

Measuring Progress toward Safety and Justice:
A Global Guide to the Design of
Performance Indicators across the Justice Sector

Vera Institute of Justice
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Measuring Progress Toward Safety and Justice: A Global Guide to the Design of Performance Indicators across the Justice System was produced by a team of researchers at the Vera Institute (Todd Foglesong, Zainab Latif, Cybele Merrick, Joel Miller, James Parsons, and Timothy Ross) under the direction of Vera Director Christopher Stone and with editorial assistance from Jennifer Trone.

As the name “Global Guide” implies, this document is intended to be a practical tool of use around the world. Vera is eager to learn to what degree the *Guide* fulfills this intention. Please send comments about the *Guide’s* usefulness—and stories about where and how you are using it—as well as suggestions for improving the *Guide* to indicators@vera.org.

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Using This Guide

This guide is written for programme managers responsible for improving the delivery of safety, security, and access to justice in any part of the world. It should also be useful to a wide variety of government officials and to anyone interested in pursuing a disciplined course of institutional reform in the safety and justice sector.

The guide does not prescribe the use of particular indicators for measuring progress toward safety and justice. The choice of appropriate indicators must be the result of a process undertaken in each country and programme. This guide describes that process, explaining the principles that should inform the choice of indicators, and provides examples of possible indicators. If the guide and its examples inspire you to experiment in new ways to monitor your progress and to build systems of indicators that can remain in place after your reform programme is complete, the guide will have served its purpose.

Although countries vary widely in the availability of data from which programme managers can build indicators, the simplest solutions are often the best, even in the most data-rich environments. As a result, the design process described here should be practical in almost any context. If this guide has a bias, it is in favour of collecting opinions from the people who experience the work of the safety and justice sector. Methods of surveying users of justice services need not be expensive or complex. All that is required is a systematic approach; but there is no substitute for this kind of data.

Part One of this guide defines what is meant by indicators and describes the design process. **Part One is the essential starting point for anyone using this guide.**

The chapters that follow describe the role of indicators in measuring progress in the sector as a whole (Part Two); within specific state institutions, particularly those dealing with criminal justice such as the police, courts, and prisons (Part Three); and among the wide variety of non-state justice institutions (Part Four). The chapters in Parts Two, Three, and Four follow the same format, providing readers:

- A brief definition of the particular sector-wide strategy or outcomes of interest related to the specific institution
- A description of traditional indicators used to measure performance on this topic or in this institution
- Some examples of policy goals or outcomes that would require different indicators
- A table of indicators that might be used to measure progress toward these policy goals and the possible data sources that might be used to construct the indicators
- A description of the strengths and weaknesses of the suggested indicators.

Some readers may want to use the entire guide; others will want to focus their attention only on Part One and on the specific subsequent chapters relevant to their needs.

This first part of the guide describes the process of designing practical and effective indicators in both data-poor and data-rich environments. It introduces distinctions among strategic, institutional, and activity indicators and suggests principles for constructing small baskets of powerful indicators to measure progress toward specific policy outcomes. It discusses the variety of data sources that you can use and the process of turning data into indicators. This first part ends with eight guidelines, or design principles, to bear in mind when constructing your own indicators.

1. Introduction

An indicator is a measure that helps ‘answer the question of how much, or whether, progress is being made toward a certain objective.’¹ Indicators can be used at the highest policy levels to measure progress towards an overarching purpose, such as reducing the level of violence in society, or assuring equal access to justice across lines of gender, ethnicity, or economic class. Indicators are also commonly used to measure progress toward institutional objectives (intermediate outputs)—such as increasing the number of criminal convictions of those committing violent crimes or expanding the provision of legal services to people in poverty—that are expected to contribute to broader policy goals. At a third level, indicators can be used to measure the daily activities through which an institution can attain its objectives. Examples of indicators at each of these three levels are provided in Box 1.1.²

¹ This definition comes from the *Handbook of Democracy and Governance Program Indicators* (Washington, DC: U.S. Agency for International Development, 1998). Other organizations working in the development field define indicators in nearly the same way. The large and well-known Organization for Economic Co-operation and Development (OECD) defines an indicator as, a ‘direct and valid statistical measure which monitors levels and changes over time in a fundamental social concern.’ (*Measuring Social Well-Being: A Progress Report on the Development of Social Indicators*, Paris: OECD, 1976.) The smaller Performance Assessment Resource Center (PARC), based in Birmingham, England, offers this definition: “An indicator is something that can be seen, experienced, or recorded. It is a sign that something exists, or has happened, or has changed.’ (*Good Monitoring and Evaluation Practice: Guidance Notes* (Birmingham: PARC, October 2001.)) The World Bank defines an indicator as ‘information [that] can be used...to assess performance and assist in planning for the future.’ (Judicial Sector Indicators (JSI), a World Bank Information System available on the web at http://www4.worldbank.org/legal/legop_judicial/whatisjsi.html.)

² *Handbook of Democracy and Governance Programme Indicators*, Chapter 5.

Box 1.1: Different 'Levels' of Indicators

1. Strategic Purpose Indicators - Used to track performance against the most ambitious objective upon which separate institutions, policies, and programmes are expected to have a material effect.

- **Aim:** To make people at all levels of income safe from violence and intimidation in their communities, homes, work, and schools.
- **Example indicator:** Changes in rates of violent victimization in each of five income bands.
- **Potential data sources:** (a) victimization survey of a national population, disaggregated by income; (b) health statistics on rates of gunshot and/or knife wounds, disaggregated by income; (c) homicide statistics from police or coroner offices disaggregated by neighbourhood as a proxy for income.

2. Institutional Objective Indicators - Used to measure the specific objectives of separate institutions, policies, or programmes, shedding light on how these may be advancing overall strategic objectives.

- **Aim:** To improve the prosecution of offenders charged with violent crimes.
- **Example indicator:** Changes in conviction rates among those initially charged with selected violent crimes.
- **Potential data sources:** (a) matched administrative data from police and court records; (b) administrative data from prosecution service.

3. Activity Indicators - Used, for example, to track progress in the implementation of a programme or policy.

- **Aim:** To train prosecutors to work more effectively with police investigators in preparing cases for court.
- **Example indicator:** Percentage of active prosecutors who have been trained.
- **Potential data sources:** (a) matched administrative data from training course records and the roster of active prosecutors; (b) survey of active prosecutors.

The choice of indicator does not necessarily follow obviously from your objective.

Consider the institutional objective of successfully prosecuting more violent crimes (Box 1, example 2). Conviction rates may seem to be an obvious measure of the success of prosecution, but how should you measure conviction rates?

Many police agencies think of conviction rates as the percentage of people convicted among the total number of people initially charged with a crime; but prosecution agencies in those jurisdictions may calculate conviction rates as a percentage of people who actually stand trial, eliminating from the denominator all of those cases where the prosecution or the court dismisses the charges before the trial begins. The denominator matters, because if the conviction rate is calculated based only on the number of cases that go to trial, prosecutors can raise their conviction rate by withdrawing weaker cases before trial.

Even for a straightforward training programme, the choice of indicator is not obvious. The *aim* may be straightforward: for example, to train prosecutors who are working with investigators to do so effectively (Box 1.1, example 3). But many people would be tempted to measure success merely by counting the number of prosecutors trained, ignoring the possibility that many prosecutors resign or are promoted to different roles shortly after receiving this training. The less obvious choice here is the better indicator: the percentage of all prosecutors *active in relevant roles* who have been trained.

Indicators are almost always proxies of the outcomes or concepts they 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.

Consider, for example, the proxy indicator most widely used to measure changes in the volume of crime: *crimes reported to the police*. Changes in this proxy measure are always ambiguous. An increase in the rate of reported crime could indicate a higher real crime rate, an increased level of confidence in the police, or both.³

Indeed, the ambiguity of a single indicator may be its strength, alerting us to any of several important changes in the justice system. In this case, officials may want to know about growing confidence in the police as well as changes in the real rate of crime. This single indicator serves both purposes, so long as changes in the indicator are interpreted carefully.

It follows, then, that an indicator should rarely be used on its own. To interpret changes in ambiguous indicators, you should always use a group or ‘basket’ of indicators relating to the same policy objective. Baskets of indicators provide a more valid, reliable, and rounded view of policy progress.

At the same time, you must not allow the basket to get too big. A very large basket of indicators takes too much time to interpret and can numb the will of officials to achieve measurable results. Studies of organizational management suggest that a basket of between three and seven well-chosen indicators provides the degree of validity and the ease of interpretation required. The art here lies in your ability to assemble small baskets of powerful indicators.

An example of how a few indicators may be used together to provide insight into the same phenomenon is provided in Box 1.2.⁴

³ Example cited from Phillipa Hayden, *Scoping Study for Developing Indicators for Safety, Security and Access to Justice (SSAJ) Programmes* (Birmingham, England: Performance Assessment Resource Centre, 2003).

⁴ This example is drawn from a larger set of indicators described in *Handbook of Democracy and Governance Programme Indicators*.

Box 1.2: A Basket of Indicators Used to Measure a Single Concept

Aim: Equal Access to Justice

Indicator 1: Number of new courts opened in rural and urban areas with concentrations of marginalized populations

Indicator 2: Number of courts per 100,000 residents

Indicator 3: Percentage of citizens who say that they have access to court systems to resolve disputes

Indicator 4: Percentage of accused not represented at trial

As a group, these four indicators give a better indication of equal access to justice—a high-level, strategic purpose—than any one of them would alone.

But the first two indicators are not particularly powerful, and the basket as a whole is poorly balanced. The first indicator in the basket—the number of new courts opened among marginalized populations—measures the activity of a court-building programme, but it does not tell us whether the result of that programme is that marginalized populations are coming closer to having their fair share of courts. The second indicator tells us nothing about the equality of the distribution of courts. The third indicator also tells us nothing about equality, but because it is based on a survey, it could easily be adjusted to reveal that information. Finally, the basket as a whole is unbalanced because three indicators relate to the courts, and one to legal aid.

When bundling indicators together to measure progress toward a high-level, strategic purpose, it is best to avoid narrower activity indicators and draw one indicator from each institution that contributes to the overall purpose. A better balanced version is shown in Box 1.3.

Box 1.3: A Better Balanced Basket

Aim: Equal Access to Justice

Indicator 1: Percentage of citizens who say that they have access to court systems to resolve disputes, disaggregated by gender, ethnicity, region, and level of urbanization

Indicator 2: Percentage of accused persons legally represented at one or more court appearances in their cases, disaggregated as above

Indicator 3: Percentage of citizens who say that the police will respond to them without requiring a bribe if called to resolve a dispute, disaggregated as above

Indicator 4: Ratio of prosecution caseloads in courts serving wealthier communities to those in courts serving marginalized communities

Two of the indicators in this second version of the basket are adapted from the first version but are disaggregated to reveal issues of inequality. The third and fourth add balance: extending the ability of the group of indicators to alert you to problems in police and prosecution services that may block access to justice more for some groups than for others.

This guide is principally concerned with indicators that measure either progress toward broad strategic purposes or toward institutional policy objectives. The guide does not deal with the construction of activity indicators, such as measurement of the training programme described on page 5. **Activity indicators are essential for front-line management, but they do not tell policy makers about progress toward their desired outcomes.** The very essence of performance measurement at the policy level is to test the assumptions of officials and programme directors that certain activities will produce the desired outcomes. Measuring activity alone leaves that question unanswered.⁵

2. Data Sources for Indicators

There are usually several data sources from which you can calculate any particular indicator. There is rarely a correct choice: some data sources are more expensive to use; some are more readily available; and some are updated more frequently. All are flawed: the challenge is to understand the flaws when using them.

The choice of data source is entirely contextual. For example, where a government already conducts an annual survey of a representative sample of the population, adding a question about violent victimization may be relatively easy. On the other hand, where no such survey exists, creating and sustaining one may be prohibitively expensive and administrative data may be more readily available.

Some indicators can be implemented using data drawn from more than one institution. Conviction rates, for example, can be calculated by matching data held by the police and the courts. But actually matching these data may be difficult or impossible, making it more practical to rely on data solely from prosecutors.

Even when drawn from a single institution, the same administrative data source may serve well in one country and very poorly in the next. For example, hospital records of gunshot and knife wounds provide a good indication of levels of violence in some communities. If hospitals are not commonly used or keep poor records, then the level of violence might be better measured using changes in the number of homicides. However, using this indicator assumes that homicide usually rises and falls together with other violent crime, and this is not always the case.

The most common sources of data are:

- administrative databases
- surveys
- third-party reports (including press reports)
- legislation

⁵ The process of constructing activity indicators is somewhat different from the process of building strategic and institutional outcome indicators. For example, it is often useful to observe the daily routines of frontline staff over an extended period before deciding on specific activity indicators. This protects against the danger that the indicators might inadvertently ignore activities that contribute to the realization of desired outcomes. For a good example of this process, see: Ted Leggett, *Rainbow Tenement: Crime and Policing in inner Johannesburg* (Pretoria: Institute for Security Studies, 2003).

2.1 Using Administrative Data

It is most common for indicators to be compiled from administrative data generated by the records of institutions in the course of their work. Common examples of administrative data include records police keep on reported crime and court records of the outcome and length of judicial cases. Administrative data may also come from NGOs, such as records on the services they deliver in local communities.

The most reliable administrative data are those an agency collects for its own operational purposes. When staff members collect data solely for measurement purposes, the incentives to keep the data accurate are relatively low. In contrast, if a department's staff rely on the data to do their own jobs, they are more likely to maintain its accuracy.

Even so, using operational data for performance measurement can introduce perverse incentives. A common example of this relates to the recording of crime. Typically, police are held accountable for levels of crime in their jurisdictions. Yet it is usually the police themselves who have the responsibility for recording reported crimes. This creates an incentive among police managers to record less crime than is actually reported, either by discouraging would-be complainants or by reclassifying serious crimes into less serious categories not captured by the indicators.

The perverse incentives may affect operations as well as data collection. For example, an effort to increase arrests of repeat offenders might be measured by counting arrests of people who had accumulated a certain high number of previous convictions in the recent past. Such an indicator, however, can lead police to deliberately ignore serious offences in favour of arresting persistent petty offenders who quickly collect convictions.

Most performance measurement systems rely, at least in part, on data sources created specifically for measurement purposes. Box 2.1 provides an example of how administrative data has been created to measure the extent of racial profiling by police in England and Wales.

Box 2.1: Using Administrative Data to Measure Racial Profiling

In England and Wales, concern that police officers inappropriately consider race when deciding whom they search following a pedestrian or traffic stop—a practice known as racial profiling—has led to a new legal requirement that police forces make public the racial breakdown of the people so searched. Police officers have been required by law to complete a new paper form for each search they carry out, noting the circumstances and the racial characteristics of the person searched.

The information on all of these forms is entered into separate electronic databases in each of 43 police forces. On an annual basis, summaries of the data are submitted to the central government and a national report is published. There is some controversy about the appropriate indicator to construct from these data, but the example below shows one possible solution. The indicators show positive results when the proportions become more similar across racial classifications.

Aim: Elimination of racial profiling by the police in the decision to search

Indicator 1: Proportion of all persons searched in the course of traffic and pedestrian stops, disaggregated by race

Indicator 2: Proportion of persons stopped and searched where the search reveals evidence of criminal conduct, disaggregated by race

Data Source: Administrative data from the police compiled for this purpose

2.2 Using Survey Data

In contrast to administrative data, survey data can go beyond the reporting of events and conditions to capture the experience, perceptions, and attitudes of individuals who are providing or receiving public services. For example, victimization surveys typically ask respondents not only about their experience of crime, but also about their fear of crime and their confidence in police and justice institutions.

Surveys are also used to supplement data available from administrative sources. Examples include surveys that measure the amount of natural light in a prison cell, length of a court hearing, or number of sirens heard in a metropolitan area.

Surveys come in many forms, from large, representative national surveys of public opinion to inexpensive surveys of a small number of people. Large surveys seeking a representative sample of an entire country's population are difficult to carry out and expensive to replicate on a regular basis. The uneven ability and willingness of people to participate in surveys—whether because they live beyond the practical reach of those administering the survey or because they decline to participate—undermines the reliability of these large surveys. Nevertheless, they are among the few credible ways to obtain data about crime victimization or the experience of public corruption (see Box 2.2.)

Box 2.2: Using a Household Survey to Measure Corruption in Uganda

In 2002, the Inspector General of Government carried out the second National Integrity Survey in Uganda survey to measure public and government experience and perception of corruption.

The household survey included between three and 18 sites from all 45 districts in Uganda amounting to 391 in total. In each site, the survey reached between 18 and 72 households, with an average of 5 people per household. Sites were selected from a stratified list, weighted towards urban districts, those remote from urban areas and districts representing 'best and worst' examples of government service provision. Interviewers went from door to door in the 200 sites, ultimately administering questionnaires to 13,200 households (approximately 0.2 percent of the Ugandan population).

Household members were asked about their contact with services such as health, police, and the judiciary. In particular, they were asked to report any personal experience of corruption within these services and also to give their general opinion of the prevalence and character of corruption.

Aim: Reduce corruption in the public sector

Indicator 1: Changes in reported experience of corruption among the public

Indicator 2: Changes in perception of corruption among the public

Data Source: National household survey, random sample stratified by district.

As a quicker and cheaper alternative to large representative surveys, the World Health Organization and other institutions often use small group surveys.⁶ By using structured samples of a range of social groups—including people in poverty—small group surveys can provide a range of useful information, although the small number of people contacted increases the risk of bias. Researchers often supplement small group surveys with post-survey focus groups that can capture insights into perceptions of safety and security not captured in the numbers.⁷

Surveys can also focus more narrowly on professional staff within an organization, or even more narrowly, on a small group of experts who are likely to have good insights into a particular phenomenon. This might involve asking a group of NGO representatives about crime problems in a community or asking lawyers about the responsiveness of courts to the needs of poor people bringing cases to court. These can involve standardized survey-type questions that allow quantification of responses.

Small group and expert surveys are generally much less expensive than national, representative surveys. Box 2.3 presents an example of an expert survey used as a data source for an indicator of press freedom in 139 countries.⁸ Its low cost makes it

⁶ See Ralph Frerichs and Magda Shaheen, "Small-Community-Based Surveys," *Annual Review of Public Health* 22 (2001): 231-47; S. Bennett, T. Woods, W.M. Liyanage, and D.L. Smith, "A Simplified General Method for Cluster-Sample Surveys of Health in Developing Countries," *World Health Statistics Quarterly* 44, no. 3: 98-106; and Michael G. Maxfield, *Guide to Frugal Evaluation for Criminal Justice*, document no.: NCJ 187350, February 2001.

⁷ For information on focus groups, see Richard Krueger and Mary Anne Casey, *Focus Groups: A Practical Guide for Applied Research* (Thousand Oaks, CA: Sage Publications, 2000). For a shorter discussion of strengths and weaknesses, see Anita Gibbs, "Focus Groups," *Social Research Update*, University of Surrey, No. 19 (1995), <http://www.soc.surrey.ac.uk/sru/SRU19.html>.

⁸ Taken from D. Kaufmann, A. Kraay, and M. Mastruzzi, *Governance Matters III: Governance Indicators for 1996-2002* (Washington, DC: World Bank, 2003). See also the Reporters Without

possible to conduct the survey in many more locations than a traditional survey. When surveying experts, however, it is essential that the questions draw directly on the true expertise of the respondents and that the body of expertise be genuine. Otherwise, another person conducting the same survey at the same time with different experts is likely to find different results, rendering the indicator useless for measuring progress over time and calling into question the integrity of the measurement system.

