**Introduction to Data for Justice**

Courts often lack information that could show them and others the characteristics of the court-involved population, how courts and the justice system respond to the court-involved, and the impact of those responses. There is little need for such information to protect the interests of the powerful. The people who would most benefit from the routine production and use of such information are those involved with criminal, juvenile, family, and dependency matters along with those in need of civil legal aid. Members of these groups generally lack material resources and are disproportionately Black, Latino, or American Indians or Alaskan Native.

In addition to class disparities, “notable racial, gender, and age disparities in the criminal justice system are evidenced at every level throughout the system from initial contact with police to adjudication outcomes as well rehabilitation and reentry” (Blesset et al., 2019). That the causes and consequences of justice system involvement for these individuals are so little understood constitutes a grave injustice that must be remedied if the promise of equal and effective justice is to be fulfilled.

Any remedy for the injustice will require the active involvement of judges and court staff. It must also include other actors in the courts, such as prosecutors and defenders, and any justice official whose decisions can be better informed by relevant information.

To build their capacity for delivering justice, courts require support for ongoing learning. This ongoing learning includes training court staff how to use their data to inform decision making, creating communities of practice among courts, and supporting courts with technical assistance. The judicial branch can support transparency, accountability, and improvement in the courts by creating and implementing a program of courts as learning organizations. We propose to call this effort “Data for Justice.”

Washington’s judicial branch can support Data for Justice by helping the court community to identify areas of court operations where data driven decision making is now either available, available but underutilized, or currently unavailable. The areas identified can be assigned priority rankings to help focus efforts. To better understand the justice system as a whole, the judicial branch can partner with the other branches at the state and local levels to develop and link data across the justice system.

**National Perspective**

It has long been recognized that the judiciary has the responsibility to “improve the administration of justice, a fundamental promise of our Constitution and of our constitutional system” (O’Connor). In 1938, US Supreme Court Justice Arthur Vanderbilt, having for decades observed the prevalence of idiosyncratic and unresponsive courts, issued a call for timely processing of cases and rational, efficient court administration. In the decades following, court administration began a long drive toward professionalization and specialized training and education.

By the 1970s judges and administrators widely strove to meet the imperative for timeliness by tracking and managing for timely case resolution with specific approaches, such as the accelerated “rocket docket.” Today, the necessity of taking a similar approach to aspects of court operations beyond case management has led the National Association of Court Managers to call for its members to develop a series of Core Competencies, especially the [Accountability and Court Performance Competency](https://nacmcore.org/competency/accountability-and-court-performance/), which includes diagnosing results, presenting data, practicing ongoing improvement, and using data to drive management decisions.

**Washington Courts and Data for Justice**

Data for Justice components are already familiar to Washington’s judicial branch. Examples of data-driven decision making appear in the juvenile and child welfare system, and for pretrial for courts involved in grant-funded efforts:

* Juvenile detention, with both the Juvenile Detention Alternatives Program (JDAI) and the active Juvenile Detention Quality Assurance Committee (JDQAC). Other examples include disproportionality and outcomes reporting for juvenile detention, juvenile probation, and juvenile recidivism.
* WSCCR’s Dependency Reporting Program works closely with the Family and Juvenile Court Improvement Program, Family Treatment Courts, and the Early Childhood Court Program.
* Pretrial process review and data development: Pierce, Thurston, and Yakima Superior Courts’ initiatives to reduce both disproportionality and use of pretrial confinement.

