, must be apparent in both form and practice.

#### **Standard 4.2. Accountability for Public Resources**

**The trial court responsibly seeks, uses, and accounts for its public resources.**

##### *Commentary*

Effective judicial administration requires sufficient resources to do justice and also success in keeping costs affordable. Standard 4.2 requires that a trial court responsibly seek the resources sufficient to meet its judicial responsibilities, to use those resources prudently (even if they are inadequate), and to be accountable for their use.

Trial courts must use available resources wisely to address multiple and conflicting demands. Resource allocation to cases, categories of cases, and case processing is at the heart of trial court management. Assignment of judges and allocation of other resources must be responsive to established case-processing goals and priorities, implemented effectively, and evaluated continuously.

#### **Standard 4.3. Professional Integrity and Dignity**

**The trial court maintains professional integrity and accords respect and dignity to all with whom it comes into contact.**

##### *Commentary*

Standard 4.3 asks that a trial court demonstrate the law's respect for all individuals in interactions with the public. Respect for the public as well as the court's independence and institutional integrity should be clear to those who directly experience trial court operations and procedures.

Integrity and respect also are needed in the court's treatment of its own employees. A trial court should apply the same sound principles it uses to produce judgments, such as equality and fairness, to all of its organizational activities. It should, for example, allocate responsibility, authority, rewards, and opportunities for education and training fairly among its employees. This requires, for example, that a trial court be an equal opportunity employer.

#### **Standard 4.4. Public Education**

**The trial court informs the community of its programs.**

##### *Commentary*

Most members of the public do not have direct contact with the courts. Information about the courts is filtered through, among others, the media, lawyers, litigants, jurors, political officeholders, and employees of other components of the justice system. Public opinion polls indicate that the public knows very little about the courts, and what is known is often at odds with reality. Standard 4.4 requires trial courts to inform and educate the public. Effective informational brochures and annual reports help the public understand and appreciate the administration of justice. Participation by court personnel on public affairs commissions is also effective. Moreover, courts can effectively educate and inform the public by including able public representatives on advisory committees, study groups, and boards.

#### **Standard 4.5. Response to Change**

**The trial court anticipates new conditions or emergent events and adjusts its operations as necessary.**

##### *Commentary*

Effective trial courts are responsive to emergent public issues such as drug abuse, AIDS, child and spousal abuse, drunk driving, child support enforcement, crime and public safety, consumer rights, gender bias, and the need to do more with fewer resources. Standard 4.5 requires trial courts to recognize and respond appropriately to such public issues. A trial court that moves deliberately in response to emergent issues is a stabilizing force and acts consistent with its role in maintaining the rule of law.

Courts can contribute to, tolerate, or resist societal pressures for change. In matters for which the trial court may have no direct responsibility, but nonetheless may help identify problems and shape solutions, responsiveness means that the trial court takes appropriate actions to educate its employees and to inform responsible individuals, groups, or entities about the problems and possible solutions.

Unusual or unexpected conditions such as bomb threats, records destruction, employee strikes, natural disasters, sting operations, and mass arrests challenge the routine operations of the court. Mechanisms (both internal and in coordination with other justice system agencies) may be required to handle emergent situations that could clog the courts and disrupt daily routines.

Effective trial courts neither change their operations in response to every public demand nor sacrifice their responsibility for implementing and adhering to the rule of law, due process, and equal protection. An ever-changing environment does, however, sometimes require movement by and within the court to assure organizational responsiveness.

## 5. PUBLIC TRUST AND CONFIDENCE

Compliance with law is dependent to some degree upon public respect for the court. Ideally, public trust and confidence in trial courts stem from the many contacts citizens have with the courts. The maxim "Justice must not only be done but must be seen to be done!" is as true today as in the past. Unfortunately, there is no guarantee that public perceptions are consistent with actual court performance.