Box 2.3: Using an Expert Survey to Measure Press Freedom

Reporters Without Borders, an international organization dedicated to the protection of reporters and respect of press freedoms around the world, published its first worldwide press freedom index in 2002. The index combined answers from several questions on a survey sent to experts, including journalists, researchers, and lawyers. Reporters Without Borders calculated a score only for the 139 countries for which they received completed questionnaires 'from several independent sources.'

The index score was based on answers to 50 questions about the range of restrictions on press freedom, such as:

- murders or arrests of journalists
- censorship
- pressure
- state monopolies in various fields
- punishment of press law offences
- state regulation of the media

Aim: Increase the safety and freedom of the press

Indicator: Score on index of press freedom.

Data Source: Survey of experts by international NGO

2.3 Using Narrative Reports

In addition to administrative data and surveys, narrative reports produced by government agencies, civil society groups, and the media can shed light on social phenomena of interest. These might include meeting minutes, annual reports of activities, and press reportage. To make these reports meaningful, you must extract data and compile indicators systematically, so that the exercise can be repeated over time to measure progress.

For example, newspapers do not generally report all violent crime in a jurisdiction, making them poor sources for systematic data on crime; but they are sometimes the only sources of information about particularly rare and sensational events, such as people killed as a result of police action.

Newspaper reports can be even more useful as a source of information about press coverage itself. A programme designed to increase the legitimacy of some part of the state court system may want to measure changes in the public confidence in the courts by systematically analyzing the presentation of the courts and the judiciary in media reports.

Borders' web site and explanation of how the index was compiled:
http://www.rsf.org/article.php3?id_article=4116.

2.4 Monitoring Legislation

Finally, monitoring directly whether legislatures have enacted certain kinds of laws can also provide the basis for an indicator. These indicators may simply register the adoption of certain laws (for example relating to human rights protections) or the establishment of new institutions (such as police oversight bodies).

3. Converting Data into Indicators

Indicators can present data in many different forms. Common forms include proportions, ranks, dichotomous indicators, and indices.

- **Proportions and rates**—A mere count is rarely as revealing as a proportion or rate. For instance, the number of homicides recorded since statistics began to be kept is far less revealing than the changes in the rate of homicides recorded per month. It is crucial, however, when interpreting changes in proportions to bear in mind that an increase may be caused by a decrease in the denominator as well as by an increase in the numerator. For example, the percentage of prisoners who are awaiting trial can be increased simply by the sudden early release of a group of sentenced prisoners.
- **Ranks**—Indicators can also be constructed from measures that rank situations, events, or even opinions. For example, residents of a town can be asked to rank the biggest problems in their community, including crime or insecurity. As this example suggests, ranks are often used to quantify subjective measures. A drawback of using ranks, however, is that they cannot show the strength of the preference. For some respondents, the difference between their first and second choices is minimal, while for others, their second choice is far less desirable than their first choice. They also show only the relative importance of an item, not its overall importance.
- **Dichotomous indicators**—Sometimes an indicator may not be numerical, in the way that proportions, rates, or ranks are. Instead, an indicator may simply involve identifying whether an institution, policy, function or law exists or not. The recognition of domestic violence as a crime in law, for example, could be one measure of access to justice, as could the existence of the office of police ombudsman.
- **Indices**—Indices combine multiple indicators into single measures. In order to generate an index, the separate measures must be assigned individual weights based on their relative importance to the concept represented by the index. For example, six indices reflecting the quality of governance have been developed by the World Bank.⁹ These measures are compiled from hundreds of variables, drawn from 25 different data sources, including several surveys and polls.¹⁰ Generally, when first constructing an index, the numeric value of the combined measures is divided by itself, effectively setting the initial value of the index equal to 1 (often

⁹ They are: Voice and Accountability, Political Stability, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption.

¹⁰ *Governance Matters III: Governance Indicators for 1996-2002.*

expressed to two decimal places as 100). Future values are also divided by the original value, allowing the index to rise or fall over time from its original value of 1 or 100. Indices are powerful devices for relating complex data directly to the concept of importance, making communication of the information particularly easy. A drawback is that indices often combine so many separate measures that changes in their value are especially ambiguous, requiring special care in their interpretation. They also are only as up-to-date as their constituent parts and must be consistently calculated from one period to the next, requiring more skill than simpler indicators.

Whatever their form, indicators must also be capable of reflecting changes in relatively short time periods: a month, a quarter of a year, or a year. So the indicators need to be sensitive enough to register the kinds of changes that could reasonably occur in those periods of time. For example, in a judicial system that often takes two years to complete a case, indicators of progress for judicial reform will only be sensitive to your interventions if they measure the affect during litigation, not just at its conclusion.

Disaggregating data within individual indicators greatly enhances their ability to register improvements in equality of security and access to justice. Most data used for indicators reflect the experiences of the general population, so it is important to disaggregate that data according to income, gender, region, or level of urbanization in order to test whether the experience of some people is different from that of other groups.

Survey data is relatively easy to disaggregate by including appropriate questions in the survey from the start. Disaggregating administrative data is much more difficult because the forms used to collect the data typically use categories that are too broad for useful analysis. Once senior officials experience the value of indicators, they may be convinced that their data collection forms should be revised. In the meantime, however, the use of proxies may be necessary to disaggregate administrative data. Neighbourhood, for example, can often be a good proxy for income when you want to isolate police records on poor victims.

Finally, choose units for your indicators that are easily understood by the widest possible audience. The best indicators make intuitive sense to most people who hear about them. That means that they should be expressed in units with which most people are comfortable. For example, avoiding references to legal categories or stages of judicial proceedings and instead building indicators that speak about days in custody can help the wider public understand and use the indicators in their own conversations about safety and justice.

4. Comprehensive Systems of Indicators

Despite the growing commitment to performance measurement among governments in all parts of the world, it is still rare to find examples of a sector-wide programme or a national institution with a comprehensive system of indicators developed in line with all of the principles of good practice discussed here. To illustrate what such a system of indicators might look like, we describe two

institutional efforts at measuring police performance comprehensively, although the two are at different stages of development.

4.1 Police Performance Monitoring in England and Wales

The Police Standards Unit of the British Home Office has developed a Policing Performance Assessment Framework with the goal of establishing a set of national performance standards covering all 43 police forces in England and Wales.¹¹ The nascent framework involves six ‘domains,’ which represent the key outcomes for which the police will be accountable (Table 4.1).

Table 4.1: Police Performance Monitoring in England and Wales

Domain level	Domain	Indicators	Data source
Strategic objectives	Citizen Focus	<ul style="list-style-type: none"> Proportion of public satisfaction with the police 	National survey of households
Intermediate objectives	Reducing Crime	<ul style="list-style-type: none"> Number of burglaries per 1,000 households Number of robberies per 1,000 residents Number of vehicle crimes per 1,000 residents 	Police recorded crime
	Investigating crime	<ul style="list-style-type: none"> Proportion of offences detected Proportion of offences brought to justice Hard drug supply offenders brought to justice for every 10,000 residents 	Police administrative data
	Promoting Public Safety	<ul style="list-style-type: none"> Proportion of residents very worried about burglary Proportion of residents highly worried about car crime Proportion of residents highly worried about violence Proportion of residents perceiving disorder as high 	National survey of households
	Providing Assistance	Under development	-
Activity	Resource usage	<ul style="list-style-type: none"> Days lost to sickness per officer each year Days lost to sickness per police civilian each year 	Police administrative data

All but one of the domains is measured through more than one indicator and these baskets of indicators, with one exception, are well balanced.

A weakness of this particular framework, at least in its current stage of development, appears in the indicators chosen to measure ‘resource usage.’ Both indicators currently used in this domain measure staff sickness. While staff sickness may be a good proxy for staff morale and commitment, it seems inadequate on its own to capture the broad issues implied under the use of human resources. Ideally, it might be useful also to measure how police officers are deployed across the police area and how police officers divide their time among tasks.

The indicators chosen to measure ‘reducing crime’ raise a related issue. These focus exclusively on burglary, robbery, and vehicle crime. This may appropriately reflect a

¹¹ *Police Performance Monitoring 2001/02* (London: Home Office, February 2003).

policy choice to focus exclusively on these three crimes, but such a choice easily excites controversy if those whose progress is being measured have not been part of the decision about where to focus.

If these indicators show that little progress is being made towards reducing crime, police officials will be expected to strengthen their efforts or change their tactics. For this to happen, officials must believe that the indicators accurately reflect their achievements. It is crucial, therefore, to engage these stakeholders from the start in the process of developing the indicators.

While clear consensus on goals and indicators rarely occurs across departments or even within any single department, making the effort at the start to develop goals and measures that are widely understood and credible increases the chances that signs of poor progress later in the programme will spur changes in practice or strategy.

4.2 Appraising Officers in the Nigerian Police

The Nigerian Police also use a set of indicators internally that measure officers' performance against a specific range of objectives.¹² Like the indicators being developed for police in England and Wales, the Nigerian indicators focus explicitly on outcomes. But instead of being developed centrally, as a comprehensive system, and then put into practice, the Nigerian indicators have been put into practice individually, and were then systematized by researchers. This process is not only less expensive, but it also allows managers and officials to see where objectives might be more clearly articulated, which objectives require better indicators, and where a better basket of indicators might be needed.

The result of this research effort to display the current appraisal policy as a system of indicators is shown in Table 4.2.

Table 4.2: Indicators of Officer Performance in Nigeria

Level of objective	Objectives/activities	Indicators
Strategic objectives	Reduce crime	<ul style="list-style-type: none"> • Crime levels in area covered by officer
Intermediate objectives	Provide assistance	<ul style="list-style-type: none"> • Feedback from members of public on performance at duty posts
Activity/resources	Do 'good police work'	<ul style="list-style-type: none"> • Feedback from field operations • Ability to function in a team • Quality of reports presented • Punctuality • Knowledge of duty
	Other officer qualities	<ul style="list-style-type: none"> • IQ • Respect for seniors • Relationship with superior officers • Personal appearance

After examining such a table, reformulating the objectives, and adjusting the specific indicators, the next step would be to specify in detail the sources of data for each

¹² Innocent Chukwuma, *Report of Research on the Internal Systems of Performance Measurement in the Nigeria Police* (Lagos: CLEEN, unpublished report prepared in 2003).

indicator. In this case, it seems that much of the data needed can be collected using fairly simple, anecdotal approaches. For example, ‘feedback’ from field offices and members of the public probably amounts to conversations between the evaluating officer and representatives in the field office or neighbourhoods, perhaps resulting in a numerical ranking. If so, it is an example of how indicators might be developed and used without extensive and costly data collection.

5. Summary - Guidelines for Developing Indicators

These eight basic guidelines to bear in mind when developing any indicators summarize material covered in Part One of the guide. These guidelines also can be expressed as a set of eight design principles. Those principles, and a set of questions you can pose to test your adherence to them, are shown in Box 5.1.

#1 Start with the outcome, not the indicator. The validity of your indicators depends on their relationship to the outcomes you seek to achieve and the ability of different people to calculate their value consistently to obtain comparable results over time. While the process of developing indicators, therefore, inevitably shifts back and forth between assessing the reliability of available data and clarifying the desired outcomes, it is crucial to start by precisely defining the outcomes you aim to achieve.

#2 Measure outcomes with balanced baskets of indicators. Single indicators rarely measure an outcome well. Creating a basket of measures, each with different limitations, can give you greater confidence in the results. Building a balanced set of indicators involves articulating the multiple reasons that a single indicator might rise or fall and then identifying other valid indicators that would help resolve the ambiguity of the first.

#3 Test your indicators for their sensitivity to the changes you hope to make. Ask yourself, if your programme is successful over its first three or six months, when will that improvement be reflected in your indicators? If the change is not reflected quickly, look for indicators that are more sensitive to the changes you hope to make.

#4 Design indicators that allow you to isolate the experiences of relatively powerless groups, such as people living in poverty. Some indicators will inherently reflect the special experience of particular groups, but you will have to be able to disaggregate the data for most indicators.

#5 Avoid creating perverse incentives. When constructing indicators, the idea is that the measures produced will promote and reinforce positive activities that move systems closer to a desired outcome.

#6 Use the simplest and least expensive indicators that you can. It is important to establish what data sources already exist that may inform an indicator before spending money to collect new data. If fresh data do need to be collected, there usually are both cheaper and more expensive ways to do so. The choices typically involve a trade-off between quality and cost.

#7 Build confidence in indicators among stakeholders. Changes in indicators over time should guide action, but this requires that responsible officials have confidence in the indicators.

#8 Design indicators that make sense to most people. The less you need to explain the indicators, the more readily they will be accepted.

Box 5.1: Checklist for Developing Indicators

Validity

- Are your indicators likely to record progress toward your objective?
- Are you measuring outcomes, not simply activity?
- Would different people taking the same measure get the same results?

Balance

- Do you have a balanced basket of indicators that measures progress toward a single aim?
- Is the ambiguity inherent in each single indicator reduced by the presence of the others?

Sensitivity

- Are each of your indicators sensitive enough to record the kinds of changes likely to occur from one period to the next?
- Are your indicators sensitive to the changes your interventions are most likely to produce?

Equality

- Do your indicators specifically capture the experience of powerless groups, such as people in poverty?
- Can your indicators that capture general experience be disaggregated to isolate the experience of particular groups?

Motivation

- Can you identify the ways in which the introduction of your indicators may change the incentives guiding the behaviour of officials or citizens?
- Can you minimize any danger that your indicators will create perverse incentives that could undermine your aims?

Practicality

- Can you afford to collect the necessary data on a regular, continuing basis, and are simpler, less expensive ways to collect data available?
- Will the data collected specifically for your indicators be reliably accurate?

Ownership

- Have all those whose progress will be measured contributed to the development of the indicators?
- Do those whose performance will be judged by the indicators have confidence in them?

Clarity

- Do the measures make sense to all of your audiences, including people in poverty?
- Are your measures expressed in units that are familiar to most citizens?

This part of the guide describes indicators that cut across the safety and justice sector, in contrast to those focusing on specific institutions within the sector. These indicators could be used by officials with responsibility for achieving results across all of government, by interdepartmental working groups, by cabinet committees, or by public-private coalitions. The first chapter describes indicators of safety and security. The second describes indicators of accessible justice.

6. Indicators of Safety and Security

6.1 Outcomes of Interest

For both citizens and government officials, perceptions of safety and security are at least as important as reducing actual attacks on people and their property. At its worst, the feeling of insecurity—or the fear of crime—can deaden productive social relationships and provoke destructive vigilantism. And measuring both experience and perception is particularly important because they are not directly correlated. In some places, for example, introducing community policing has reduced fear of crime, but has had no impact on the reported experience of crime itself.¹³ Moreover, officials equipped with separate indicators for perception and experience should be able to trace the effects of tactics aimed at one of these dimensions on the other.

Some safety and justice officials will resist the suggestion that they are responsible for people's mistaken sense of insecurity: If people are fearful even when the experience of crime is very rare, how can police, court, or prison officials be responsible? They often believe there is nothing they can do about a problem of mere perception. But the indicators discussed here assume that public officials within and outside the safety and justice sector can and must take up this challenge. Indeed, experience in several countries demonstrates that you can improve public security *and* make people feel safer.¹⁴

¹³ See Robert Trajanowicz and Bonnie Bucqueroux, *Community Policing: A Contemporary Perspective* (Cincinnati, Ohio: Anderson Publishing Company, 1990).

¹⁴ Criminal justice researchers have tried to link various interventions to changes in perceptions of safety and security. See, for example, Eric Pelsler, Johann Schnetler and Antoinette Louw, *Not Everybody's Business: Community Policing in the SAPS' Priority Areas* (Pretoria: Institute for Security Studies, Monograph No. 71, March 2002). In the United States, polling firms offer nationally normed,

6.2 Traditional Indicators Used to Measure Safety and Security

Most traditional indicators of safety and security depend on crime data, but the same data can be fashioned into very different indicators. **The most common indicator is the change in the volume of crime from one period to the next. Also common is the comparison of the crime rate in one jurisdiction with that in another.** In Barbados, for example, the government recently introduced a programme to reduce the volume of crime reported on victim surveys, but also collected and published comparative crime rates for Barbados and other countries, showing that Barbados is already very safe compared with both industrialized and developing countries throughout the world.¹⁵ All assertions about changes in the volume of crime or comparative crimes rates beg two questions:

1. **What are the sources of the crime data, and**
2. **Which specific crimes are counted?**

The sources are usually either official police statistics or surveys that ask about victimization. Both are imperfect measures, and they can produce inconsistent results. Police statistics cannot capture crimes that go unreported, which are often a substantial percentage. In addition, police often record crimes inconsistently and sometimes do not record reported crime at all. Surveys have difficulty reaching some parts of the population and themselves introduce ambiguities as a result of the ways that questions are worded. They depend on the memory of those questioned not only about the event but also about whether it occurred within the relevant time period. Surveys are also expensive to conduct and require many months to produce—making them relatively poor sources for indicators that must be updated every month, quarter, or even annually.

The rate of reporting varies from place to place and from crime to crime. **The degree of reporting does not appear to be a function of the sophistication of the police or the wealth of a nation's citizenry.** We can see this variation in the responses to the International Crime Victim Survey which has been conducted at least once in 35 different countries since 1997. In all of these countries, most car thefts are reported to the police—ranging from 100 percent in China to 61 percent in Japan. But the reporting of robbery is much lower everywhere, and the variations are more extreme, as shown in Chart 6.1.¹⁶ In the United States, annual victimization surveys from 1992

standardized instruments that include scales for safety and security. For example, the Noel-Levitz Student Satisfaction Inventory.

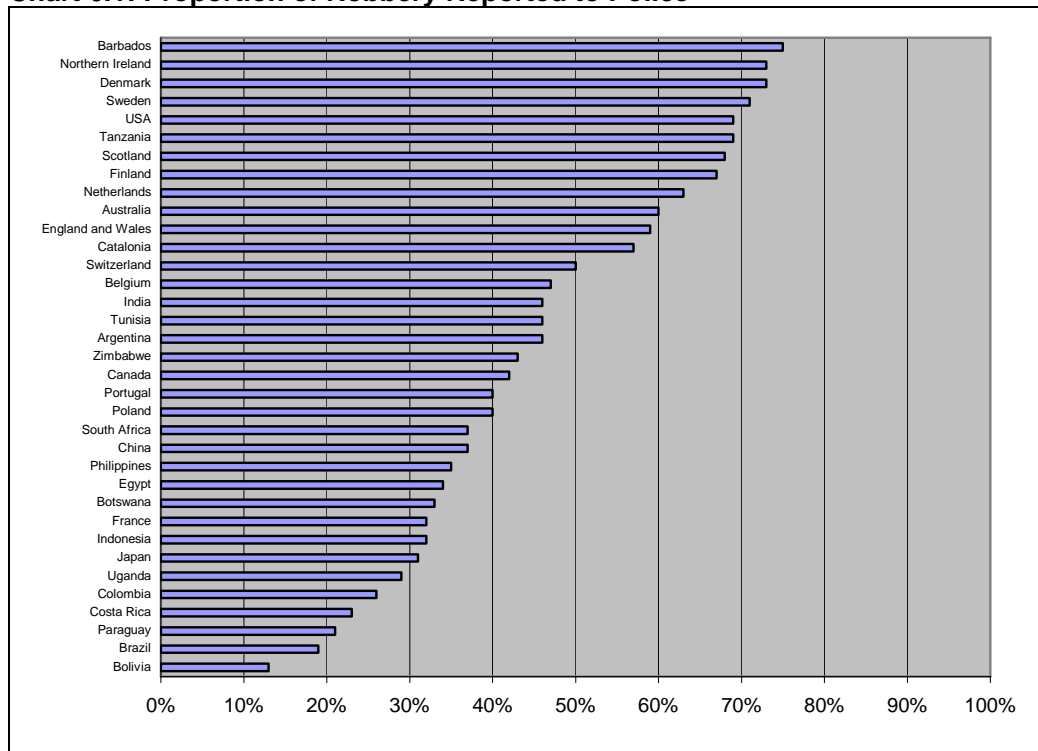
¹⁵ Christopher Nuttal, DeCoursey Eversley, and Inga Rudder, *Barbados Crime Survey 2002: International Comparisons* (Freetown: Department of the Attorney General and Barbados Statistical Department 2003),

<http://www.barbados.gov.bb/documents/Barbados%20Crime%20Survey%202002.pdf>.

¹⁶ This discussion of comparative crime reporting and Charts 6.1 and 6.2 are adapted from the *Barbados Crime Survey 2002*, pages 30-34. The International Crime Victim Survey data for the following countries includes only people living in cities in: Argentina, Bolivia, Botswana, Brazil, China, Colombia, Egypt, Paraguay, South Africa, Tanzania, Tunisia, and Zimbabwe.

through 2001 have found that victims reported to the police only 44 percent of all violent crime they experienced.¹⁷

Chart 6.1: Proportion of Robbery Reported to Police



Despite these variations, crime recorded by the police can still provide reliable data if *changes* in police statistics correlate with changes obtained less frequently in victim surveys, but this is not always the case. From 1973 to 1990, for example, the number of serious violent crimes recorded by the police almost doubled in the United States, while the National Crime Victim Survey (NCVS) showed slight decreases. In addition, the police recorded far less serious violent crime during that period than victims claimed to have reported to the police on the NCVS.¹⁸

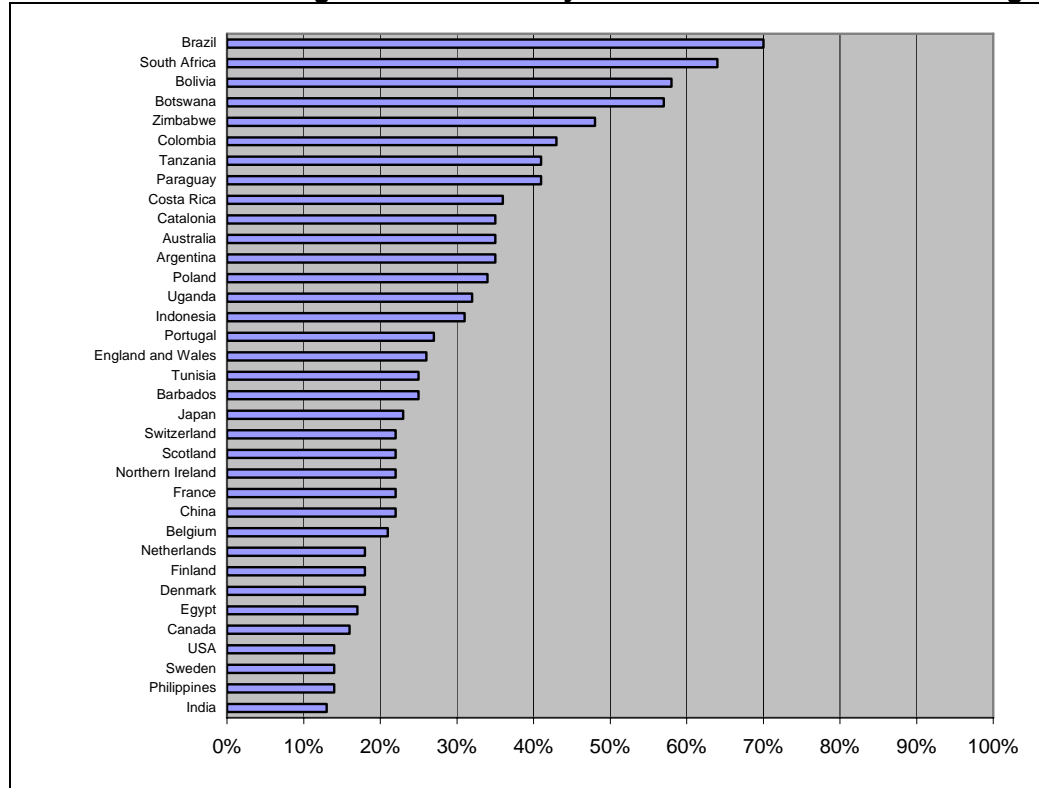
Whatever the source of crime data, traditional indicators usually focus on a relatively narrow range of specific crimes. The International Crime Victim Survey, for example, asks respondents about seven specific household crimes (burglary, attempted burglary, vehicle theft, theft from vehicles, vandalism of vehicles, bicycle theft, and motorcycle theft) and an additional six personal crimes (robbery, theft from the person, assault and threats, sexual assault, consumer fraud, bribery and corruption). In sum, the most common traditional indicators provide a narrow and distorted view of the experience of crime and tell us very little about people’s sense of

¹⁷ Timothy Hart and Callie Rennison, *Reporting Crime to the Police, 1992-2000*. (Washington, DC: Bureau of Justice Statistics, 2003), 1. See also Callie Rennison, *Criminal Victimization 2001* (Washington, DC: Bureau of Justice Statistics, 2002).

¹⁸ *Reporting Crime to the Police, 1992-2000*, 7. These three indicators have started to converge in the last decade, a phenomenon that may reflect both improvements in methodology and changes in the level of trust in the criminal justice system.

security.¹⁹ **Used together, police statistics and victim surveys provide a better sense of the experience of crime than either can alone. Nevertheless, any serious effort to improve safety and security for the whole citizenry of a country needs to look beyond these traditional indicators.**

Chart 6.2: Those Feeling Somewhat or Very Unsafe Alone on the Street at Night



6.3 Potential Strategic Indicators for Safety and Security

As crime prevention strategies become more sophisticated, they focus on particular environments where safety can be measured.²⁰ The International Crime Victim Survey, for example, asks how safe respondents feel in their home and also how safe they feel ‘walking alone in their area after dark.’ (The answers to the latter question are shown in Chart 6.2.)

This chapter suggests taking a spatial approach to measuring safety and security, focusing on four distinct spaces:

- Homes

¹⁹ For a full discussion, see Clayton James Mosher, Terance D. Miethe, and Dretha M. Phillips, *The Mismeasure of Crime* (Thousand Oaks, CA: Sage Publications, 2002).

²⁰ A wealth of research shows that crime has important spatial dimensions and that different types of space are susceptible to different types of crimes. See: Timothy Ross, John Mollenkopf, Phil Mcquire, and Victor Goldsmith, eds., *Analyzing Crime Patterns: Frontiers of Practice* (Thousand Oaks, CA: Sage Publications, 2000).

- Streets and paths
- Public social spaces
- Justice institutions

Police crime reports, which often already include a notation of the nature of the location, could be keyed to the same spatial categories.²¹ The categories could even include more specific environments, such as workplaces or schools.

For each of the four locations, you might use one indicator to measure experience and another indicator to measure perception. Seven of the eight indicators suggested in Table 6.1 are indices. All eight should be disaggregated by gender, geography, and level of poverty, whenever possible.

²¹ For an example of this approach in a single community in South Africa, see Ted Leggett, *Rainbow Tenement: Crime and Policing in Inner Johannesburg* (Pretoria: Institute for Security Studies, Monograph Series No. 78, April 2003), 35-37.

Table 6.1: Suggested Sector-Wide Strategic Indicators for Safety and Security

Strategic purpose	Potential indicators	Possible data sources
Improve safety and security on streets and paths	Change in a street crime index (robberies, assault, and other crimes committed outside, weighted by seriousness as locally defined)	<ul style="list-style-type: none"> • Police statistics • Victim survey
	Change in a personal street security index (perception of safety in the streets)	<ul style="list-style-type: none"> • Perception survey • Small group interviews
Improve safety and security at home	Change in a domestic crime index (domestic violence incidents, residential burglaries, arson, homicides, and other crimes in the home, weighted by seriousness as locally defined)	<ul style="list-style-type: none"> • Police statistics • Ambulance statistics • Survey of service providers • Victim survey
	Change in a personal domestic security index (perception of safety in the home)	<ul style="list-style-type: none"> • Perception survey • Small group interviews
Improve safety and security in public social places	Change in a public crime index (crimes reported to have occurred in workplaces, schools, and recreational centres and during cultural events, weighted by seriousness as locally defined)	<ul style="list-style-type: none"> • Police statistics • Victim survey
	Change in a public security index (perception of safety in public places)	<ul style="list-style-type: none"> • Perception survey • Small group interviews • Business and event permits • Attendance at public events
Improve safety and security in justice institutions	Change in rate of deaths and serious injuries while in contact with the justice system	<ul style="list-style-type: none"> • Media monitoring • Department of health statistics • Police and prison records • Survey of NGO experts
	Change in institutional safety index (perception of safety and security for people in custody of justice institutions)	<ul style="list-style-type: none"> • Perception survey • Small group interviews

6.4 Using the Indicators

Before committing to the use of indices, be forewarned: The first iteration of even a single index requires substantial effort and produces only the baselines score (1 or 100). It may be useful in the first year to publicly release some short reports using the underlying data in order to draw attention to crime problems requiring intervention and to give those officials and citizens involved in the process a sense of accomplishment. Nevertheless, the power and intuitive appeal of an index once it is in place is often worth the effort required at the start.

#1 Street Crime Index

This index would measure changes in the experience of crime on streets and paths where people live and work. Traditional counts of homicide or theft conflate these incidents with those that occur inside homes among family members. This index should be more sensitive to interventions that attempt to reduce street crime, such as programmes to increase street lighting, reduce public intoxication, reduce the carrying of weapons in public, and increase police patrols along certain streets and paths.

This index and the three others that measure changes in experience blend police statistics and data gained from victim surveys, and weight the individual crimes used in the index according to the local perception of their seriousness. Assigning weights reduces the need to disaggregate the index into its types of crime, and it also provides an opportunity to invite citizens, particularly those whose voices are less well represented in policy circles, to participate in the weighting.

Analysis of the International Crime Victim Survey shows variation in the degree of seriousness with which crime victims in different countries view their experiences. For example, about 74 percent of burglary victims in Europe, North America, Asia, and Australia view their burglaries as fairly serious or very serious, compared with 92 percent in African countries and 85 percent in Latin American countries.²²

#2 Personal Street Security Index

This index would track changes in the perception of safety and security along the lines of the question asked to generate Chart 6.2. This index would capture people's insecurity about going out in their own areas, even if the actual incidence of crime is very low.

#3 Domestic Crime Index

A domestic crime index would combine police data and victim survey data to track changes in the experience of crime in the home. Two kinds of crimes are combined here: domestic violence and other offences against people while they are at home and offences that more often occur when the home is unoccupied, such as burglary, arson, and criminal damage.²³

Police reports of domestic violence against women and children as well as reports of other domestic crimes are notoriously inaccurate, and victims are also reluctant to report these incidents when they are surveyed. Therefore, this index should be supplemented with information from medical facilities, battered women's programmes, and child abuse agencies. A survey of staff who provide services to address these problems could provide a faster and potentially more reliable indicator of trends than official records.

Changes in the resulting domestic crime index would have to be analyzed cautiously. Decreases in demand for battered women's programmes may reflect increased fear among battered women. Fewer abused children may be placed in foster care because of a lack of funds, a decline in reporting, or a lack of child protective investigators.

²² *Barbados Crime Survey 2002*, 25-29.

²³ For an effort to collect data on these phenomena on a global scale, see: *World Report on Violence and Health* (Washington, DC: World Health Organization, October 2002).

Though imperfect, a domestic crime index would provide a common indicator for efforts across the public sector to strengthen the security that people experience in their homes.

#4 Personal Domestic Security Index

This index would measure changes in people's perception of safety inside the home and of the safety of the home itself. The International Crime Victim Survey asks a question on this topic in industrialized countries, but the question was unfortunately not included in the survey of developing countries. As with the domestic crime index, above, this index would include both the perception of the risk of domestic violence and the risk of theft from the home or damage to it when unoccupied.

#5 Public Crime Index

Crime and fear of crime in public social spaces can depress economic activity and civic participation. Measuring crimes that occur where people gather—including workplaces, schools, cultural and recreational centres—should be relatively straightforward through a combination of police statistics and victim survey data. Because even a single major crime in such a setting attracts widespread attention, a reliable index may help put such events in perspective.

#6 Personal Public Security Index

In addition to measuring people's perception of safety in public social settings, this index includes measures of cultural and commercial activity in such settings. A potential weakness of including those elements is their sensitivity to influences other than fear of crime. Changes in the level of commercial activity may result from population movements or from macroeconomic changes in exchange rates, economic growth, and foreign investment. Nevertheless, the frequency with which people participate in large-scale public activities is a good check on their expressed perceptions of safety in such settings.

#7 Rate of Deaths and Serious Injuries in the Justice System

The safety and justice sector of government has a special responsibility to protect individuals in its custody. Police, prison, and court officers are all authorized by law to physically subdue people under certain circumstances, but if a person dies or is seriously injured as a result, the public is likely to view that system as less safe and secure. A single indicator combining the deaths of and serious injuries to people in the custody of the sector as a whole could focus attention on reducing injuries rather than on blaming any one agency.

Determining the number of serious injuries and deaths where the victim is involved in the justice system will almost always be difficult. Police are commonly believed to report executions or fatal beatings as 'accidental deaths.' NGOs that actively monitor the workings of the justice system are a crucial resource in the effort to monitor changes in the number of injuries and deaths. In Sao Paulo, Brazil, for example, investigators working for the Inter-American Commission on Human Rights were able to uncover widespread involvement of the police in death squads and

extrajudicial assassinations.²⁴ Moreover, the investigators found that the federal Institute of Forensic Medicine often issued false determinations about the cause of death when the police were involved. The investigators recommended greater separation between the Institute and the police.

#8 Institutional Safety Index

Perceptions about the safety of individuals in the custody of the police and other justice sector institutions should be relatively easy to collect within any survey undertaken as part of this broad effort, but small group interviews are also valuable. Such interviews will identify particularly sensitive issues that the public may be reluctant to express opinions about. Rather than trying to track the precise *level* of perceived danger, merely seek to determine whether or not there is a strong perception that people are unsafe while in custody.

7. Indicators of Access to Justice

7.1 Outcomes of Interest

Access to justice should be wide and equal. Justice, in this sense, should be seen as broader than the courts themselves and should include the many ways in which the justice sector helps people resolve disputes. The indicators discussed in this chapter aim to measure progress toward removing legal hurdles to reaching the justice system, toward creating a sense of entitlement to justice services among all segments of the population, and toward eliminating the expectation that people must bribe officials before they will provide those services.

7.2 Traditional Indicators Used to Measure Access to Justice

Traditional indicators of access to justice focus almost exclusively on legal and physical access to the courts. Do the laws of a state provide for an independent judiciary and for legal aid? Have the promised courts been built? Are the lawyers physically present and trained?

Beyond this, government agencies have done little to measure the obstacles that prevent people from resolving their disputes through the justice system, including the incapacity of the courts or lawyers to perform as promised, and the inability of people—particularly people in poverty, women, and those of low status—to navigate the requirements to gain access.

As the right of access to justice becomes more clearly defined in constitutions and declarations of rights, there is a growing need to document progress across institutions toward fulfilling that right. The important questions shift from being about the existence of legal institutions to focusing on the practices that promise to make access to justice real.

²⁴ *Report on the Situation of Human Rights in Brazil* (Inter-American Commission on Human Rights, Organization of American States, 1997) Chapter 3.

7.3 Potential Strategic Indicators for Access to Justice

If individual justice institutions are succeeding at their own efforts to provide access to justice, the challenge at the strategic level is to determine whether those advances *collectively* make a difference to the people concerned. **Where are there opportunities to measure the *combined impact* of providing more responsive police, more available legal advisors, more convenient courts, and other justice services?**

One set of answers can be found by examining particular decisions that depend on the simultaneous responsiveness of several institutions. Perhaps the quintessential decision concerns pre-trial detention and the size of the prison population awaiting trial. **A sector with wide and equal access to justice will have a small population of awaiting-trial prisoners representative of all accused persons.** Progress toward that goal depends almost equally on the efforts of police, prosecution, defence, courts, and prisons.

A second set of answers can be found by examining what victims, witnesses, complainants, and accused persons know about their rights and the information they receive about available services. **Access to justice depends on good information, and virtually all the institutions within the justice sector have a responsibility to educate and inform the people who rely on their services.**

A third set of answers can be found by examining the extent to which access to justice remains unequal, distorted by bias or corruption in the system. **The absence of bias and corruption are powerful signs that access has become more equal.**

In short, the progress of an overall strategy to expand access to justice might be fairly judged by monitoring success at:

- Minimizing pre-trial detention
- Expanding awareness of rights and information about assistance
- Reducing bias throughout the justice system
- Reducing corruption throughout the justice system

These four strategic purposes along with their potential indicators and data sources are shown in Table 7.1. Three of the seven potential indicators should be disaggregated to reveal differences among various marginalized groups, including people in poverty.

Table 7.1: Suggested Sector-Wide Strategic Indicators for Access to Justice

Strategic purpose	Potential indicators	Possible data sources
Minimize pre-trial detention	Change in the rate at which people are remanded in custody or fail to post bail following first court appearance	<ul style="list-style-type: none"> Prison statistics Court statistics
	Change in the mean and median duration of pre-trial detention	<ul style="list-style-type: none"> Prison statistics Court statistics
Expand awareness of rights to assistance and access	Change in the amount and quality of information available to victims, witnesses, complainants, and accused persons about their rights to assistance and access to institutions that can resolve their disputes	<ul style="list-style-type: none"> Institutional visitors' reports Court users survey Survey of facility managers Victim survey
	Change in the awareness of victims, witnesses, complainants, and accused persons about their rights to assistance and access to institutions that can resolve their disputes	<ul style="list-style-type: none"> Perception survey Small group interviews
Reduce bias throughout the justice system	Change in diversity (by gender, ethnicity, geography, religion, or other relevant group) of professional staff of justice sector institutions	<ul style="list-style-type: none"> Government personnel records Institutional manager survey
	Change in index of perceived bias within justice institutions	<ul style="list-style-type: none"> Perception survey Small group interviews
Reduce corruption throughout the justice system	Change in index of perceived corruption	<ul style="list-style-type: none"> Perception survey Small group interviews Formal complaints registered

7.4 Using the Suggested Indicators

#1 Remands in Custody

Minimizing pre-trial detention requires reducing the number of people who are remanded into custody or who are unable to meet conditions for their release, such as paying money bail, and/or reducing the average length of time that prisoners remain in custody before trial. This indicator captures the first of those factors. Prison and court statistics are often surprisingly ill-suited to constructing even this basic indicator, but simple manual or electronic information systems can easily be adapted for this purpose.