Several constituencies or publics are served by trial courts. All should have trust and confidence in the courts. These constituencies vary by the type and extent of their contact with the courts. At the most general level is the local community or the "general public"—the vast majority of citizens and taxpayers who seldom experience the courts directly. A second public served by trial courts crucial to the development of public trust and confidence is composed of a community's opinion leaders (e.g., the local newspaper editor, the reporter assigned to the court, the police chief, local and state executives and legislators, representatives of government organizations with powers or influence over the courts, and members of court watch committees). A third public of most trial courts are the researchers who study civil and criminal justice issues. A fourth includes those citizens who have appeared in the court as attorneys, litigants, jurors, witnesses, or those who have attended proceedings as a representative, a family friend, or a victim of someone before the court. This group has had direct experience with the routine activities of a court. The last constituency consists of lawyers, judges, court administrators, clerks of the court, prosecutors, defense attorneys, and other court personnel, who either are employed by the particular trial court and thus have an "inside perspective" on how well the court is performing or are employed by other courts in the same geographical area and thus may have insight about how the trial court operates and is perceived. The trust and confidence of all these publics are essential to trial courts.

The central question posed by the three standards in this final performance area is whether a trial court's performance—in accordance with standards in the areas of **access to justice; expedition and timeliness, equality, fairness, and integrity; and independence and accountability**—actually instills public trust and confidence. Standard 5.1 requires that the trial court be perceived by the public as accessible. Standard 5.2 requires that the public believe that the trial court conducts its business in a timely, fair, and equitable manner and that its procedures and decisions have integrity. Finally, Standard 5.3 requires that the trial court be seen as independent and distinct from other branches of government at the state and local level, and that the court is accountable for its public resources.



Ideally, a court that meets or exceeds these performance standards is recognized for doing so by the public. Of course, in service of its fundamental goal to resolve disputes justly, expeditiously, and economically, the court will not always be on the side of public opinion. Nevertheless, where performance is good and public communications are effective, trust and confidence are likely to be present. Where public perception is distorted and understanding unclear, good performance may need to be buttressed with educational programs and effective public information. A court may even be viewed as better than it actually is. Because of this, it is important for courts to rely on objective data as well as public perceptions in assessing court performance.

### **Standard 5.1. Accessibility**

**The trial court and the justice it delivers are perceived by the public as accessible.**

#### *Commentary*

The five standards grouped in the area of access to justice require the removal of barriers that interfere with access to a trial court's services. Standard 5.1 focuses on the perceptions of the court's accessibility held by different publics. A trial court should not only be accessible to those who need its services but also be perceived as so by those who may need its services in the future.

### **Standard 5.2. Expeditious, Fair, and Reliable Court Functions**

**The public has trust and confidence that the basic trial court functions are conducted with expedition and fairness, and that its decisions have integrity.**

#### *Commentary*

As part of effective court performance, Standard 5.2 requires a trial court to instill public trust and confidence that its basic functions are conducted in accordance with the standards in the areas of **expedition and timeliness, and equality, fairness, and integrity.**

### **Standard 5.3. Judicial Independence and Accountability**

**The trial court is perceived to be independent, not unduly influenced by other components of government, and accountable.**

#### *Commentary*

The policies and procedures and the nature and consequences of interactions of the trial court with other branches of government affect the

perception of the court as an independent and distinct branch of government. A trial court that establishes and respects its own role as part of an independent branch of government and diligently works to define its relationships with the other branches presents a favorable public image. Obviously, the opinions of community leaders and representatives of other branches of government are important when considering perceptions of the court's institutional independence and integrity. Other publics' perceptions (e.g., those of court employees) of the court's relationships with other government agencies, its accountability, and its role within the community should not be overlooked as an important factor contributing to the view of the court as both an independent and accountable institution.

# *The Trial Courts Performance Standards Project*

The Trial Court Performance Standards Project is a three-year effort that began in August 1987 and will end in July 1990. The project's goals and objectives are:

(1) The development of 20-25 trial court performance standards through an iterative process involving the preparation of a series of "briefing papers" by project staff; the deliberations by the 12-member Commission on Trial Court Performance Standards; and the crafting of standards and commentaries in five performance areas (**access to justice; expedition and timeliness; equality, fairness, and integrity; independence and accountability; and public trust and confidence**);

(2) The development of a comprehensive measurement system, built around the standards, that includes performance measures, data collection methods by which the measures can be taken, requirements for data, and an evaluation scheme by which the measurement system can be applied by trial courts throughout the country;

(3) The field testing and application of the performance standards and measurement system in selected "demonstration" courts;

(4) The identification of key processes, resources, and technological applications that appear to contribute to superior performance by the demonstration courts; and

(5) The dissemination, promulgation, and acceptance of the trial court performance standards and measurement system by key judicial administration organizations and at least four states.

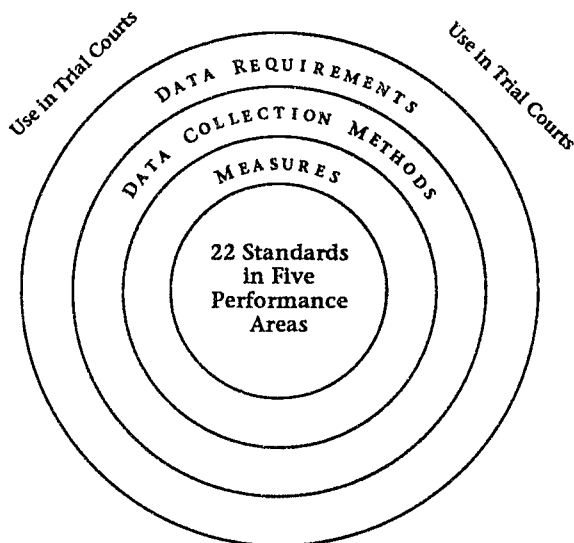
It is hoped that the regular, periodic use of the comprehensive performance measurement system outlined in the next section will become an accepted function of the management of the nation's general jurisdiction trial courts.

# *Development of a Measurement System*

A complete performance measurement system for trial courts requires that three issues be addressed and resolved: (1) What performance standards should be used to assess trial court performance? How do the standards relate to the goals of trial courts? (2) How do we measure performance with respect to these standards? What performance measures and indicators should be selected and on what basis? What data collection methods should be used for measurement? Are available data adequate to satisfy the requirements of measurement? (3) How should trial courts, state court leaders, and other individuals or organizations use the measurement system? A performance measurement system for trial courts that addresses these questions in a comprehensive, conceptually coherent manner is the aim of the Trial Court Performance Standards Project. The relationships between these three issues are depicted schematically in Figure 1.

FIGURE 1

## A Trial Court Performance Measurement System



At the core of the framework are 22 separate trial court performance standards grouped in five performance areas that reflect generally accepted goals and functions of trial courts. To be effective, these standards must be translated into reliable and valid measures. Measurement can involve systematic observations, structured interviews, case and administrative record searches, surveys, group processes, and public opinion polls. The final part of the measurement system is specification of the data to be collected through each data collection method for each measure of trial court performance.

As suggested by Figure 1, the development of a trial court performance measurement system is an evolving process beginning with a broad conceptualization of performance standards areas and ending with the measurement processes and their use by trial courts and state court systems. To date, the Commission and Standards Project staff have developed the core of this system—the tentative trial court performance standards. The remaining parts of the system are in development and are briefly described below.

The Appendix to this publication is a tabular listing that links performance measures to critical elements of each of the 22 standards. For example, individual attention to cases, a critical element of Standard 3.3, "Court Decisions and Actions," is a part of several measures, including the treatment of litigants, evaluations by the bar and by court users, the dignity reflected by court facilities, and the demeanor of participants. The process of reviewing, developing, and field-testing these measures, which are described only by labels in the Appendix, will continue through mid-1990. Undoubtedly, as this complex process unfolds, many of the measures will be rejected and replaced by others.

The purpose of the trial court performance measurement system is to provide reliable evidence about how well a trial court is performing. This leaves one important question: How is this system to be used and by whom? The Commission on Trial Court Performance Standards has discussed four possible "uses" of the performance standards and measurement system:

- (1) Simple description or classification of trial court activities and processes;
- (2) Self-assessment and improvement of trial court performance;
- (3) Cross-court comparisons; and
- (4) Certification or accreditation of trial courts based upon their performance.

In selecting the second of these uses—self assessment and improvement—as the most appropriate use, the Commission recognized that simple description of a trial court's activities requires the least amount of scientific

rigor and is unlikely to engender disagreement and controversy. The 1987 annual report of the Montgomery County Court of Common Pleas in Dayton, Ohio, for example, uses the five trial court performance standard areas and various standards to describe the court's activities. Such use of the standards for descriptive purposes does not require complete development of a measurement system beyond the core standards as depicted in Figure 1. In contrast, use of the standards and measurement system as a basis for certification or accreditation of trial courts would require a high degree of scientific rigor and would be likely to engender vigorous debate over the validity of still-to-be-tested performance standards and measures.

For the present, the Commission is associating the development of the performance measurement system only with self-assessment and improvement of trial court performance. While this decision does not preclude the system's use for description and classifications of court activity or, in the future, for cross-court comparisons and accreditation, the Commission finds self-assessment and improvement to be the most appropriate use of the developing standards and measurement system.