#2 Duration of Pre-trial Detention

This indicator measures the second factor—duration of pre-trial detention—and is often even more difficult than the first to ascertain. Many prison and court systems are designed to alert officials when an individual prisoner has remained in custody longer than permitted, but they are rarely designed to produce data on the average length of

stay of all those who pass through detention. Experience and research show, however, that it is inadequate to substitute the more commonly available figure: the percentage of all prisoners who are awaiting trial.²⁵

Differences between the mean and median can alert you to issues of inequality in treatment. Long pre-trial detention spells may be concentrated among a small proportion of the detained population, thus artificially inflating the average length of stay but not the median. When the two measures diverge, it is useful to identify characteristics of those defendants with long lengths of stay.

#3 Information Available about Rights to Assistance and Access

Legal advice is provided in a wide variety of ways at different points in the justice process. Legal aid may be formally available for court appearances, but there may also be paralegal advice offices, community law offices, or court staff assigned to provide information to those in need. Police supervisors can often provide advice, and information about legal procedures may be available in written form.

Whatever the mechanism for delivering advice, its availability and information about how to access it can be widely advertised through posters, pamphlets, recordings, and signage. Moreover, this information can be made available across institutions: Posters from the legal aid authority can be displayed in police stations and prisons; information about access to justice in police stations can be available throughout a community.

This indicator measures the volume, quality, and availability of this kind of information. It can be constructed in many ways—by visiting the most likely places where information might be available or surveying the managers of those facilities, for example.

#4 Awareness about Rights to Assistance and Access

A complementary indicator, measuring awareness of the information described above, could be constructed from a large or small survey. Such surveys usually test the knowledge of respondents about their rights and their confidence that they could exercise those rights if necessary. This is one of the three indicators that should be disaggregated.

One drawback of Indicators #3 and #4 is that they do not measure the extent to which people actually exercise their rights to assistance.

#5 Diversity of Professional Staff

A diverse staff is not necessarily free of bias, but an institution that resists diversity among its own staff is likely to be biased in its responsiveness to a diverse public. Progress on this indicator is often slow, but it should be steady, despite the time it takes for people to earn the professional qualifications and experience necessary for promotion.

²⁵ Todd Foglesong, *An Empirical Approach to Justice Reform: Observations from Recent Work in Russia and Chile* (unpublished paper prepared for EuropeAid's seminar on the rule of law, July 4, 2003, Brussels).

#6 Index of Perceived Bias

Counting the number of bias incidents is an impossible task both conceptually and logistically. Measuring perception of bias, however is both feasible and valuable. Perceived bias often has an enormous impact on access to justice. Intuitively, individuals who perceive the justice system as dominated by prejudice are less likely to report crime, provide information, access the courts to resolve property or family law disputes, or appear as witnesses. Such non-engagement, in turn, reinforces the perception of discrimination.

An index of perceived bias could both rate and rank individual justice institutions and show, for example, that citizens believe bias is more common among police than judges. Public polling might produce a representative sample of opinion but may be prohibitively expensive. Expert polling is more affordable, but experts may have entrenched opinions on questions of bias. A series of group interviews could offer an inexpensive and more reliable indicator of perceived bias. Groups could be recruited from different segments of society and reflect a range of involvement with the justice system. After a brief discussion of the issue, individuals could rate on a scale of 1 to 10 the degree of bias they perceive in individual institutions and then rank the institutions according to their level of bias.

#7 Index of Perceived Corruption

Using an index of the *perception* of corruption as an indicator avoids the pitfalls associated with counting arrests, prosecutions, and convictions for corruption. As indicators, these latter measures are easily manipulated and often tend to move in response to media coverage rather than real change. An index of perceived corruption will also reflect media attention to the subject, but it will tap more than that. Such an index should include questions concerning first- or second-hand knowledge of corruption, such as whether the respondent or someone he or she knows has been solicited for a bribe, paid a bribe, or felt victimized by someone else paying a bribe. Such questions—in combination with more general questions designed to solicit opinions about corruption—will help to reveal how and why people form their opinions. Like the perception of bias index, questions should aim to capture opinions about corruption in a range of justice institutions.

The International Crime Victim Survey includes a question on corruption asked of respondents in all 35 countries that have participated since 1997. The question is: “Has any government official, for instance a customs officer, police officer, or other government official, or private sector interest asked you or expected you to pay a bribe for his/her service?” The results range from a high of 33 percent answering “yes” in Indonesia and 32 percent in Egypt, to a low of nearly zero in Japan and Scotland.

This approach has at least two weaknesses. First, there is clearly substantial underreporting, since the respondent may have paid the bribe and resist confessing a crime. Second, the movements of the index may lag behind changes in the underlying reality. Because a minority of the population has contact with the justice system in any one time period, declines in corruption are likely to go unnoticed for months or even years. Restricting the sample to people who have had contact with the justice system might reduce this problem, but would increase cost and eliminate the perceptions of the majority of the population.

This part of the guide describes indicators that measure progress toward institutional objectives for a variety of state institutions responsible for safety, security, and accessible justice. The institutions described here can be found in almost every state, although the particular grouping of institutions will not fit every country—for example, prosecution and legal aid are covered in a single chapter concerned with ministries of justice. This part of the guide concludes with a chapter devoted to indicators for accountability mechanisms within the safety and justice sector.

8. Indicators for Policing

8.1 Outcomes of Interest

Nurturing effective and respectful policing lies at the heart of any effort to make people safe from violence, theft, and intimidation and to ensure that everyone has equal access to justice. Because the police are usually a poor person's first point of contact with the formal justice system, how officers respond to requests for assistance is particularly important. A disrespectful, dismissive, or merely unhelpful response from the police will discourage many people in poverty from seeking justice and will effectively place justice out of reach even for some of the most determined individuals.

8.2 Traditional Indicators of Police Performance

Traditional indicators of police performance that departments use internally are concerned with activity and productivity. They track arrests, seizures of illegal material (e.g. drugs or guns), and crimes solved, for example. Those indicators reveal more about what officers do with their time and resources than whether they are adequately serving the needs of all citizens and whether citizens, particularly those who are poor and otherwise disadvantaged, trust and value the police.

The other common indicator of police performance is crime itself. Increasingly, departments gauge their own performance according to changes in crime rates, and both government and the public in many countries are beginning to hold police leadership accountable for fluctuations in crime. Because police statistics about crime are themselves open to manipulation, the growing focus on crime has sparked a series

of innovations in how police actually record crime, along with auditing systems to improve the integrity of the statistics.

In the last ten years, statistical indicators of police performance have undergone a minor revolution, as computer technology and increasingly sophisticated police management in many countries have greatly increased the range and timeliness of administrative data produced in the routine performance of police work. The result is evident, for example, in computer mapping of crime data, early warning systems to identify potentially brutal or corrupt officers, and controversy over apparent patterns of racial profiling. This revolution in police performance management is not only reshaping policing indicators in Europe and North America but also in Asia, Latin America, and Africa—where Singapore, Brazil, Chile, and South Africa are leading development.

While the police in many countries today remain data-poor, even in those environments professional exchanges, regional training, and international cooperation are exposing young police commanders to the new systems and changing expectations for the next generation of police leadership.

8.3 Potential Institutional Indicators for Policing

This chapter focuses on two particular outcomes that are increasingly recognized as necessary for anti-crime strategies to succeed and for police to gain the cooperation of all segments of the public. They are:

- Improving public confidence in the police
- Improving responsiveness to poor victims of crime

Obviously, this short list is far from exhaustive—a reform programme might also seek, for example, to eliminate local conditions that generate crime, cultivate greater respect for human rights within police agencies, or reduce police corruption. To illustrate how these two specific outcomes might be measured, Table 8.1 matches each outcome with at least two potential indicators and their data sources. These outcomes focus specifically on people in poverty, although you could also aim to improve confidence among, and responsiveness to, the entire population, disaggregating the results to track these issues within poor communities in particular.

Table 8.1: Suggested Outcomes, Indicators, and Data Sources for Policing

Institutional outcome	Potential indicators	Possible data sources
Improve public confidence in the police among the poor	Change in proportion of poor citizens who express confidence in the police	<ul style="list-style-type: none"> National and local public opinion surveys, disaggregated by income (or a proxy such as neighbourhood of residence), as well as gender, religion, ethnicity, etc.
	Change in proportion of leaders of poor communities who express confidence in the police	<ul style="list-style-type: none"> Polls of community leaders Views expressed during community meetings
	Change in proportion of poor victims who report crimes to the police	<ul style="list-style-type: none"> National and local surveys of victims disaggregated by income (or a proxy such as neighbourhood of residence), as well as gender, religion, ethnicity, etc. Interviews with victims who seek hospital treatment disaggregated by income (or a proxy such as neighbourhood of residence), as well as gender, religion, ethnicity, etc. Interviews with local service agencies
Improve responsiveness to poor victims of crime seeking help from the police	Change in proportion of poor victims who are satisfied with police service	<ul style="list-style-type: none"> National and local surveys of victims disaggregated by income (or a proxy such as neighbourhood of residence), as well as gender, religion, ethnicity, etc. Focus groups with victims who reside in poor communities
	Change in proportion of victim advocates (or other figures who have regular contact with victims) who express confidence in police response	<ul style="list-style-type: none"> Polls of advocates
	Change in proportion of crime complaints by poor people that are investigated	<ul style="list-style-type: none"> Review of police files on public crime complaints. Ratio of prosecutions to crime complaints

8.4 Using the Indicators

Because citizens are likely to have more experiences of, and perhaps stronger views about, law enforcement, compared to less visible sectors of the justice system, indicators of police performance should rely substantially (although not exclusively), on data collected directly from the public through surveys, consultations with community figures, or other data collection mechanisms. This emphasis is reflected in the table.

#1 Proportion of Poor Citizens Who Express Confidence in the Police

A fundamentally important way to assess public confidence in the police is to ask people directly. This requires some kind of survey, although the geographic coverage and number of people surveyed will depend on resources and objectives.

Questions used to assess confidence in the police can vary, and a precise definition of ‘confidence’ needs to be established and used consistently—if different questions or criteria are used, you cannot expect the same response. For example, 70 percent of residents of Johannesburg, South Africa, reported in a recent survey that the problems of crime have not improved, but only 38 percent felt that the police were performing ‘poorly.’ The clear majority of people surveyed felt that the police were doing either a ‘good’ or ‘fair’ job.²⁶

Similarly, a survey of the public in a police district in Pittsburgh, Pennsylvania, showed that while 65 percent of the public believed the police were ‘fair and courteous,’ only 32 percent thought excessive use of force by the police was ‘uncommon.’²⁷ In practice, the public may rate the police differently, depending on the aspects of police performance they are asked about. It is important to take into account the range of attributes of policing that may be important in a particular context when developing this kind of indicator. And it may be necessary to measure confidence in several ways.

#2 Proportion of Leaders of Poor Communities Who Express Confidence in the Police

A cheaper way to assess public confidence in the police than to carry out a representative survey of the public is to approach a smaller number of community leaders, or at least informed community figures, who are likely to have a good working knowledge of the concerns of members of their community and also the activities of local police. Polling a group of leaders of this kind, using a standardized questionnaire, can produce scale measures that allow confidence in the police to be tracked through time. Officials in New York City have used this approach frequently, surveying groups of community representatives separately in each police precinct.²⁸

As described in relation to the first indicator, the questions and thresholds used to assess confidence will affect the indicator. And it is important to ensure that either the same community figures or a similar group of leaders are surveyed at different points in time. Otherwise, changes in the indicator may reflect differences in the people surveyed, as much as changes in community perceptions.

In the absence of poll questionnaires or interviews, it is still possible to assess community opinion of the police. A trained and objective observer who attended regular community meetings could assess the community’s level of trust and faith in the police. This is most practical in places where community policing is employed and

²⁶ *Rainbow Tenement: Crime and Policing in Inner Johannesburg*, 39.

²⁷ R.C Davis, N.J. Henderson, C. W. Ortiz, J. Markovic, J. Miller and M. Massie, *Turning Necessity into Virtue: Pittsburgh’s Experience with a Federal Consent Decree* (New York: Vera Institute of Justice, 2002).

²⁸ Jerome E. McElroy, Colleen A. Cosgrove, and Susan Sadd, *Community Policing: The CPOP in New York*, (New York, London, and New Delhi: Sage, 1993), pages 151-153 and note 1.

where regular meetings between police officers and the public provide a forum for discussing public concerns about policing.

#3 Proportion of Poor Victims Who Report Crimes to the Police

A key indication that victims have confidence in the police is whether they actually report crimes against them. A methodological challenge in developing this indicator is identifying crime victims independently of their contacts with the police, in order to gauge the frequency with which they report crimes to the police. One way to do this is to survey the general public to identify people who have been victimized and then ask them whether they reported the crime. However, crime victims will only be a subset of public survey respondents, perhaps even a small minority, particularly where more serious crimes are concerned. Therefore, it might be necessary to survey large numbers of people to find a reasonable number of victims of crime to ask about their reporting to the police.

An alternative approach is to identify victims through their interaction with other institutions and survey them directly. While this is not straightforward, it may be possible to identify victims of more serious kinds of violence through admissions to hospitals. It also may be possible to identify victims of crimes through victim support services (such as rape crisis centres) or other community organizations that deal with victims of crimes.

#4 Proportion of Poor Victims Who Are Satisfied with Police Service

This indicator focuses on those poor victims who actually go to the police with a crime complaint. The easiest way to identify and reach these individuals—and then measure their satisfaction—is by reviewing police files. A general public survey would also provide a way to identify poor victims of crime who had reported their crimes to the police.

#5 Proportion of Victim Advocates Who Express Confidence in Police Response

This indicator relies on a poll of victim advocates (or others who have regular contact with victims), using a standardized questionnaire, to produce scale measures. As with the second indicator, when using this method it is important that the same advocates, or at least a similar group of advocates, are interviewed at different points in time to avoid variations attributable to different choices of advocates rather than to real changes in the underlying responsiveness of the police.

#6 Proportion of Crime Complaints That Are Investigated

This measure looks at the police response to the complaints they actually receive from poor members of the community. It relies on reviewing case files at police stations (focusing on poor areas) and establishing the proportion of recorded crime reports where officers took some action, such as attempting to interview witnesses or gather evidence from crime scenes.

A different approach to this measure would involve comparing the number of prosecutions to the number of crime complaints, disaggregating the data by type of crime. A ratio of these two numbers would provide a strong indication of the extent to which the police take seriously and thoroughly investigate complaints.

9. Indicators for Ministries of Justice Supervising Prosecution and Legal Aid

9.1 The Diverse Responsibilities of Ministries of Justice

Ministries of justice perform a wide array of functions and services, but most govern indirectly. Some develop new legislation and provide counsel to the chief executive on matters of justice policy. Some supervise police and prosecution services, the defence bar, and also prisons. Other justice ministries lack policy-making and advisory functions or oversee only a single justice institution. Whatever their scope of authority, however, most find their power circumscribed by constitutions, customs, and principles of judicial independence. More than other government departments, justice ministries must build consensus, working *with* the police, prosecution, courts, or defence to advance the goals of justice policy.

Variation across political systems in the organization of ministries of justice and the diverse authority allocated to these organs of government make it difficult to establish a set of indicators that could fit a ministry of justice as a whole or suit ministries in all countries. As a result, this chapter focuses on two key institutions, prosecution and legal aid, and describes performance indicators for each.

9.2 Important Outcomes for Prosecution and Legal Aid

A prosecution service must demonstrate the ability of the criminal justice system as a whole to establish the guilt of those who commit crimes. Building and maintaining public confidence that the courts can convict the guilty and clear the innocent is as important as doing so.

It is also important that the powers of the prosecutor are exercised with an even hand. Prosecution services must use discretion fairly and deal respectfully and effectively with victims and witnesses of crimes.

While prosecution must be concerned about maintaining rates of conviction that inspire confidence in the fairness and effectiveness of the administration of justice, legal aid institutions must be concerned that their clients avoid harmful penalties and are personally satisfied with the fairness of the proceedings, including the adequacy of the legal advice they receive.

While the important outcomes are different for prosecution services and legal aid institutions, they must not be at odds. **Effective systems of performance indicators must allow both institutions to succeed at the same time, rather than encouraging one to flourish at the expense of the other.**

9.3 Traditional Indicators for Prosecution

For many prosecution services, the indicator traditionally used to evaluate performance is timeliness. Timely prosecution may have important benefits: it may deter others from committing similar crimes. There also is a belief that complying with basic rules of criminal procedure—especially the rules governing time—can, by

itself, ensure good justice. Russian regional prosecutors, for example, closely monitor the percent of cases that remain open without an indictment beyond the two-month period recommended by the code of criminal procedure. In Chile, supervisors analyze the amount of time—measured in months—it takes for prosecutors to dispose of cases, and compare processing speeds across regions. And district attorneys working in the Bronx, New York, track time on the outside folder of each case file, striving to have cases ready for arraignment within 24 hours after arrest.

The performance of prosecutors is also commonly judged by their results—conviction rates. In Russia, for example, an acquittal is a sign of “shoddy workmanship” by the prosecutor, and a pattern of acquittals, especially in high profile cases, often will lead to transfers or demotions.

The way conviction rates are measured varies greatly. As the example in Box 9.1 illustrates, the same pattern of withdrawals, guilty pleas, convictions at trial, and acquittals at trial can produce wildly different conviction rates.²⁹ As this example also shows, the method of calculation creates certain incentives for prosecutors. Be aware of how those incentives shape behaviour.

Box 9.1: Producing High and Low Convictions Rates from the Same Data

How can the same pattern of convictions and acquittals produce different conviction rates? The answer lies in how you treat the cases withdrawn before trial and whether you count charges or accused persons.

Imagine that the police arrest 50 suspects and charge them each with two offences. While the suspects are awaiting trial, the prosecution withdraws charges against 20 suspects because witnesses disappear and investigative leads are neglected. Another 10 suspects enter a guilty plea to one of the two charges and the prosecution withdraws the second charge. Fifteen more contest the charges at trial: Of these, five are convicted on both charges, five on a single charge, and five are acquitted. Of the original fifty suspects, five are still awaiting trial. *The conviction rate in this single example could be fairly calculated as 25 percent, 40 percent, or as high as 80 percent.* Here is how:

You get **25 percent** by dividing the number of *charges* on which convictions were obtained by the total number of charges originally laid (25 charges proved by plea or trial divided by 100 original charges). *This method creates an incentive for prosecutors to charge only what they are fairly certain they can prove and to work closely with the police to ensure investigations are completed as well as possible.*

You get **40 percent** by dividing the number of *people* convicted of at least one offence by the total number of suspects arrested (20 people convicted divided by 50 original suspects). *This method creates incentives for police and prosecutors to bring many charges in every case, and then offer to drop most of the charges as long as each accused pleads guilty to something.*

You get **80 percent** by ignoring the cases in which charges are dismissed before trial or which still await trial. You divide the number of people convicted of at least one charge by the number of people who plead guilty plus all those who complete a trial (20 people convicted divided by 25 people who pleaded guilty or went to trial). *This method creates perverse incentives for prosecutors to delay weak cases, to dismiss cases on the eve of trial unless a guilty plea can be obtained, and to give the lowest priority to helping the police during their investigations.*

Because the third method produces the highest conviction rate, many prosecutors prefer this method despite the perverse incentives it creates.

²⁹ See the discussion of arrest and prosecution practices in the United Kingdom in A. Sanders and R. Young, “From Suspect to Trial,” (*Oxford Handbook of Criminology*, 2002), 1040-1045, 1053.