Under current plans, use of the standards and measurement system for self-improvement will be a joint effort of general jurisdiction trial courts working cooperatively with their state court administrative office. Beginning in August 1990, the Commission and the National Center for State Courts will begin work with state court personnel and trial court leaders in four carefully selected states. These planned tests of the standards and measurement system will provide orientation to the ongoing work of the Trial Court Performance Standards Project.

# APPENDIX

## Performance Measures Associated with Critical Elements of the Standards

STANDARDS ELEMENTS	MEASURES
<b><i>Access to Justice</i></b>	
<b>1.1 PUBLIC PROCEEDINGS</b>	
• Physical Accessibility	1.1.1 Public Access to Specific Proceedings 1.2.5 Adherence to Posted Business Hours
• Access to Information	1.1.2 Audibility of Participants in Open Court Proceedings 1.1.3 Availability of Information to the Media 1.2.1 Perceptions of Courthouse Security 1.2.3 Accessibility of Information by Telephone 2.2.3 Provision of Information 4.4.1 Published Court Information 4.4.4 Court Responsiveness to and Use of the Media
• Definition of "Public Proceedings"	3.1.1 Performance in Preselected Areas of Law
• Public Expectations	5.1.1 Public's Perceptions of Accessibility
<b>1.2 SAFETY, ACCESSIBILITY, AND CONVENIENCE</b>	
• Security and Safety	1.2.1 Perceptions of Courthouse Security 4.5.2 Coordination for Emergency Situations
• Accessibility and Convenience	1.2.2 Ease of Conducting Business with the Court 1.2.3 Accessibility of Information by Telephone 1.2.4 Amenities for Court Users 1.2.5 Adherence to Posted Business Hours 1.1.1 Public Access to Specific Proceedings 1.1.2 Audibility of Participants in Open Court Proceedings 1.4.2 Ease of Access for First-time Court Visitor 1.4.5 Dignity of Court Proceedings and Facilities 5.1.1 Public's Perceptions of Accessibility 5.1.2 Community Leaders' Perceptions of Accessibility 5.1.3 Court Employees' Perceptions of Accessibility
<b>1.3 EFFECTIVE PARTICIPATION</b>	
• Opportunity for Effective Participation	1.3.1 Clarity of Written and Verbal Jury Instructions 1.3.2 Comprehension of Sentence 1.3.3 Adequacy of Interpreter Resources 1.1.2 Audibility of Participants in Open Court Proceedings 3.2.1 Inclusiveness of Jury Source List 3.2.2 Random Jury Selection Procedures

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### APPENDIX, Performance Measures Associated with Critical Elements of the Standards, *continued*

STANDARDS ELEMENTS	MEASURES
<i>Access to Justice, continued</i>	
	3.2.3 Representativeness of Final Jury Selection Pool
	4.2.3 Availability of Services
	4.2.4 Local Bar's Perception of Resource Allocation
<b>1.4 RESPECT, COURTESY, AND RESPONSIVENESS</b>	
• Respect and courtesy	1.4.1 Treatment of Jurors 1.4.3 Treatment of Litigants 1.4.4 Treatment of Criminal Defendants 1.4.5 Dignity of Court Proceedings and Facilities
	1.2.1 Perceptions of Courthouse Security 4.3.1 Personnel Standards and Policies
• Responsiveness	1.4.1 Treatment of Jurors 1.4.2 Ease of Access for First-time Court Visitor 1.4.3 Treatment of Litigants 1.4.4 Treatment of Criminal Defendants 1.4.5 Dignity of Court Proceedings and Facilities
	1.2.1 Perceptions of Courthouse Security 1.5.1 Court Use of Alternatives to Trial 1.5.2 "In Forma Pauperis" Provisions 2.3.1 Promptness of Implementation 3.1.1 Performance in Preselected Areas of Law 3.1.2 Attorney and Court Employee Assessments 3.1.3 Attorneys' Evaluation of Court Performance in Applying the Law 3.3.1 Fairness and Equality in Bail Decisions 3.3.2 Fairness and Equality in Sentencing 3.3.3 Evaluations by the Bar 3.3.4 Evaluations by Court Users 3.5.1 Context and Capacity for Enforcement 3.5.2 Payment of Fines, Costs, and Restitution by Probationers 3.5.3 Child Support 3.5.4 Civil Judgments 4.5.1 Capacity to Assess and Communicate Change
<b>1.5 AFFORDABLE COSTS OF ACCESS</b>	
• Monetary Costs	1.5.1 Court Use of Alternatives to Trial 1.5.2 "In Forma Pauperis" Provisions 1.5.3 Costs of Records 4.2.4 Local Bar's Perception of Resource Allocation
• Procedural Costs	1.5.1 Court Use of Alternatives to Trial 1.5.2 "In Forma Pauperis" Provisions 1.2.2 Ease of Conducting Business with the Court 2.1.1 Time to Disposition 2.1.2 Age of Pending Caseload 2.1.3 Progression of Cases Through System 2.1.4 Ratio of Dispositions to Filings 2.2.1 Compliance with Required Schedules 2.2.2 Provision of Services



APPENDIX, Performance Measures Associated with Critical Elements of the Standards, *continued*

STANDARDS ELEMENTS	MEASURES
<i>Access to Justice, continued</i>	
	2.2.3 Provisions of Information
	2.2.4 Prompt Payment of Monies
	3.4.3 Experience with Orders and Judgments
	3.5.1 Context and Capacity for Enforcement
	3.5.2 Payment of Fines, Costs, and Restitution by Probationers
	3.5.3 Child Support
	3.5.4 Civil Judgments
	3.6.1 Reliability of File Control System
	3.6.3 Adequate Storage and Preservation of Physical Records
	3.6.4 Accuracy, Consistency, and Utility of the Case Docket System
	3.6.5 Case File Integrity
	3.6.6 Reliability of Document Processing
	3.6.7 Verbatim Records of Proceedings

***Expedition and Timeliness*****2.1 CASE PROCESSING**

• Currency of Caseload	2.1.2 Age of Pending Caseload
	2.1.3 Progression of Cases Through System
	2.1.4 Ratio of Dispositions to Filings
	2.1.5 Certainty of Trial Dates
• Establishment of Guidelines	2.1.1 Time to Disposition
	2.1.2 Age of Pending Caseload
• Compliance with Guidelines	2.1.1 Time to Disposition
	2.1.2 Age of Pending Caseload
	2.1.3 Progression of Cases Through System
	2.1.5 Certainty of Trial Dates
	3.3.5 Enforcement of Case-processing Rules and Orders
• Control of Cases	2.1.3 Progression of Cases Through System
	2.1.5 Certainty of Trial Dates
	3.3.5 Enforcement of Case-processing Rules and Orders

**2.2 COMPLIANCE WITH SCHEDULES**

• Prompt Disbursement of Funds	2.2.5 Prompt Payment of Monies
	3.5.2 Payment of Fines, Costs, and Restitution by Probationers
	3.5.3 Child Support
• Reports and Information	2.2.1 Compliance with Required Schedules
• Service Responsiveness	2.2.2 Provision of Services
	2.2.3 Provision of Information
	1.2.2 Ease of Conducting Business with the Court

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### APPENDIX, Performance Measures Associated with Critical Elements of the Standards, *continued*

STANDARDS ELEMENTS	MEASURES
<i>Expedition and Timeliness, continued</i>	
<b>2.3 PROMPT IMPLEMENTATION OF LAW AND PROCEDURE</b>	
• Changes in Law	2.3.1 Promptness of Implementation
• Changes in Procedure	2.3.1 Promptness of Implementation
<b>Equality, Fairness, and Integrity</b>	
<b>3.1 FAIR AND RELIABLE PROCEDURES</b>	
• Adherence to Law	3.1.1 Performance in Preselected Areas of Law 3.1.2 Attorney and Court Employee Assessments 3.1.3 Attorneys' Evaluations of Court Performance in Applying the Law 1.2.5 Adherence to Posted Business Hours 2.2.1 Compliance with Required Schedules 2.2.2 Provision of Services 2.3.1 Promptness of Implementation 3.5.5 Enforcement of Case-processing Rules and Orders
<b>3.2 JURIES</b>	
• Representativeness	3.2.1 Inclusiveness of Jury Source List 3.2.2 Random Jury Selection Procedures 3.2.3 Representativeness of Final Jury Selection Pool
<b>3.3 COURT DECISIONS AND ACTIONS</b>	
• Individual Attention	3.3.3 Evaluations by the Bar 3.3.4 Evaluations by Court Users 1.4.3 Treatment of Litigants 1.4.4 Treatment of Criminal Defendants 1.4.5 Dignity of Court Proceedings and Facilities
• No Disparity Among Like Cases	3.3.1 Fairness and Equality in Bail Decisions 3.3.2 Fairness and Equality in Sentencing 3.3.3 Evaluations by the Bar 3.3.4 Evaluations by Court Users 3.1.3 Attorneys' Evaluations of Court Performance in Applying in Law
• No Variation Due to Irrelevant Factors	3.3.1 Fairness and Equality in Bail Decisions 3.3.2 Fairness and Equality in Sentencing 3.3.3 Evaluations by the Bar 3.3.4 Evaluations by Court Users 3.1.3 Attorneys' Evaluations of Court Performance in Applying the Law 3.2.3 Representativeness of Final Jury Selection Pool 4.3.2 Employment of Minorities and Affirmative Action