9.4 Potential Institutional Indicators for Prosecution

A few prosecution services are using additional and less conventional indicators of performance that get closer to measuring some important outcomes. **These innovative measures focus on improving pre-trial practices, on reducing bias in the use of discretion, and on improving service to victims.**

Arguably, the most important work of the prosecutor takes place during the pre-trial phase: directing key aspects of investigations, deciding to dismiss cases, and diverting individuals from formal prosecution. Prosecution decisions about bail and detention during this period deeply affect individual lives and often have a decisive impact on the final disposition of the case. For this reason, in 1998 the new National Prosecuting Authority in South Africa began tracking bail recommendations—especially those under 100 Rand—in order to prevent the incarceration of individuals who are unable to pay small sums of money bail.³⁰ In 2000, the National Prosecution Service of Chile began to monitor the use of diversion in order to encourage reparative agreements, restitution, and public interest discontinuances for minor offences.

Decisions to reduce charges, conclude “plea bargains,” and negotiate sentence recommendations, can introduce inequalities in the treatment of suspects, especially those who are poor and under-represented. In the United States, concern with possible racial bias in the administration of the death penalty has prompted the federal government to closely monitor decisions taken by federal prosecutors at all stages of capital proceedings.

Prosecution services are also measuring the non-legal work of their staff. In South Africa, the National Prosecuting Authority monitors the amount of outreach work by prosecutors in order to improve the awareness and legitimacy of service in poor communities. In Chile, where in the past the judicial process was devoid of public participation and largely secret, the number of oral trials conducted in new courthouses by the new prosecution service is an important indicator of performance.

While many prosecution services disdain service to crime victims—believing that undue attention to victims will undermine their objectivity—others have expanded their assistance to crime victims and are making it a measure of good performance. The *Ministerio Publico* in Chile measures the amount, type, and quality of assistance given to victims: interview waiting times, the number of orders of protection solicited from and granted by courts, and the overall degree of satisfaction with the service.³¹ The attention to victims has generated highly positive impressions of the service and, to some extent, improved the legitimacy of the justice system as a whole.

Several district attorneys in the United States have experimented with “community prosecution,” cultivating relations with poorer communities and promoting neighbourhood protection committees. Especially when accompanied by decisions to organize prosecution along geographic lines, such outreach can improve levels of

³⁰ See Ron Paschke, *Process and Impact Assessment of the Pre-trial Services Demonstration Project* (Cape Town: Bureau of Justice Assistance, March 1999).

³¹ See the Annual Report, *Boletín Cuenta Pública* (2003), 38-48.

civic cooperation with prosecutors, provide valuable information about crime, and improve public respect for prosecution.³²

Building on these examples, promising institutional outcomes for prosecution services include:

- Greater timeliness, especially in cases involving poor victims and/or defendants
- More equitable use of discretion
- Better responsiveness to poor victims

The corresponding suggested indicators and data sources are shown in Table 9.1.

Table 9.1: Suggested Outcomes, Indicators, and Data Sources for Prosecution

Institutional outcome	Potential indicators	Possible data sources
Greater timeliness, especially in cases involving poor victims and/or defendants	Change in the proportion of cases that are finalized in 12 months, and reduced differences by income, gender, ethnicity, etc.	<ul style="list-style-type: none"> • Administrative data
	Change in the number of hours victims wait before having an initial interview with a prosecutor	<ul style="list-style-type: none"> • Special intake forms administered by support staff at reception
More equitable use of discretion	Change in the proportion of defendants held in detention on money bail who cannot pay their bail within one week	<ul style="list-style-type: none"> • Administrative data from courts or jails
	Change in rates of diversion and non-prosecution (esp. public interest discontinuances) for different groups of defendants	<ul style="list-style-type: none"> • Administrative data
	Change in level of perceived fairness in prosecution among disadvantaged victims	<ul style="list-style-type: none"> • Special surveys upon exit from first interview and again after disposition
Greater responsiveness to poor victims	Change in use of injunctions and witness protection orders in cases with poor victims	<ul style="list-style-type: none"> • Administrative data
	Change in the proportion of public trials involving victims who are poor	<ul style="list-style-type: none"> • Administrative data
	Change in conviction rates in cases involving rich and poor victims	<ul style="list-style-type: none"> • Administrative data
	Change in satisfaction of victims with the initial interview by a prosecutor and with the case outcome	<ul style="list-style-type: none"> • Special surveys upon exit from first interview and again after disposition

³² See Lisa Miller, *The Politics of Community Crime Prevention: Implementing Weed and Seed in Seattle* (Burlington, Vermont: Ashgate, 2001); Chris Stone and Nick Turner, "Politics, Public Service, and Professionalism: Conflicting Themes in the Invention and Evaluation of Community Prosecution," an unpublished paper (New York: Vera Institute of Justice, July 1999).

9.5 Using the Indicators

#1 Proportion of Cases Involving Poor Victims that Are Not Finalized Within 12 Months

It is common for justice systems to swiftly process the complaints of affluent or influential victims and respond more slowly in cases that involve poor victims. A decrease in the proportion of cases involving people in poverty that remain open for more than a year would indicate an improvement.

#2 Amount of Time Poor Victims Wait for an Initial Interview with a Prosecutor

It is easy for waiting times to grow for victims who are poor and unemployed, especially if they are not monitored. Waiting times easily can be captured and tracked simply by registering victims when they arrive for their first interview and then recording when the interview actually begins.

There is a danger that reducing waiting times will also produce shorter, cursory interviews. You may want to check progress on this indicator against a measure of how satisfied victims are with their first interview (see indicator #9).

#3 Proportion of Defendants Held in Detention on Money Bail that Remains Unpaid

The use of money—in any form—to secure appearance in future criminal proceedings almost always discriminates against the poor. The resulting injustice is often unintentional, with prosecutors and judges surprised to learn months later that a person remains in detention, unable to pay a relatively low bail amount. Especially when the law provides other ways to ensure the detention of suspects who pose an immediate danger, measuring those who are unable to post bail can lead to the more equitable use of money bail.

Facilities that hold people awaiting trial should be able to report to prosecutors the number of people held on money bail for longer than a week (or other reasonable period). The use of this measure to track equity in release decisions should encourage prosecutors to appreciate the conditions in which poor defendants live and to look for other ways of guaranteeing their appearance at trial.

#4 Rates of Diversion and Non-prosecution for Poor Defendants

If prosecutors are substantially more likely to divert wealthy or otherwise privileged defendants from prosecution, it may be a sign that diversion and public interest discontinuances are not being used equitably, or at least rationally. Conversely, if poor defendants are more likely to have their cases dismissed, it could be a sign that police are conducting superficial investigations in these cases or that prosecutors are not responding seriously to crime in poor communities.

To use this indicator it might be helpful to select a few specific types of crime, such as a public order offence and a minor property crime, in which discontinuances are both common and based closely on assessments of the character of the defendant and the perceived danger of the person to the community.

#5 Level of Perceived Fairness in Prosecution among Poor Victims

Prosecutors must do more than just make equitable, timely, and effective decisions about how to respond to crime. They must also take steps to ensure that their decisions are *perceived and understood* to be fair, speedy, and valuable to the victims of the crimes they prosecute. If there is progress on objectively measured indicators, but little improvement in the subjective appreciation of the prosecution service, the community will not likely cooperate with or support the justice system.

It is important to measure satisfaction early in the process as well as at the end. Many victims have lost touch with the prosecution office by the time a case is dismissed or otherwise finalized, and opinions change over time. A feasible strategy would be to routinely survey victims after their first interview with a prosecutor and then again at the end of the case. The data should be disaggregated by income, gender, ethnicity, and other categories that identify those who may be the subject of bias.

6 Use of Injunctions and Witness Protection Orders in Cases Involving Poor Victims

People living in poverty are less mobile than those who are wealthy. It is not easy to change residences or otherwise gain distance from a dangerous person or a fearful environment. Temporary interventions by the state in the form of injunctions or protective orders may or may not be effective, but their use is a convenient way to measure whether or not prosecutors are attuned to the safety of poor victims.

#7 Proportion of Public Trials Involving Poor Victims

Because holding a public trial is a relatively expensive way to finalize a case, compared with guilty pleas or withdrawals, the use of trials can be a convenient proxy for the importance that prosecutors give to certain cases or the confidence that prosecutors have in the testimony of certain witnesses. If prosecutors consider victims who are poor to be less eloquent, credible, and convincing, or their victimization to be less serious than that of richer victims, public trials may become concentrated among cases with wealthier victims. In contrast, prosecution services that are committed to the poor and that use trials at least in part to draw public attention to crime should have a substantial percentage of their trials comprised of cases involving victims who are poor.

8 Conviction Rate for Cases Involving Poor Victims

Because prosecutors are obligated to be “impartial” officers of the court who search for both exculpatory and inculpatory evidence, some prosecution services are reluctant to use rates of conviction—however they are calculated—as an indicator of quality service. Rather than ignore conviction rates, you could set goals that reflect fair and realistic aspirations.

No prosecution service should strive for a conviction rate of 100 percent, but neither should any prosecution service be content with conviction rates of less than 25 percent, calculated as the total number of charges proved by guilty plea or conviction divided by the total number of charges originally laid.

Within this broad range, however, prosecution services should be particularly careful to monitor and compare conviction rates between cases involving the rich and those

involving the poor. An imbalance is a powerful indicator of misplaced resources or bias leading to injustice.

#9 Satisfaction among Poor Victims with the Initial Interview and Case Outcome

Often, the most valuable aspects of justice administration are the attention, advice, and comfort an authoritative public official gives to a victim, irrespective of the outcome of the case. Prosecutors can help explain the process to victims, and this information can improve the victim's experience of justice. The same survey used to monitor perceived fairness after the initial interview and at the end of the case (Indicator #5) could include questions about satisfaction.

9.6 Traditional Indicators for Legal Aid

Perhaps the most commonly invoked indicator of adequate public defence services is also the most basic one: availability. Because this is traditionally measured as the percent of all *eligible* defendants represented by attorneys in court, a narrow definition of eligibility can produce a high measure of availability despite the absence of legal aid for most poor defendants. A better measure might be the proportion of *all* defendants who have actually consulted with a legally trained person.

Availability aside, the most common indicators of defence performance deal with the number of clients each lawyer represents and the average time they spend on each case. These caseload indicators are often reduced to the number of cases that a lawyer handles over the course of a year or at a particular moment in time.³³

Institutions responsible for legal aid also traditionally measure the competence of counsel by reference to years of experience or level of formal qualification. More sophisticated measures include tests of knowledge of relevant law or experience in particular types of cases.

These institutional indicators of availability, caseload, and competence stand in contrast to the outcome indicators that individual lawyers for the poor use themselves, in particular the number of victories in court. The principal shortcoming of measures of courtroom victories is that they are relatively rare among the hundreds of cases that a legal aid lawyer typically handles, restricting the lawyer's attention to a very thin slice of their responsibilities.

9.7 Potential Institutional Indicators for Legal Aid

In order to better capture the quality of representation, indicators of availability must be supplemented with others more directly related to client needs and interests. A project to improve the quality of representation given to women in civil and criminal proceedings in Ecuador provides some helpful suggestions about how to design meaningful and manageable indicators. Supported by the World Bank, the nascent defender service tracked the size of child support payment ordered or actually

³³ For example, the state of Colorado recommends a maximum number of 150 felony and 300 to 400 misdemeanour cases per attorney per year.

obtained, the character of custody decisions, and even the likelihood of additional violence experienced after separation.³⁴ These aspects of the justice process were found to be important predictors of the future welfare of women.

A project launched in Harlem, New York, provides another example. Because poor, young, and minority defendants are likely to be arrested multiple times over the course of their life—and because the family bears much of the burden of supporting the defendant during and after prosecution—the Neighbourhood Defender Service of Harlem provides sustained representation to suspects and families *throughout the criminal justice life of a defendant*. The project monitors the continuity in assistance to the individual and family over time and between cases, the amount of contact with a team of *familiar* lawyers, and the extent of the assistance the lawyers provide to the family of the defendant.³⁵

An effective and compelling system of indicators for the quality of legal aid will rely on measures that come from at least three realms: client satisfaction with service provided, peer assessments, and case outcomes. The following three outcomes are designed to spur progress in each of these realms:

- More responsive and continuous representation
- Greater protection from harmful punishment
- Improved confidence and satisfaction with the services provided

In measuring progress toward these goals, try to avoid indicators that focus specifically on representation provided in court and focus instead on the outcome of the legal advice and on the quality of the representation generally. This approach is reflected in Table 9.2.

³⁴ See “The Impact of Legal Aid: Ecuador,” February 2003, <http://www.4worldbank.org/legal/leglr>.

³⁵ For current information about the Neighbourhood Defender Service of Harlem, visit the organization’s web site, <http://www.ndsny.org>.

Table 9.2: Suggested Outcomes, Indicators, and Data Sources for Legal Aid

Institutional outcome	Potential indicators	Possible data sources
More responsive and continuous representation	Change in the average time between arrest and first contact with legal advisor or attorney	<ul style="list-style-type: none"> Administrative data from police and legal aid institution Client survey
	Change in the continuity of representation, as measured by the number of repeat contacts	<ul style="list-style-type: none"> Legal aid dockets Client survey
Greater protection from harmful punishment	Change in the amount of time legal aid clients spend in detention pre-trial	<ul style="list-style-type: none"> Administrative data from legal aid institution and prisons Client survey
	Change in the number and average length of prison sentences imposed on legal aid clients	<ul style="list-style-type: none"> Administrative data
Improved confidence in, and satisfaction with, legal aid	Change in the satisfaction with services among legal aid clients	<ul style="list-style-type: none"> Client survey Exit surveys of accused persons
	Change in the professional reputation of defenders	<ul style="list-style-type: none"> Peer assessments

9.8 Using the Suggested Indicators

1 Time between Arrest and First Contact with a Legal Advisor

The most vulnerable period for all defendants is the time immediately following arrest. The sooner advice is provided, the less physical, psychological, and legal injury the defendant will suffer. This advice, moreover, is rarely effective if delivered by phone, as is customary among duty solicitors in some countries. Accordingly, the measure should be the amount of time between arrest and the first face-to-face contact with a legal advisor.

Merging administrative data from the police and the legal aid institution is the best method, but often this is not practical for technical or bureaucratic reasons. An alternative is to collect data directly from legal aid clients and to record the delay in days rather than in hours, making the measure more accurate.

#2 Number of Repeat Contacts between Individual Legal Advisor or Attorney and Each Client

The justice process is foreign, unpredictable, and frightening to most people, particularly those with fewer resources and influence. Receiving consistent legal representation can be a great source of reassurance. By counting each time that the same attorney has contact with a client, and dividing this by the total number of attorney/client contacts in a period, a legal aid institution can produce a simple measure of its ability to deliver continuous legal assistance.

#3 Time Served in Detention Pre-Trial

Incremental decreases in the number of days people spend in detention can serve as a clear sign of effective legal aid and help to conserve prison beds—if *the reduction in length of stay is not offset by an increase in the number of people detained before trial*. Calculate the average number of days served in pre-trial detention for *all* clients, including those clients who serve no time in detention before trial.

4 Number and Length of Prison Sentences

Since even short sentences are very punishing and can result from hastily concluded plea agreements or even rationalizations of pre-trial detention (e.g. sentences of “time served”), legal aid organizations should aim to obtain non-custodial placements for their clients. Perhaps the best way to spur and monitor progress toward this goal is to track the number and length of *custodial* punishments. It is essential, although rare, for legal aid institutions to routinely record the fact of a prison sentence and also its actual length, once the person is released. Tracking custodial sentences should create incentives for defenders to work more closely with probation services, prosecutors, and community organizations to assemble compelling release packages.

5 Satisfaction with Service among Defendants in Poverty

While the final outcome of each case is crucially important to defendants, their families, and their communities, so is the experience of receiving legal assistance. Legal aid institutions should measure their ability to meet their clients’ needs throughout the process and to communicate the workings of the justice system in ways that their clients understand. It is important to measure satisfaction early in the course of a case, rather than wait until the case is concluded. Clients can rate their satisfaction with a simple score at the end of their first interview or court appearance, and again periodically as long as the case continues.

Equally important but more difficult to measure is the satisfaction of all accused persons, including those who do not receive legal aid throughout their cases. An exit survey, administered periodically, could track the level of satisfaction with legal aid arrangements overall. This will be relatively easy in a court that uses an exit survey to measure its own performance.

6 Professional Reputation of Defenders

Good performance on the indicators described above is not sufficient to sustain the legitimacy of the institution of legal aid. Without confirmation from professional peers that free or low-cost legal advice and practice is consistent with professional standards, legal aid will lose standing with the legal profession, with the public at large, and even with its own staff. Periodic interviews with attorneys who are familiar with the work of legal aid lawyers—or who agreed to review a sample of their work—can yield an evolving portrait of the professional reputation of public defenders.

10. Indicators for Judicial Performance

10.1 Outcomes of Interest

Courts stand as a metaphor for justice in most countries. Courts can help people realize their rights, solve disputes, obtain remedies, and affirm rules that protect individuals from injury and preserve social peace. But to do this well for everyone, courts must be easily accessible and understood, trusted, and efficient. And courts must strive to become compelling places of justice for those members of the public who are disenfranchised, discriminated against, underprivileged, or neglected. Appropriate performance indicators can help courts realize these ambitions.

10.2 Traditional Indicators of Judicial Performance

In all regions of the world, justice officials want to know whether the work of the courts serves the public and cultivates trust in the judiciary, but they have few, if any, indicators for these outcomes.

Most judiciaries today keep track of at least one of three aspects of court performance:

- The *amount* of decision making – the volume of cases passing through the system
- The *speed* of decision making – the time frame in which courts make decisions
- The *character* of decision-making – the kinds of decisions courts make

Many countries closely monitor the first two aspects of court performance, which deal primarily with productivity. In the United States and Europe, for example, the volume of cases passing through courts is tracked constantly (usually as the relationship between the number of cases filed and the number of cases disposed) and so is the time it takes for courts to process these cases.³⁶ Court systems also analyze this kind of information according to the type of offence, court, and individual judge presiding, tracking ratios over time to distinguish between seasonal disturbances and more meaningful trends.

These kinds of indicators can warn of possible imbalances in the relationship between the public's demand for judicial services and the courts' capacity to supply it, but they do not reveal much about the experience or quality of justice and provide little guidance for justice officials who want to serve the public well.³⁷

³⁶ In most European states this is sometimes referred to as the “Cappelletti-Clark” index.

³⁷ In Russia, for example, every six months, and again at the end of the year, the Department of Judicial Statistics of the Supreme Court receives and compiles statistical reports from each of the Federation's 89 regions about the “quality of justice” (*kachestvo pravosudii*) administered in the courts. But “Quality of justice” is measured narrowly, by two indicators: (1) the percent of decisions taken in excess of the time frame established by law; and (2) the ratio of the number of decisions overturned, or modified by a higher court upon appeal, to the number of original decisions taken by the court in a given period. The use of rates of reversal as the main indicator of good performance encourages consistency in the application of law. But consistency is often a poor proxy for both quality and equality. Excessive attention to rates of reversal also can generate perverse incentives, for it amplifies the pressure for judges to align their decisions with the opinions of higher courts. Many judges feel this pressure jeopardizes judicial independence, whose achievement and protection is in some countries an important policy goal.

Even when a policy objective for the judiciary is clear, courts have not traditionally collected the kind of information that can demonstrate that the policy is having the desired effect. Box 10.1 illustrates this pattern in the case of Brazil and shows the need for new indicators.

Box 10.1: The Consequences of Using Limited Indicators in the Courts of Brazil

In the 1990s, Brazil introduced federal legislation to spark the creation and guide the operation of new special courts to better serve the needs of local communities and especially the poor. The new small claims courts for civil suits (*juizado especial civeis*) waived all fees, and like the new misdemeanour courts (*juizado especial criminais*), were placed in neighbourhoods in poorer communities in order to lower the physical and financial barriers to access.

Each year higher court judges evaluate the work of these new courts, looking at:

1. Intake – that is, the number of cases filed each month
2. Output – the number of verdicts and sentences issued each month
3. Celerity – the maximum number of days required to dispose of any case
4. Calendar Discipline – the percent of hearings that were scheduled and postponed
5. Quality of Decisions – the extent to which verdicts are ‘well-founded and organized’

But the judges do not collect any information about the identity of the court users or their experiences, or the impact of the court’s decisions on the users or the community. The public has come to believe that these inexpensive new courts have been deluged by litigation stemming from corporations in search of cost-free debt-collection service and thus have lost their identity as justice centres for the poor. **The absence of any indicators about how well, or poorly, the courts serve the public makes it impossible to corroborate the unsatisfactory impression or take any remedial action.**

10.3 Potential Institutional Indicators for Judicial Performance

To capture the judiciary’s ability to serve the entire public, including the poor, performance indicators must capture whom the court serves, the capacity of the court to respond to the poor, the process by which justice is administered, and the outcomes. Translating these four broad categories into measurable outcomes, judicial officials could aim to:

- Improve public access to and confidence in the court system, especially among women, the poor, and other disadvantaged populations
- Provide a more timely response to public needs for court services, especially among women, the poor, and other disadvantaged populations
- Increase outcomes that contribute to the well-being of the community the court serves

Table 10.1: Suggested Outcomes, Indicators, and Data Sources for the Courts

Institutional outcome	Potential indicators	Possible data sources
Improve public access to and confidence in the courts, especially among women, the poor, and other disadvantaged populations	Change in proportion of plaintiffs who have had no prior contact with the courts	<ul style="list-style-type: none"> Intake survey/filing form, disaggregated by income, gender, race, ethnicity
	Change in the spectrum of small claims poor plaintiffs file	<ul style="list-style-type: none"> Intake survey/filing form, disaggregated by income, gender, race, ethnicity
	Change in level of respect for the judiciary, comparing poor litigants who ‘win’ in court with those who ‘lose’	<ul style="list-style-type: none"> Exit polls and satisfaction surveys, disaggregated by income, gender, race, ethnicity
Provide a more timely response to public needs for court services, especially among women, the poor, and other disadvantaged populations	Change in time between filing and first hearing	<ul style="list-style-type: none"> Administrative data, disaggregated by income, gender, race, ethnicity
	Change in time from filing to disposition in cases of small financial value	<ul style="list-style-type: none"> Administrative data, disaggregated by income, gender, race, ethnicity
	Change in duration of postponements	<ul style="list-style-type: none"> Administrative data, disaggregated by income, gender, race, ethnicity
	Change in proportion of judgments implemented within 30 days of the court’s decision	<ul style="list-style-type: none"> Survey of litigants involved in recently completed cases, disaggregated by income, gender, race, ethnicity
Produce more outcomes that contribute to the well-being of the community the court serves	Change in ratio of perception of problems solved to problems exacerbated among litigants	<ul style="list-style-type: none"> Survey of litigants involved in recently completed cases, disaggregated by income, gender, race, ethnicity
	Change in perception about whether the courts contribute to community safety	<ul style="list-style-type: none"> Exit polls and satisfaction surveys, disaggregated by income, gender, race, ethnicity

10.4 Using the Suggested Indicators

Few of these indicators are ideal; conceived as a basket, however, they can help justice officials better evaluate services the courts provide.

#1 Proportion of Plaintiffs Who Have Had No Prior Contact with the Courts

This indicator is suggested as an improvement over the total number of cases filed, which may change as a result of factors unrelated to public confidence in the courts, such as changes in the relative cost of filing or of legal assistance, or even an increase or decrease in local problems for which judicial solutions are sought. An increase in the overall number of filings, for example, may actually indicate a surfeit of ‘access’ for some, with these ‘repeat players’ displacing less well resourced but equally needy individuals. An increase in the proportion of plaintiffs who have had no prior contact with the courts, however, would indicate that more citizens are finding the courts compelling places of justice.

You should not strive to maximize the number new customers, however. A healthy judicial system will have a mix of first-time and repeat litigants. Excessive growth in this indicator, moreover, could result from declining confidence in courts among past users. Some of the other indicators described below can help officials control for that possible distortion.

#2 Spectrum of Small Claims Filed

When confidence in the courts increases, so too should the range of disputes in which people are willing to bring there. This could be indicated by an expansion in the categories of claims filed, or it might be indicated by an enlargement in the range of amounts in dispute. In the latter case, the range of sums involved may expand in both directions, embracing more serious and less serious matters. By the same token, a contraction in the continuum of the sums involved in suits filed should lead justice officials to inquire about levels of confidence in the courts.

#3 Level of Respect for the Judiciary, Comparing Litigants Who ‘Win’ in Court with Those Who ‘Lose’

Most research shows that even people who dislike and dispute the *outcome* of court proceedings can respect or find legitimate the *process* by which such decisions were reached.³⁸ Individuals who are successful in court are likely to have higher overall assessments of the judicial process. But the difference in the level of respect for the court between winners and losers will be smaller in courts that respect the concerns and needs of people in poverty, regardless of the outcomes. Satisfaction surveys that distinguish between ‘winners’ and ‘losers’ can help justice officials monitor changes in respect for the judiciary. And large and growing gaps between the groups in levels of respect can alert officials to the need to improve the process by which decisions are made, without affecting the substance of court rulings.

#4 Time between Filing and First Hearing

People typically use courts when other remedies or forms of redress have failed. By decreasing the time between filing and first hearing, courts can provide some initial and immediate relief and also convey respect for people’s concerns. Individuals who receive prompt and authoritative responses are less likely to withdraw their complaints and attempt to solve their disputes without assistance from the court.

#5 Time from Filing to Disposition in Cases of Small Financial Value

Even when the sum at stake in a case is small, its relative value may be great and its temporal meaning critical. The longer people who are poor or otherwise disadvantaged have to wait for judgment, the greater the loss they experience. Courts that diminish the amount of time from filing to disposition for people in poverty will better serve their needs.

#6 Duration of Postponements

One of the most arduous and frustrating aspects of the judicial process is the time it takes to receive an authoritative ruling, and the number of postponements is a strong predictor of the entire length of a case. The poor and those who are disadvantaged for other reasons are likely to suffer more from postponements than other citizens and, therefore, to become more alienated from the judicial process. Courts that make fewer postponements will decrease the relative cost of using courts and will likely earn the public’s confidence.

³⁸ Tom Tyler, *Why People Obey the Law* (New York: New York University Press, 1990).

#7 Proportion of Judgments Implemented within 30 Days of the Court's Decision

Few justice systems have developed good ways to track how quickly court orders are implemented, even though research shows that delaying the delivery of benefits erodes the public's trust in courts. This indicator relies on contacting litigants within a month after the court makes a decision to ask if the ruling has been implemented. A rising rate of affirmative responses will signal improvement in the procedures for implementing court decisions. Equally important, follow-up of this kind communicates the judicial system's desire to provide meaningful help to those who come to the courts for justice.

#8 Perception of Problems Solved and Problems Exacerbated

In civil, criminal, and family matters, courts can become so focused on producing a resolution that they lose sight of whether or not they actually resolve the problem that produced the case in the first place. By tracking changes in the ratio of problems solved to problems made worse, courts can more easily see beyond winners and losers to the well being of the community as a whole. If such a measure can be constructed, it will be useful to disaggregate it by type of dispute as well as by the gender, poverty, age, and ethnicity of the parties.

#9 Public Perception about Whether the Courts Contribute to Community Safety

Officials responsible for the courts need to know how court rulings affect public perceptions of community safety, especially if those perceptions are not congruent with what the officials believe. Surveys of public perceptions of court work can help justice officials test their assumptions.

Such surveys should pose general questions about whether people believe that local courts contribute to community safety and also very specific questions. The survey process itself can be used to inform people of recent trends or developments. For example, a question such as: "Has your sense of safety improved in the last month?" might be followed by the question: "Are you aware that your court is more frequently punishing people guilty of petty theft with community service?"

Such surveys must also distinguish between members of the public who have direct experience in court and those who do not. This distinction helps justice administrators understand what influences public perceptions and also how to adjust services and information to better meet public needs. Shorter surveys with small sample sizes repeated over time can help chart progress in building public confidence in the courts.

11. Indicators for Non-Custodial Sentencing Mechanisms

11.1 Outcomes of Importance

Individual countries favour different forms of non-custodial sentencing. Suspended sentencing is the most common alternative penalty in Senegal, the Ivory Coast, Togo,

Niger, and Benin—as well as in Latin America, for example.³⁹ In other parts of Africa—Kenya, Lesotho, Namibia, Nigeria, Swaziland, and Zimbabwe—alternative sentences usually involve community service.⁴⁰ Non-custodial sentencing mechanisms are becoming both more common and more diverse throughout the world. **Yet over 70 percent of serious correctional punishments meted out by justice systems still revolve around the deprivation of liberty.**⁴¹

The most obvious outcome of interest, therefore, is increasing the use of non-custodial sentencing mechanisms. This is not simple. In contrast to departments that oversee prisons and jail—and that receive prisoners from courts without having to promote the use of incarceration—institutions responsible for non-custodial sentences must promote those sentences as well as build and manage them. Moreover, the full range of non-custodial sentences—which includes suspended sentences, fines, community service, restitution, house arrest, supervision in the community, counselling, and treatment—only rarely falls under the jurisdiction of a single government department. **As a result, multiple departments and NGOs are simultaneously promoting, constructing, and managing these penalties.**

Whatever their form, non-custodial sentences should be humane, economical, and effective at preventing subsequent crime. They should be equally available to poor and disadvantaged offenders. They should be used in response to all but the most serious offences. And they should be used to reduce overcrowding in jails and prisons.⁴²

11.2 Traditional Indicators Used for Monitoring Non-Custodial Sentencing Mechanisms

Performance measurements for non-custodial sentencing vary significantly, depending on what agency is tracking performance, its objectives, and its resources. Most state-level indicators of performance tend to be static and short-term, such as the total number of people under community supervision.⁴³ Such counts fail to provide any measure of impact.

In sharp contrast, small-scale research studies have attempted more dynamic measures of impact—on community safety (reductions in recidivism), on the offender (acquisition of skills or recovery from addiction), and on the system (decreases in prison populations). Such studies can even estimate the time to which offenders would have been sentenced had they not received the non-custodial alternative, and

³⁹ Bouvier, *De Quelques Aspects du Systeme Penal dans les Pays en Developpement*, Secretariat d'Etat a La Cooperation, Vols. 1-3, (Paris: *Juriscopes*); and Carranza, Liverpool, and Rodriguez-Manzanera, 'Alternatives to Imprisonment in Latin America and the Caribbean,' in *Alternatives to Imprisonment in Comparative Perspective*, Ugljesa Zvekie, ed. (Chicago, 1994).

⁴⁰ For an in-depth study of Zimbabwean penal reform, see Stern, 'Alternatives to Prison in Developing Countries,' (London: International Centre for Prison Studies, 1999).

⁴¹ Penal Reform Initiative, "New Models on Accessible Justice and Penal Reform in Developing Countries," 90, at http://www.penalreform.org/english/models_models.htm.

⁴² For a discussion of the reasons why the increased use of non-custodial placements has not been accompanied by a decrease in the incarcerated population see 'Alternatives to Prison in Developing Countries.'

⁴³ Glaze, L.E., *Probation and Parole in the United States 2002* (Washington, DC: U.S. Bureau of Justice Statistics, 2003).

these estimates can usefully be incorporated in continuing performance measurement systems to estimate prison displacement.⁴⁴

11.3 Potential Institutional Indicators for Non-Custodial Sentencing

The challenge is to create indicators that capture the availability and use of non-custodial mechanisms, without assuming that greater use of these measures will necessarily represent an improvement for either offenders or victims of crime. Rather than measuring reduced re-offending—a measure difficult to compare with results of custodial penalties—we suggest measuring the legitimacy non-custodial penalties enjoy among the public and specifically among victims of crime.

Accordingly, three key outcomes for institutions responsible for non-custodial sentencing might be:

- Increase availability and use of non-custodial sentencing for all but the most serious crimes
- Equalize access to non-custodial mechanisms for all offenders
- Increase legitimacy of non-custodial mechanisms among the general public and victims of crime

Suggested indicators and data sources are presented in Table 11.1.

⁴⁴ See Phillips, M.T., W. Nehwadowich, A. Tejaratchi, R. Caligiure and T. Kim, *Estimating Jail Displacement for Alternative-to-Incarceration Programmes in New York City* (New York: New York City Criminal Justice Agency, 2000); and *Alternative to Incarceration Programmes and Criminal Recidivism among Felony Offenders in New York City* (New York: New York City Criminal Justice Agency, 2000). See also, *Balancing Punishment and Treatment: Alternatives to Incarceration in New York City* (New York: Vera Institute of Justice, 2002).

Table 11.1: Suggested Outcomes, Indicators, and Data Sources for Non-Custodial Sentencing Mechanisms

Institutional outcome	Potential indicators	Possible data sources
Increase availability and use of non-custodial sentencing for all but the most serious crimes	Change in the ratio of community to prison sentences, disaggregated by type of crime	<ul style="list-style-type: none"> • Court administrative data
	Change in the proportion of courts with an adequate array of non-custodial penalties	<ul style="list-style-type: none"> • Expert survey of court professionals and NGOs
Equalize access to non-custodial mechanisms for all offenders	Change in the proportions of disadvantaged and privileged offenders receiving non-custodial sentences, disaggregated by sentence type	<ul style="list-style-type: none"> • Court records • Expert survey of court professionals and NGOs
	Change in the proportion of offenders sentenced to non-custodial penalties who successfully complete sentence when disaggregated by income, gender, age, ethnicity, and other category of potential bias	<ul style="list-style-type: none"> • Administrative records of court or supervising department
Increase legitimacy of non-custodial mechanisms among general public and victims of crime	Change in public support for non-custodial sentencing	<ul style="list-style-type: none"> • Public opinion surveys • Focus groups
	Change in satisfaction among victims when offenders receive non-custodial penalties	<ul style="list-style-type: none"> • Surveys of crime victims at conclusion of their cases

11.4 Using the Suggested Indicators

#1 Proportion and Number of Community and Prison Sentences Served

These are useful measures employed by a number of penal reform initiatives, including that of the Zimbabwean community service scheme.⁴⁵ You need not disaggregate the data by the previous convictions or criminal record of offenders, as the outcome is focused on all but the most serious crimes. Persistent offenders may receive a more intense or longer non-custodial penalty.

#2 Proportion of Courts with an Adequate Array of Non-custodial Penalties

The definition of adequacy may change over time, with court professionals and members of the community expecting a wider array as their experience with non-custodial penalties grows. A decline in this indicator may, therefore, reflect rising expectations rather than a reduction in availability. Nevertheless, institutions responsible for non-custodial penalties should respond to rising expectations and demand by using these penalties more often.

⁴⁵ 'Alternatives to Prison in Developing Countries,' 41.

#3 Proportions of Disadvantaged and Privileged Offenders Receiving Non-Custodial Sentences

In many societies, non-custodial penalties are initially used for the minority of privileged offenders whose lawyers press such penalties on the courts. Even where non-custodial penalties are routinely used, certain ones may be associated with particular social groups, including the poor. This measure encourages responsible institutions to make each penalty equally accessible to poor people and those who are otherwise disadvantaged.

#4 Proportion of Offenders Sentenced to Non-custodial Penalties Who Successfully Complete the Sentence When Disaggregated by Offender Group

Successful completion of a non-custodial penalty can be defined as fulfilling the term or conditions of the sentence without any incident that leads to the imposition of a custodial sentence. Some offenders may be arrested for a subsequent offence, and others may fail to comply with requirements of the sentence, but these actions would only constitute ‘failure’ if the offender is sentenced to custody as a result.

If the proportion of offenders who successfully complete their non-custodial sentences differs by the economic status, gender, ethnicity, religion, or other category of potential bias, it suggests that the penalty may be administered in an unequal way.

#5 Public Support for Non-custodial Sentencing

The indiscriminate use of incarceration is often a result of lack of public support for alternative sentencing options. In Uganda, Malawi, and Zimbabwe, for example, institutions responsible for implementing non-custodial sentencing mechanisms were also responsible for developing elaborate schemes to raise awareness and cultivate broad-based support for non-custodial sentences within the community and government.⁴⁶ And in Kazakhstan, the state departments promoting these penalties collaborated with mass media to heighten awareness of the need for non-custodial penalties.⁴⁷ Where such public support is necessary—and it is necessary almost everywhere—an indicator of public support is essential.

Where a comprehensive crime survey is already conducted, it can be used to assess public perceptions of non-custodial sentencing. Where large surveys are not possible, systematically conducted focus groups can work instead. Indeed, focus groups are able to explore more detailed responses to the use of specific non-custodial penalties in particular situations.

⁴⁶ In Uganda, an elaborate awareness campaign involving seminars, rallies, and public debates aimed at schools, state administration, magistrates, and prosecutors was conducted. In Malawi, local chiefs and government and NGO representatives were brought on board through the development of Court User Committees. And in Zimbabwe, the National Committee on Community Service travelled throughout the country to address public meetings on the rationale behind the reforms. See ‘Alternatives to Prison in Developing Countries.’

⁴⁷ Kazakhstan has the third-highest incarceration rate in the world. The Almaty Conference on Penal Reform in 1999, which was attended by state and NGO representatives from a number of countries from that region—including Armenia and the Russian Federation—and from the United Kingdom and Norway, focused on reducing the use of incarceration. For more information, read the resolutions and recommendations of the international conference on the web at http://www.penalreform.org/english/altern_kzkconf2.htm.

#6 Satisfaction among Victims When Offenders Receive Non-custodial Penalties

Because the imposition of a non-custodial penalty in any particular case may be publicly opposed by aggrieved victims, it is vital for institutions responsible for these penalties to be able to place such opposition in perspective. An indicator of satisfaction among victims generally allows officials to respond to aggrieved victims in particular instances and to build penalties that win their confidence. If other institutions survey crime victims to assess satisfaction, a question regarding non-custodial penalties can be included at minimal cost.

12. Indicators for Prisons

12.1 Outcomes of Interest

Where a genuine threat to public safety requires an offender to be removed from the community, that person should be housed in a safe, orderly, and humane setting.⁴⁸ For the world's eight to nine million prisoners, there are few such settings. To bring more of them up to that standard, the sheer volume of people in prison in many places must be reduced and those who remain in custody must be provided with adequate food, clothing, bedding, clean water, and basic health care. Good hygiene, opportunity for exercise, and a healthy diet are essential to prevent the spread of infectious disease in prisons. The behaviour of prison officers is also crucial. Staff should be qualified, trained, deployed in sufficient numbers, and supervised closely enough to assure their own safety as well as that of the prisoners.

Achieving these standards in prison conditions benefits people living in poverty because nearly all prisoners and their families are poor. A prison sentence can cause loss of income to the prisoner's family, and this should not be compounded by prison regimes that depend on families to provide food, clothing, and other basic necessities or to financially support prisoners during their incarceration.