APPENDIX, Performance Measures Associated with Critical Elements of the Standards, *continued*

## STANDARDS ELEMENTS

## MEASURES

*Equality, Fairness, and Integrity, continued*

## 3.4 CLARITY

- Decisions and Communications
  - 3.4.1 Clarity of Sentencing
  - 3.4.2 Clarity of Civil Judgments
  - 3.4.3 Experience with Orders and Judgments
  - 1.1.2 Audibility of Participants in Open Court Proceedings
  - 1.1.3 Availability of Information to the Media
  - 1.2.3 Accessibility of Information by Telephone
  - 1.3.1 Clarity of Written and Verbal Instructions
  - 3.6.4 Accuracy, Consistency, and Utility of the Case Docket System
  - 3.6.7 Verbatim Records of Proceedings
  - 4.4.1 Published Information

## 3.5 RESPONSIBILITY FOR ENFORCEMENT

- Enforcement of Orders
  - 3.5.2 Payment of Fines, Cost, and Restitution by Probationers
  - 3.5.3 Child Support
  - 3.5.4 Civil Judgments

## 3.6 PRODUCTION AND PRESERVATION OF RECORDS

- Accurate and Proper Maintenance
  - 3.6.1 Reliability of File Control System
  - 3.6.2 Reliability of Summary Case Status Information
  - 3.6.3 Adequate Storage and Preservation of Physical Records
  - 3.6.4 Accuracy, Consistency, and Utility of the Case Docket System
  - 3.6.5 Case File Integrity
  - 3.6.6 Reliability of Document Processing
  - 3.6.7 Verbatim Records of Proceedings

*Independence and Accountability*

## 4.1 INDEPENDENCE AND COMITY

- Independence
  - 4.1.1 Acquisition and Expenditure of Funds
  - 4.1.2 Appearance of Independent Control of Courtroom Operations
  - 4.1.3 Fiscal and Administrative Independence
  - 4.1.4 State and Local Agency Relationships
  - 4.1.5 Commitment to Judicial Control of Caseflow
- Integration with Judicial System
  - 4.1.1 Acquisition and Expenditure of Funds
  - 4.1.4 State and Local Agency Relationships

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### APPENDIX, Performance Measures Associated with Critical Elements of the Standards, *continued*

STANDARDS ELEMENTS	MEASURES
<i>Independence and Accountability, continued</i>	
• Comity	4.1.4 State and Local Agency Relationships 4.4.2 Participation by Judges and Court Employees in Intergovernmental Committees 4.4.3 Citizens on Court Committees, Boards, and Advisory Groups
<b>4.2 ACCOUNTABILITY FOR PUBLIC RESOURCES</b>	
• Seeking Resources	4.1.1 Acquisition and Expenditure of Funds 4.2.2 Self-Assessment of Performance 4.2.3 Availability of Services
• Using Resources	4.2.2 Self-Assessment of Performance 4.2.3 Availability of Services 4.2.4 Local Bar's Perception of Resource Allocation 4.2.5 Allocation of Judicial and Court and Staff Resources
• Accounting for Resources	4.2.1 Accounting Practices 4.2.2 Self-Assessment of Performance
<b>4.3 PROFESSIONAL INTEGRITY AND DIGNITY</b>	
• Respect	1.4.3 Treatment of Litigants 1.4.4 Treatment of Criminal Defendants 1.4.5 Dignity of Court Proceedings and Facilities 4.3.1 Personnel Status and Policies 4.3.2 Employment of Minorities and Affirmative Action
• Professional Integrity	1.4.5 Dignity of Court Proceedings and Facilities
<b>4.4 PUBLIC EDUCATION</b>	
• Community Outreach	4.4.1 Published Information 4.4.3 Citizens on Court Committees, Boards, and Advisory Groups 4.3.4 Court Responsiveness to and Use of the Media
<b>4.5 RESPONSE TO CHANGE</b>	
• Capacity and Coordination	4.5.1 Capacity to Assess and Communicate Change 4.5.2 Coordination for Emergency Situations