12.2 Traditional Indicators for Prisons

Traditional prison indicators tend to focus on the quantity of prisoners rather than on the quality of care provided. Measures such as prison population (proportion of the general population incarcerated) and ability to contain prisoners (number of escapes) say little about the experiences of people living in prison. Indicators of overcrowding and space per prisoner, which are also commonplace, come closer to measuring the quality of incarceration but ignore most of the important outcomes.

The size of the prison population also tends to reflect the operation of other parts of the criminal justice system, which are better controlled through interventions in police, prosecution, and judicial institutions.⁴⁹ For example, rising prison populations may be a result of investigative, prosecutorial, and judicial routines that hold prisoners awaiting trial for long periods; prosecutors and judges who recommend or impose

⁴⁸ *Standard Minimum Rules for the Treatment of Prisoners* (New York: United Nations, 1977).

⁴⁹ *Ibid.*

incarceration inappropriately; or legislatures that have imposed sentencing guidelines or mandatory sentences without allocating the resources necessary to implement them.

12.3 Potential Institutional Indicators for Prisons

The challenge in designing indicators for prison is to identify simple measures that capture the experience of incarceration, particularly as it burdens prisoners and their families over the long-term. Two outcomes that can be usefully measured with a variety of data are:

- Improving living conditions within prisons
- Providing greater access to systems of redress for prisoners

Other outcomes that might be measured in a comprehensive system include: eliminating the use of physical punishment, reducing injury and deaths in custody, providing access to addiction treatment, providing productive work for all prisoners, providing for visits that preserve dignity and show respect for family ties, and preparing every prisoner to re-enter society successfully.

Prisons often do not collect the kinds of data necessary to measure these outcomes. The table below therefore includes data that could be routinely collected by official prison visitors or, alternatively, by NGOs systematically interviewing people leaving prison. **Almost all of the indicators suggested in Table 12.1 could be measured using relatively simple surveys of a systematic sample of people leaving prison conducted by one or more NGOs.** Whatever the data sources, all of the indicators for prisons should be disaggregated by the region in which the prisons sit, their security level, and the gender and age (e.g., adult or juvenile) of their prisoners.

Table 12.1: Suggested Outcomes, Indicators, and Data Sources for Prisons

Institutional outcome	Potential indicators	Possible data sources
Improved living conditions	Change in proportion of prisoners with 24-hour access to clean water and toilet facilities	<ul style="list-style-type: none"> • Routine inspections of a sample of prisons • Routine interviews with prisoners or with people who have been released recently
	Quality and nutritional value of food as measured by changes in the rate of malnutrition and related illnesses and change in Body Mass Index	<ul style="list-style-type: none"> • Prison infirmary records • Survey of Body Mass Index among prisoners, stratified by length of confinement, or among people recently released from prison
	Change in prevalence of infectious disease	<ul style="list-style-type: none"> • Routine screening for common infectious diseases, testing a sample of prisoners immediately after they are incarcerated and then again at six and at 12 months later • Routine screening for common infectious diseases, testing staff who work in prisons
	Change in population beyond capacity	<ul style="list-style-type: none"> • Ratio of number of on-site custodial staff to prisoners, disaggregated by tour of duty • Ratio of prisoners to prison placements that meet minimum standards for space, bedding, temperature, etc. • Reports of overcrowding from journalists, NGOs, or human rights organizations
Greater access to systems of redress for prisoners	Change in availability of information about the administrative complaint process and access to materials necessary to file complaints	<ul style="list-style-type: none"> • Routine inspections of a sample of prisons • Routine interviews with prisoners who have been released recently
	Change in time from filing to disposition of administrative complaints from prisoners	<ul style="list-style-type: none"> • Administrative data • Routine interviews with prisoners who have been released recently
	Changes in proportion of complaints substantiated and remedial action taken	<ul style="list-style-type: none"> • Administrative data • Routine interviews with prisoners who have been released recently

12.4 Using the Suggested Indicators

Prisons may not be open to the level of scrutiny that other public institutions are subject to, and the people who work in and manage facilities may have reasons to conceal practices. It is important to use a variety of measures to assess prison conditions rather than relying only on official records or information from prison managers. And prisoners themselves may not feel free and safe to honestly discuss their living conditions and the behaviour of staff. One way to overcome this problem is to collect information from people who were recently released.

#1 Proportion of Prisoners with 24-Hour Access to Clean Water and Toilets

The traditional indicators, number of detainees per shower and per toilet do not reveal whether facilities are working and whether detainees have frequent access to them. A more useful indicator of access to sanitation is the proportion of prisoners with 24-hour access to clean water and toilets.

There are a number of options for collecting this information. Administrative data should be routinely verified through unannounced visits by independent inspectors.⁵⁰ Inspectors should regularly visit a sample of prisons, stratified to represent area and type, and visit randomly selected cells within the prison to test facilities and discuss access with prisoners. If inspections are not possible and administrative data are unavailable or unreliable, systematic interviews with prisoners leaving custody are an excellent alternative source of information on access to sanitation.

#2 Quality and Nutritional Value of Food

Many prison systems routinely report the content of prisoners' daily food allowance, but this describes only what food inmates are *supposed* to receive. Prison medical records of malnutrition and related diseases are a better indicator of the quality and nutritional value of food served in prison.

Administrative data from health records should be supplemented by a health survey, conducted by independent inspectors, to assess the Body Mass Index of a sample of detainees. Only people who have been incarcerated for a period of six months or longer should be included in this assessment to avoid attributing pre-existing nutrition-related health problems exclusively to the prison.

Since prison officials may inappropriately withhold food or water as punishment, it is important that inspectors gain access to all prisoners, including people held in high-security areas of the facility or under other special conditions.

As with other indicators, when data from within the prisons are unavailable, a survey of the Body Mass Index of recently released prisoners who have served more than six months could be substituted.

#3 Prevalence of Infectious disease

Prison officials are usually sensitive to the danger of infectious disease because of the risks to staff as well as prisoners, yet administrative data are often collected in ways that drastically underestimate its prevalence, as has been the case in the recent past with tuberculosis in Russian prisons and AIDS in South African prisons.⁵¹ Routine screening of prisoners and, in the case of some diseases, staff through relatively simple tests should be part of any prison administration. To know whether prison conditions are responsible for infections, corrections officials could test a sample of inmates immediately after they are incarcerated and then again six and 12 months later. Staff also should be tested periodically—and those tests should focus on

⁵⁰ For examples, see the United Kingdom Chief Inspector of Prisons for England and Wales, <http://www.homeoffice.gov.uk/justice/prisons/inspprison/index.html>.

⁵¹ See K.C. Goyer, *HIV/AIDS in Prisons: Problem, Policies and Potential* (Pretoria: Institute for Security Studies, 2003); and Yuri Ivanovich Kalinin, Deputy Minister of Justice, "The Russian Penal System: Past, Present and Future," a paper presented at the International Center for Prison Studies in London, England, November 2002.

diseases like TB that staff are more likely to contract from and give to prisoners, as opposed to a disease like AIDS.

#4 Population Beyond Capacity

The commonly understood concept of overcrowding depends on calculating a prison's capacity. Too often, capacity is merely a measure of physical space on design drawings rather than a measure of the number of prisoners a facility can manage. Capacity can be more accurately established through the ratio of on-site staff to prisoners, in combination with a count of the number of physical places that meet the institution's minimum standards for accommodation.

The United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) took this approach when its staff confronted inadequate indicators of prison overcrowding. ILANUD developed its own figures for capacity based on the total number of inmates (disaggregated by gender, legal status, etc.) and the total number of penitentiary personnel less those engaged in "overhead" functions.

#5 Information about the Complaint Process

A simple dichotomous indicator or ranking system should be used to establish whether or not prisoners are informed about how to make administrative complaints and have regular access to the material necessary to do so. A dichotomous indicator would describe merely whether or not this is the case. A ranking system would describe the extent of the information and of the access to materials. Either indicator could be assembled from routine inspections or from systematic interviews with people recently released from prison.

#6 Time from Filing to Disposition of Complaints

The speed with which complaints are resolved is among the most basic indicators of the functioning of a system of redress and should be easily calculated using administrative data. The data are best used to calculate two separate measures. First, for the period in question, you can calculate the proportion of complaints filed two or three months earlier that have been resolved. Second, you can calculate the average age of complaints resolved during the period. A supplemental or alternative source of data would be systematic interviews with people recently released from prison.

#7 Proportion of Complaints Substantiated and Remedial Action Taken

Rather than focusing on the number of complaints prisoners file, a better approach is to monitor the proportion of complaints that are substantiated with some remedial action taken. If this proportion is close to zero, then the number of complaints filed is meaningless. If this percentage is reasonable—somewhere between 20 and 80 percent—it indicates a relatively effective system of review.

13. Indicators for Accountability Mechanisms

13.1 Outcomes of Interest

Ombudsmen and other independent complaints bodies are crucial components of the justice sector, providing the poor with a real hope of redress if officials act in arbitrary or abusive ways. Their dual purposes are to build confidence of citizens in the institutions they oversee and to assure that officials are held accountable for arbitrary or abusive conduct.

Most of these oversight institutions are organized to receive complaints from individual citizens about individual instances of poor service or abuse. Some have the power to investigate those complaints themselves, while others monitor investigations conducted by the agencies responsible. When the investigation suggests that a police, prison, or other official is guilty of serious misconduct, most of these oversight institutions can recommend discipline (a few can impose discipline themselves), and most can refer cases for criminal prosecution.

Beyond their role in responding to individual complaints, some of these institutions systematically monitor patterns of misconduct within the police, judiciary, or prison departments; analyze data over time; and make both public and private recommendations about changes in management or training that might alter these patterns. Some initiate their own investigations into apparent patterns of misconduct that attract their attention. Some also are able to reward good behaviour within the institutions accountable to them. Some hold public hearings, while others merely issue reports.

13.2 Traditional Indicators Used Within Accountability Institutions

Among the indicators more frequently used to measure the performance of these institutions are measures of productivity: the number of investigations completed and the duration of those investigations.

For example, the Police Ombudsman for Northern Ireland reports that in its first 18 months of operation, it achieved an average time for completing an investigation of 105 days, well under its target of 120 days.⁵² The South African Independent Complaints Directorate sets a target of completely investigating its most serious category of cases within 180 days, and others within 90 days.⁵³ The New York City Civilian Complaint Review Board took 267 days to complete a full investigation in 2002, and 254 days in 2001.⁵⁴

Complaints authorities appear to resist indicators based on the outcome of their investigations, whether the outcomes are criminal prosecutions, criminal sentences, or discipline imposed. The South African Independent Complaints Directorate states in its most recent annual report that “success should not be judged

⁵² Police Ombudsman for Northern Ireland, *First Annual Report: November 2000 - March 2002*, 14.

⁵³ Independent Complaints Directorate, *Annual Report for 2001/2002*, ISBN: 0-621-33202-X, RP: 149/2002, 32.

⁵⁴ New York Civilian Complaint Review Board, *Status Report: January – December 2002* (New York: CCRB, May 2003), 5-15.

on the number of convictions achieved. Rather it should be measured in terms of the number of investigations conducted....”⁵⁵ Typically, complaints authorities insist that the percentage of cases in which police or prison officers are punished is less an indicator of the quality of the investigation than of the skill of the prosecutor, the veracity of the complaint, or the political will of the disciplinary authority.

13.3 Potential Indicators for Accountability Mechanisms

While you might be able to easily monitor the productivity of accountability mechanisms, the challenge is to reveal how much access to justice these mechanisms provide, especially to people in poverty. Responsible officials might therefore focus on outcomes such as:

- Increasing confidence in the accountability mechanism among people in poverty
- Enhancing the ability to hold people accountable for abusive or arbitrary conduct

Table 13.1 suggests a possible basket of indicators for each of these two objectives and some of the different data sources that might be tapped.

⁵⁵ The report continues: “It should be borne in mind that the ICD is an investigative agency and not a prosecutorial one and thus the decision whether to prosecute or not rests entirely with the DPP. Various factors such as the testimony of witnesses, the absence of sufficient evidential corroboration to sustain a conviction or other technical aspects may play a role in the acquittal of a member.” *Annual Report for 2001/2002*, 31.

Table 13.1: Suggested Outcomes, Indicators, and Data Sources for Accountability Mechanisms

Institutional outcome	Potential indicators	Possible data sources
Improved confidence in the grievance process among people in poverty	Change in proportion of less serious complaints from people in poverty	<ul style="list-style-type: none"> Administrative data on complaints
	Change in proportion of poor complainants	<ul style="list-style-type: none"> Administrative data on complainants
	Change in awareness of the grievance process and expression of confidence in it by people in poverty	<ul style="list-style-type: none"> Annual public survey, systematic stratified focus groups of citizens, or survey of people who file complaints
Greater accountability for abusive or arbitrary conduct	Change in proportion of cases referred for discipline or prosecution following investigation	<ul style="list-style-type: none"> Administrative data on outcomes of investigations
	Change in proportion of referred cases resulting in the imposition of discipline or punishment	<ul style="list-style-type: none"> Administrative data from disciplinary or prosecuting agency combined with demographic data compiled by accountability mechanism
	Change in proportion of cases resolved informally or through mediation to the satisfaction of the poor complainants	<ul style="list-style-type: none"> Administrative data combined with satisfaction survey of complainants completing informal process or mediation

13.4 Using the Suggested Indicators

For each of the suggested indicators, the data should be disaggregated or stratified by income, gender, religion, ethnicity, or other relevant categories. This is particularly important in the case of accountability mechanisms, because they are often poorly publicized and difficult to reach, making it likely that citizens from privileged and powerful segments of society will use the grievance process more often than people living in poverty. Also, because complainants often must put their own credibility in conflict with the credibility of police or prison officials, complainants from less powerful segments of society may be more reluctant to make complaints and less successful when they do so. For these reasons, it is particularly important for accountability mechanisms to collect data on income, gender, religion, ethnicity, and other potential bases of discrimination from the start of every case.

Merely including these data elements on complaint forms, however, may not produce the data. For example, the Police Ombudsman for Northern Ireland, one of the better resourced accountability agencies recently launched, aims to record data on occupation, ethnicity, religion, and neighbourhood of residence, but most of this information is not actually entered on its forms, resulting in 70 percent or more of the cases showing occupation, religion, and ethnic background as “unknown.” Even gender is recorded as “unknown” in about 30 percent of cases in the most recent reports. Some of the best demographic data are available for postcode, which might provide a proxy indicator for income. It is a reminder that building useful indicators often depends on motivating front-line staff to record the data required.

#1 Proportion of Less Serious Complaints from People in Poverty

This indicator is suggested as an improvement on the more common and crude count of the number of complaints received. Some complaints authorities cite an increase in the number of complaints they receive as an indication of growing confidence in their work, the success of their outreach campaign, or the effectiveness of improvements in their process for registering complaints. A serious problem with using a growing number of complaints as an indicator of success, however, is that the same increase will be used to suggest that the police or prison authorities are increasingly abusing their authority. In general, an indicator is politically unstable and destructive of sector-wide reform if the same change in the indicator is easily interpreted as a success for one institution and a failure for another.⁵⁶ One should therefore avoid using the sheer volume of complaints registered by an accountability mechanism as an indicator of anything.

When people have low confidence in an institution, they will use it only in the most serious cases; but when people have high confidence, they will rely on it in less serious cases as well. Therefore, the proportion of complaints that contain less serious allegations can be an indicator of the confidence that people place in an accountability mechanism.

The distinction between serious and less-serious allegations can be contentious, but the indicator need not be based on a categorization of all possible allegations. It should be enough to base it on the ratio of some of the most common serious allegations to the most common less serious ones.

#2 Proportion of Poor Complainants

This indicator captures information about several elements of an accountability mechanism. If people in poverty represent a growing proportion of complainants—regardless of the number of complaints received—it is some evidence that more poor citizens are aware that the grievance process exists, can find out how to submit a complaint, and have confidence that making a complaint will do some good. Each of these three conditions is difficult to achieve, making this a difficult but important indicator on which to show progress.

In Brazil, for example, the highly controversial and well publicized introduction of *Ouvidorias de Polícia* (Police Ombudsmen's Offices) starting in 1996 was intended to serve the entire population of several states. Yet a study conducted in Rio de Janeiro three years after the office was established found that poor citizens had “no knowledge about the *Ouvidoria*.”⁵⁷

Persistently low results on this indicator might lead officials of the accountability mechanism to explore reasons for the small number of poor people who are submitting complaints. When and from whom did they learn of the institution? How did they know the procedure for filing a complaint? What has given them any

⁵⁶ This same principle suggests that in assessing prosecution and defence services one should avoid using simple rates of convictions and acquittals. See Chapter 9 of this guide.

⁵⁷ Julita Lemgruber, “Civilian Oversight of Police: the Brazilian Case,” presentation at an international meeting on civilian oversight of the police in Los Angeles, California, May 2002. The meeting was hosted by the Police Assessment Resource Centre, the Vera Institute of Justice, and the Ford Foundation.

confidence that filing the complaint will do any good? Asking these questions before spending large sums on publicity campaigns may reveal more effective and less expensive ways of building knowledge and confidence among citizens living in poverty.

#3 Awareness of the Grievance Process and Expressions of Confidence in It by People in Poverty

This indicator allows officials to systematically track the issues of knowledge and confidence discussed in relation to the previous indicator. If resources are available or a national survey already exists in which a few additional questions can be included, officials can directly ask a sample of the population whether they know about the grievance process and what confidence they have that it holds police or other officials accountable.

In Northern Ireland, for example, the Police Ombudsman commissions such surveys on a regular basis and has seen awareness of its office rise from 57 percent of respondents in November 2000 to 86 percent of respondents in February 2002. Catholics in Northern Ireland are slightly less likely to view the Ombudsman as independent of the police than are Protestants, and that difference has persisted even while awareness of the office rose generally.⁵⁸

If a full population survey is not affordable, a less expensive alternative is to routinely ask a sample of citizens submitting complaints what level of confidence they have that their complaint will bring redress. One could then track how expectations change over time, albeit among those who are sufficiently encouraged to file a complaint at all.

#4 Proportion of Cases Referred for Discipline or Prosecution Following Investigation

Inevitably, many complaints about abuse or arbitrary behaviour will not be sustained by investigation, often because facts are too difficult to discern; sometimes because the complaint is exaggerated or submitted in bad faith. But if almost no cases are referred for discipline or prosecution, any realistic hope for redress will be lost. Accountability agencies must not refer cases that lack merit, but they must treat complainants and witnesses well enough to gain their active cooperation and investigate thoroughly enough to collect evidence where it exists. Tracking the proportion of cases in which they find credible evidence of abuse or misconduct is one good way to monitor their performance.

What constitutes a significant proportion of cases is a matter of judgment, but the numbers are generally rather low, so an accountability agency must also set reasonable expectations. In 2002, the New York City Civilian Complaint Review Board (CCRB) closed 4,830 cases. Of those, 2,210 were fully investigated, and in 224 cases the CCRB substantiated the complaint and referred it on for discipline. This represents just 4.6 percent of all cases closed. Since 1998 that figure has varied between 3.8 and 6.4 percent.

⁵⁸ Police Ombudsman for Northern Ireland, *First Annual Report: November 2000-March 2002*, 49.