## *Public Trust and Confidence*

### 5.1 ACCESSIBILITY

- |                           |  |
|---------------------------|--|
| • Perceived Accessibility | 5.1.1 Public's Perceptions of Accessibility<br>5.1.2 Community Leaders' Perception of Accessibility<br>5.1.3 Court Employees' Perceptions of Accessibility |
|---------------------------|--|

APPENDIX, Performance Measures Associated with Critical Elements of the Standards, *continued*

## STANDARDS ELEMENTS

## MEASURES

*Public Trust and Confidence, continued*

- 1.2.1 Perceptions of Courthouse Security
- 1.2.2 Ease of Conducting Business with the Court
- 1.4.1 Treatment of Jurors
- 1.4.5 Dignity of Court Proceedings and Facilities

## 5.2 EXPEDITIOUS, FAIR, AND RELIABLE COURT FUNCTIONS

- Perceived Fairness
  - 5.2.1 Public's Perceptions of Fairness, Equality, Timeliness, and Reliability
  - 5.2.2 Community Leaders' Perceptions of Fairness, Equality, Timeliness, and Reliability
  - 5.2.3 Court Employees' Perceptions of Fairness, Equality, Timeliness, and Reliability
  - 5.2.4 Newspaper Articles
  - 3.1.2 Attorney and Court Employee Assessments
  - 3.1.3 Attorneys' Evaluation of Court Performance in Applying the Law
  - 3.3.3 Evaluations by the Bar
  - 3.3.4 Evaluations by Court Users
- Perceived Timeliness
  - 5.2.1 Public's Perceptions of Fairness, Equality, Timeliness, and Reliability
  - 5.2.2 Community Leaders' Perceptions of Fairness, Equality, Timeliness, and Reliability
  - 5.2.3 Court Employees' Perceptions of Fairness, Equality, Timeliness, and Reliability
  - 5.2.4 Newspaper Articles
- Perceived Reliability
  - 5.2.1 Public's Perceptions of Fairness, Equality, Timeliness, and Reliability
  - 5.2.2 Community Leaders' Perceptions of Fairness, Equality, Timeliness, and Reliability
  - 5.2.3 Court Employees' Perceptions of Fairness, Equality, Timeliness, and Reliability
  - 3.1.2 Attorney and Court Employee Assessments
  - 3.1.3 Attorneys' Evaluation of Court Performance in Applying the Law
  - 3.3.3 Evaluations by the Bar
  - 3.3.4 Evaluations by Court Users
  - 3.4.3 Experience with Orders and Judgments

## 5.3 JUDICIAL INDEPENDENCE AND ACCOUNTABILITY

- Perceived Independence
  - 5.3.1 Public's Perceptions of Court Independence and Accountability
  - 5.3.2 Community Leaders' Perceptions of Court Independence and Accountability
  - 5.3.3 Court Employees' Perceptions of Court Independence and Accountability
  - 4.1.4 State and Local Agency Relationships
  - 4.1.5 Commitment to Judicial Control of Caseflow
  - 5.2.4 Newspaper Articles

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### APPENDIX, Performance Measures Associated with Critical Elements of the Standards, *continued*

STANDARDS ELEMENTS	MEASURES
<i>Public Trust and Confidence, continued</i>	
• Perceived Accountability	5.3.1 Public's Perceptions of Court Independence and Accountability
	5.3.2 Community Leaders' Perceptions of Court Independence and Accountability
	5.3.3 Court Employees' Perceptions of Court Independence and Accountability
	5.2.4 Newspaper Articles
	4.1.5 Commitment to Judicial Control of Caseflow
	4.2.4 Local Bar's Perception of Resource Allocation
	4.3.1 Personnel Standards and Policies
	4.5.1 Capacity to Assess and Communicate Change