#5 Proportion of Referred Cases that Result in the Imposition of Discipline or Punishment

This is the indicator that many accountability bodies resist because imposing discipline or punishment is out of their hands. Nonetheless, the quality of their work certainly affects the ability and the inclination of those other bodies to discipline or punish police or prison officers, and it is an indicator that both the public and professionals care about passionately.

If the indicator declines, it is not necessarily a poor reflection on the accountability agency, but officials in that agency should take steps to understand the cause of the decline and do their best to reverse it.

#6 Proportion of Cases Resolved Informally or Through Mediation to the Satisfaction of the Poor Complainants

It is becoming commonplace for accountability mechanisms to include within their operations a capacity to resolve complaints informally or through mediation. This is the direct result of research by many institutions in different countries showing that complainants in many matters are often more pleased with rapid, informal mediation, often leading only to an apology, than with longer, more formal and punitive proceedings. The danger is that informal mechanisms can be used as a dumping ground for complaints that deserve more thorough consideration, over the objection of complainants. This indicator, therefore, is limited to those cases resolved to the satisfaction of the complainants. In South Africa, Northern Ireland, and New York City, the police accountability institutions discussed here all have been increasing the percentage of cases resolved in this way.

This part of the guide describes the special challenges of building indicators that capture the outcomes produced by the wide variety of non-state institutions across the safety and justice sector, and then suggests three outcomes and associated indicators that might be implemented. Collecting data for these indicators also presents a special problem, and the chapter describes participatory techniques that might allow the collection to remain in the hands of non-state institutions.

14. The Importance and Challenges of Measuring Outcomes in this Part of the Justice Sector

People pursue their needs for safety and justice in different places. Sometimes they turn for help to formal state institutions, such as the police and courts; other times they turn to friends, relatives, neighbourhood associations, community organizations, elders, or traditional institutions. Some people rely exclusively on either state or non-state institutions while others use institutions in both spheres.

Because individuals—especially those who are poor—frequently rely on non-state institutions for safety and justice, measuring their performance is an essential part of monitoring the safety and justice sector as a whole. Yet in your attempt to measure the outcomes these institutions produce, you will face all the difficulties associated with measuring state institutions, plus two more: non-state institutions take a seemingly infinite number of forms, and non-state institutions keep almost no records that are useful for measurement purposes.

14.1 The Multiplicity of Non-State Institutions

There is a wide variety of non-state institutions that aim to deliver justice and a wide range of methods by which they provide safety and justice.⁵⁹ They include:

⁵⁹ A host of adjectives are used to describe these institutions, including ‘customary,’ ‘traditional,’ ‘indigenous,’ ‘local,’ ‘popular,’ and ‘restorative.’ See Wilfried Scharf, ‘Non-State Justice Systems in Southern Africa: How Should Governments Respond?’ paper prepared for DFID conference, Nairobi, January 2003, 2-4.

- Popular tribunals, religious courts, and tribal curiae that administer customary, state, or canon law
- Elected councils of non-lawyers that arbitrate and mediate disputes
- Unelected chiefs or leaders who employ a range of methods to resolve disputes
- Private security companies that range from professional corporations of highly trained staff to loosely organized businesses employing unreliable guards
- Vigilante groups that communities depend on to provide rudimentary safety and rough justice
- Self-help associations that temporarily coalesce in order to solve common problems

Some of these institutions are ancient organizations, with an enduring and vibrant oral ‘common law.’ Some sprout up in urban centres as a result of under-governance or lawlessness. And some are off-shoots of state institutions, established as temporary solutions to administrative problems but that later acquire new rationales and experience unexpected longevity. In some places, they supplement or complement state institutions—and perhaps work closely with both state and non-governmental organizations. In other places, they operate in lieu of state institutions. Some are solitary and autonomous; others are loose associations; and yet others, such as those in Enugu, Nigeria, are nested and organized hierarchically.

Just as their origins and relationships to other public institutions vary, so do their functions, although a single non-state institution is likely to perform multiple safety and justice functions—including policing, adjudicating, and punishing. And it also may provide general governance, by organizing and regulating commerce, land-use, markets, and other economic activity, for example.

The wide variety of non-state justice institutions makes it difficult to define them. DFID uses the following broad definition:

Non-state justice and security (NSJS) systems refer to all systems that exercise some form of non-state authority in providing safety, security and accessible justice. This includes a range of traditional, customary, religious and informal mechanisms that deal with dispute resolution and/or security matters.⁶⁰

14.2 Little Data but Many Questions and Concerns

Not much is known about this world of non-state institutions. Researchers and governments are only beginning to collect ethnographic and other evidence about how they operate, whom they serve, and how they interact with state institutions.⁶¹

⁶⁰ DFID, *Safety, Security and Accessible Justice: Putting Policy into Practice*. See the chapter on non-state justice and security systems.

⁶¹ See Julio Faundez, ‘Lessons from the Experience of Non-State Justice Systems,’ paper prepared for the Seminar on the Rule of Law, EIDHR, Brussels, July 4, 2003; and Celestine Nyamu-Musembi, ‘Review of Experience in Engaging with ‘non-state’ justice systems in East Africa,’ paper prepared for DFID conference, January 2003. Stephen Golub, ‘Non State Justice Systems in Bangladesh and the

Most observers believe that non-state justice institutions are valuable assets and present unique opportunities for advancing safety, security, and access to justice among the poor. They provide a range of affordable services in languages that are easily understood, usually act rapidly and with authority, and are more ‘participatory.’ For example, non-state institutions that resolve disputes rely primarily on mediation and arbitration, which offer the people involved some control over the process.

Most observers also believe that non-state justice institutions frequently fail members of the communities they serve. Not all segments of society are equally served by non-state justice institutions: women, the elderly, and the poor are sometimes left out of the decision-making process and their rights and needs can be ignored. Non-state institutions also can coerce conciliation, force confessions, and serve the interests of unelected individuals and powerful groups.⁶² And they can be brusque and even brutal, meting out dangerous and sometimes lethal punishments.⁶³

Performance indicators should alert everyone concerned with non-state institutions about the extent to which their greatest advantages and disadvantages are realized in practice. But even the best indicators will only begin to answer important questions about a set of institutions so poorly understood:

- Do non-state institutions provide what anyone recognizes as safety and justice?
- Are people drawn to them as their first recourse or only when they are disappointed or deterred by state institutions?
- Are non-state institutions superior to state institutions in some areas – for example, in disputes about land and family relations – but inferior in others?
- Do they have broad or narrow support in the communities they serve?
- Do they protect people who are most vulnerable?

Be prepared to find different answers for each variety of non-state justice institution, even among those within a single region or country. Good performance indicators should also help to chart changes in non-state institutions as they respond to social development and a host of other external forces.

Philippines,’ paper prepared for DFID conference, January 2003. See also, Golub, ‘Participatory Justice in the Philippines,’ in *Many Roads to Justice*, Ford, 2000.

⁶² On the risks of injustices in the gacaca courts of Rwanda, see Samantha Power, ‘Rwanda: The Two Faces of Justice,’ *The New York Review of Books*, January 16, 2003.

⁶³ Julio Faundez found that juveniles are particularly at risk in these systems: a boy accused of stealing in a remote community in Peru was left to die after being tied to a tree and bitten by venomous black ants. See Faundez, ‘Non-state justice systems in Latin America. Case Studies: Peru and Columbia,’ paper prepared for DFID conference, January 2003.

15. Potential Indicators for Non-State Institutions

15.1 Existing Indicators for Non-State Justice Institutions

The attempt to measure or otherwise evaluate the performance of non-state institutions that aim to deliver justice is in its early stages, and people are revising their indicators and data collection systems based on what they learn. **Most of the indicators currently in use have both advantages and disadvantages, and nearly all of them focus on the process of resolving disputes—just one of the functions a non-state justice institution can provide.**

Just like indicators used to assess state justice institutions, these measurements focus on:

- Process
- Speed
- Volume
- Outcomes

Process indicators attempt to measure the appropriateness and quality of the decision-making process. Often these indicators focus on the identity and social representativeness of decision makers and on their competence and training in law and in the art of dispute resolution. Other process indicators track changes in the mode of resolving disputes. An increase in the use of arbitration, for example, might signal a rise in serious social conflict and/or deterioration in the quality of mediation services.

Speed indicators gauge the amount of time required to resolve disputes. In the Philippines, for example, non-state justice institutions are praised for being faster than comparable state institutions, suggesting that swiftness is a chief virtue of non-state institutions. This is a promising indicator, especially if their superior speed inspires state institutions to become equally or more efficient. However, be careful not to encourage hasty decision making by relying too heavily on this indicator.

Volume indicators include measures of the number of disputes resolved or the share of all disputes in a society that non-state institutions handle. Growth is taken as a sign of the legitimacy of non-state institutions, and perhaps even that citizens prefer them over state institutions.⁶⁴ This indicator is far from perfect, however. It does not directly compare cases and disputes in the two systems. You cannot tell whether it is the attractiveness of non-state institutions or the absence of alternatives that explains their growing use. And without comprehensive and expensive surveys, it is not possible to know what share of social conflicts and interpersonal disputes are not reported.

⁶⁴ See *Justice and Poverty Reduction: Safety, Security and Access to Justice For All* (DFID, 2000), 15, suggesting that non-state systems are usually 'better attuned to the needs of local communities.' See also the estimates of the share of all conflict solved by state agencies in Maria Tereza Sadek, 'Poder Judiciario: Criticas e Desafios,' in Denise Dora, ed., *Direito e Mudanca Social*, Rio de Janeiro (Ford Foundation, 2002), 410.

Another volume indicator commonly used is the proportion of all disputes that are ‘successfully resolved.’⁶⁵ Merely producing decisions in a large proportion of disputes is sometimes taken as a sign of effectiveness.⁶⁶ But in institutions such as the Lok Adalats in India, where cases are selected by virtue of their likely resolution, high rates of resolution reflect deflated awards as much as effective justice. In other forums, high rates of resolution might be a consequence of coerced conciliation and people’s desperation to settle the matter.

Outcome indicators are far less common and should be cultivated. Examples include changes in: the amount of dowry demanded; the age of children married by non-state institutions; and the use of corporal punishment, banishment, and other cruel penalties. Such indicators attempt to reveal whether decisions by non-state justice institutions serve the public and uphold fundamental human rights. In addition, researchers have compared the value of awards assigned in non-state and state justice institutions and examined users’ satisfaction with non-state institutions—as measured by surveys and by monitoring the rate of appeals (either to state courts or other government and non-government agencies).

There has been little effort to monitor cooperation between state and non-state justice institutions.

15.2 Potential Indicators for All Non-State Justice Institutions

Because knowledge about non-state justice institutions is scarce, those who hope to measure their performance should be prepared to adjust their performance indicators as knowledge about the institutions and the monitoring process increases.

To get started, the following three outcomes would be appropriate goals for any non-state institution that provide safety and justice services:

- Making the work and results of these institutions more transparent
- Improving the protection of rights
- Enhancing cooperation between non-state and state institutions

As a group, these goals respond to concerns about the accountability of non-state institutions and the vulnerability of individuals who use them, and they reflect a desire to amplify the benefits that state and non-state institutions can provide one another.

The importance of using a basket of indicators is evident here. Better cooperation between non-state and state institutions is an important objective, for example, but not at the expense of improved rights protection. An increase in the referral of disputes from state to non-state institutions would indicate improved cooperation, but it would not reflect greater access to justice if the people involved wanted the state to resolve their problems. The other indicators in this basket are designed to help you interpret progress on this goal and balance it with increased transparency and improved rights protection.

⁶⁵ See Galanter and Krishnan, ‘Bread for the Poor: Access to Justice via Lok Adalats in India,’ paper prepared for DFID conference, January 2003, 13.

⁶⁶ Ibid.

Table 15.1: Suggested Outcomes, Indicators, and Data Sources for Non-State Justice Institutions

Institutional Outcome	Potential indicators	Possible data sources
Increase transparency of process and results	Change in proportion of non-state institutions that have systems for recording actions and documenting decisions	<ul style="list-style-type: none"> • Special visits • Administrative data, when available
	Change in proportion of non-state proceedings to resolve disputes where information about the parties, claims, and resolution is recorded	<ul style="list-style-type: none"> • Special visits • Administrative data, when available
	Change in proportion of people who understand how to access services	<ul style="list-style-type: none"> • Expert or public surveys
Improve rights protection	Change in proportion of women who express confidence in non-state institutions	<ul style="list-style-type: none"> • Public surveys and interviews
	Change in proportion of disputes resolved through mediation	<ul style="list-style-type: none"> • Expert surveys or administrative data
	Change in perceived consistency of decisions and actions	<ul style="list-style-type: none"> • Special visits • Expert surveys
	Change in perceptions of equal and dignified treatment	<ul style="list-style-type: none"> • Expert or public surveys and exit interviews, disaggregated by gender, age, social status, occupation, etc.
Enhance cooperation between state and non-state institutions	Proportion of disputes received or arrests made by non-state institutions that are referred to state institutions	<ul style="list-style-type: none"> • Special visits • Administrative data
	Proportion of disputes received or arrests made by state institutions that are referred to non-state institutions	<ul style="list-style-type: none"> • Special visits • Administrative data
	Proportion of non-state decisions that are appealed to state courts and other agencies (including ombudsmen)	<ul style="list-style-type: none"> • Special visits • Administrative data

15.3 Collecting Information for these Indicators

Collecting data on non-state institutions presents special challenges. First, these institutions may not record their actions or preserve records; and second, state agents may be inappropriate data collectors to fill this gap. **The best solution may be to work with the non-state institutions to mobilize local citizens, non-governmental organizations, or other structures to participate in a routine, systematic collection of basic data.**

A strategy of local mobilization contrasts with the recommendation—found in much of the literature on non-state institutions—that administrators of state-run institutions ‘audit’ the work on non-state institutions. **The development of performance indicators will be less threatening and more successful if the process is conducted in cooperation with the administrators of non-state institutions and involves the communities those institutions serve.**

One relatively simple way to achieve this is to organize local citizens to conduct periodic structured visits to non-state institutions, in the way that prison visitors or police station visitors operate in many countries. Such visitors could be drawn from different segments of society and trained to follow a standard protocol.

15.4 Using the Indicators

#1 Change in the Proportion of Non-State Justice Institutions that Have Systems for Documenting their Actions and Decisions

Non-state justice institutions must develop systems for documenting their actions and decisions. Reviewing authorities cannot evaluate those actions; researchers cannot monitor change over time; and the people involved in the disputes may forget the character of the original solution without such supporting information. Recording systems need not be sophisticated. People who monitor non-state institutions should look for growth in the proportion of these institutions that have recording systems.

#2 Change in the Proportion of Non-State Proceedings to Resolve Disputes where Information about the Parties, Claims, and Resolution Is Recorded

The presence of a system for documenting decisions does not guarantee that this kind of information will be regularly collected. Administrators must be encouraged to keep records and identify people who are responsible for this task. Visitors can encourage movement in this direction by asking administrators about past disputants, the nature of those disputes, and the outcomes. An increase in the proportion of proceedings in which information about parties, claims, and results is recorded will indicate more transparency.

#3 Change in the Proportion of People Who Understand How to Access Non-State Justice Services

Non-state institutions cannot serve the public well unless people know about the services they provide and the process of seeking help is clear and understandable to all members of society. This is the first condition of transparency. In communities where non-state institutions are not well-known or appreciated, it is particularly important for decision makers to educate residents about the services their institutions provide. By surveying the public or a group of experts, you can gauge what proportion of the local population understands how to access non-state justice services and also learn where their knowledge is limited or missing.

#4 Change in the Proportion of Women Who Express confidence in Non-State Justice Institutions

Non-state institutions may enjoy support among some sections of the community but not others. Women are particularly vulnerable to bias and neglect, and special efforts should be made to understand their attitudes about non-state institutions that aim to

deliver justice. Interviews with the same group of women over time can register changes in levels of confidence in non-state institutions. General public surveys would facilitate comparisons in these levels across social groups.

A decrease in the proportion of women who report confidence in the non-state institutions will send a powerful sign about the perceived legitimacy of these institutions. And even if all people routinely express complete trust in non-state institutions, communicating this information to public leaders and decision-makers reminds them that they are accountable to all members of their community and must uphold everyone's rights.

#5 Change in the Proportion of Disputes Resolved through Mediation

Mediation is the safest way for non-state justice institutions to solve disputes, and an increase in the use of mediation may be a sign of greater public control over the delivery of justice. While people cannot always select the official who mediates their conflict, they usually have the right to reject the proposed resolution. This right helps to limit coercion and protect procedural and substantive rights, *if both parties feel able to speak freely and to reject a proposed solution*. But when one party has power over the party, which is often the situation in domestic disputes, mediation may not protect the rights and interests of the less powerful party.

#6 Change in Perceived Consistency of Decisions and Actions

Visitors should invite decision makers in non-state justice institutions to reflect on the consistency of their decisions over time and across social groups. Their perceptions should be compared to what experts in the community believe. Community leaders, staff of NGOs, and other experts who are not directly involved in the operations of the non-state justice institution should be asked: 'Do the actions and decisions of non-state institutions appear to be consistent?' Greater consistency is a sign of improved protection of rights.

#7 Change in Perceptions of Equal and Dignified Treatment

Non-state institutions do not always treat people with dignity or respond equally to people of different gender, age, social status, and occupation. Surveys of the general public, as well as more focused interviews with select groups, can elicit public perceptions about those who administer non-state justice treat people. Their reactions should be disaggregated to reveal how different groups feel about the degree of equality and dignity in the work of non-state justice institutions.

#8 Proportion of Disputes Received or Apprehensions Made by Non-State Justice Institutions that Are referred to State Institutions

In all communities, some kinds of disputes will be better handled by state-run institutions. Non-state justice institutions should be encouraged to refer cases to government agencies when necessary *and after soliciting and recording the views of the people involved*. A rise in this indicator will reflect improved cooperation between non-state and state institutions and will be a sign of an increasingly supple and efficient justice system. However, increased cooperation must be accompanied by greater transparency and better protection of individual rights.

#9 Proportion of Disputes Received or Apprehensions Made by State Institutions that Are Referred to Non-State Institutions

Formal institutions of justice are often clogged with incidents and cases that can be handled more swiftly and effectively in other forums. Court administrators should be encouraged to refer cases to non-state institutions whenever appropriate, *and after soliciting and recording the views of the individuals involved*. And police authorities should be encouraged to cooperate with non-state institutions in the communities in which injustice and insecurity are prevalent. By tracking changes over time in this indicator and in #8, you can encourage a division of labor between state and non-state institutions that benefits both spheres and citizens looking for justice. At the same time and as mentioned above, progress toward this goal must be accompanied by improved transparency and rights protection.

#10 Proportion of Decisions Appealed to Courts and Other Outside Agencies, Including Ombudsmen

People's sense of justice and their willingness to be governed by community norms is enhanced by the possibility of appeal. Moreover, when courts or other state institutions review decisions by non-state justice institutions, government officials learn about the character of justice these less formal institutions provide and about the type of conflicts they handle. With this information, they can help improve non-state justice institutions

Changes in the rate of appeal are not easy to interpret, however. For example, an increase in the proportion of decisions that are appealed can signal declining confidence in non-state institutions of justice and the need for earlier intervention by the state. But an increase might just as well indicate more dependence on lawyers to resolve disputes or reflect legitimate disagreements between non-state and state institutions about the kind of justice that is most appropriate for their communities. For these reasons, look for dramatic changes in this indicator or an extremely low or high baseline.