**Problem Details: Gaps in Data, Need for Staff Training**

1. Information Gaps: Disproportionality information gaps and the lack of other key indicators of court process and performance appear across the court operations, regardless of subject matter. Examples of data gaps include:
* Pathways to justice involvement and the characteristics of people involved in criminal matters—characteristics such as race, ethnicity, gender identity, sexual orientation
* Outcomes for people with criminal matters: prosecutor diversions and referrals, behavioral health diversions, pretrial conditions and detention, sentencing to jail / prison / community supervision / treatment programs, therapeutic courts, LFOs and payment, access to interpreter services
* The overlap between abuse and neglect in childhood and later court involvement for juvenile offender and adult criminal matters
* Pathways, characteristics, and outcomes for persons with civil matters: debt collection, landlord tenant disputes, protection orders
* The overlap between race / ethnicity and conditions prior to court involvement, such as exposure to trauma, child welfare involvement, school engagement (juvenile court), behavioral health treatment needs
* The overlap between race /ethnicity and conditions after court involvement, such as adult recidivism, employment, access to health care.

The cost of these information gaps cannot be calculated, but each negatively affects the life chances of the court-involved because they lead to missed opportunities to reduce the burden and to improve the results of system contact.

1. Need for staff training: The National Center for State Courts’ Institute for Court Management and the National Association of Court Managers’ Core Competency trainings are offered to all courts in the nation, but the trainings are infrequent, conducted by educators who typically are not Washington residents, and do not give rise to easily-accessed, ongoing technical guidance for court staff as they develop their data-using skills, therefore courts will find it challenging to extract the full potential value of any data collected. Data for Justice needs a Data Users’ School.

**Components of Data for Justice**

We recommend phased-in implementation of the Data for Justice Program of 1) developing learning organization practices, 2) AOC support for courts’ information use capacity, 3) closing data gaps, and 4) bringing an equity lens to the process of data development.

1. Learning organization practices: Even with existing, readily available information, courts must be supported in developing internal capacity to use the information effectively. Learning from experience, curiosity about how others are performing, and testing ideas for improvement, are core elements of performance improvement and at the center of the learning organization model. We recommend the learning organization model because evidence indicates that it delivers results, in contrast to externally-imposed performance regimes. Jacobsen et al. (2018) suggest that local, internal learning programs promote and benefit from staff involvement in formulating and applying goals and measures.

The learning organization model originally articulated by Senge in 1990 has since been validated and refined. Singer (2012) and colleagues’ learning organization assessment instrument measures seven distinct learning organization components (sample indicators in parentheses):

1. A supportive learning environment (“In my section, people value new ideas”).
2. Leadership that reinforces learning (“Leadership establishes forums and provides time and resources for reflecting and improving on past performance”).
3. Experimentation (“My section experiments frequently with new ways of doing things”).
4. Training (“Experienced staff in my section receive training when shifting to new responsibilities”).
5. Knowledge acquisition (“We have forums for meeting with and learning from experts from outside our organization”).
6. Time for reflection (“Leadership provide time and space for us to think and talk about what we see and what our performance indicators show”).
7. Performance monitoring (“We regularly compare our performance with the sites with the best performance”).

The learning organization model has been applied in several fields. For example, in the private sector application of learning organization principles connects to higher profits (Ellinger et al.; Song and Kolb); and in nursing it has been linked to shared vision and team learning that, in turn, are associated with better patient outcomes (Jeong et al.) And in court-based evidence-based practices, routine review of process and results is strongly connected to better results in drug courts; this drug court reliance on “experimentalism” has been held up as an example of how to improve public sector performance more generally (Dorf and Sabel).

1. AOC support for courts’ information use capacity: The AOC is the central entity tasked with supporting courts with education, training, technical assistance, translation of research for practitioners and court-led development of program performance indicators and reporting. The problem is that limited resources have only enabled this to happen in juvenile justice and child welfare and even there funding for training and technical assistance falls short of the need. Additional funding from the legislature in 2020 was provided that will enable an expansion of Data for Justice practices in supporting Behavioral Health/Therapeutic Courts and Equity and Access, but that is temporary funding, scheduled to expire in June, 2023. In general, current funding must be increased for any enduring support to be offered with criminal matters and any civil matters beyond dependency, areas for which there is no dedicated support for data-driven decision making.
2. Closing data and information gaps: Data and other forms of evidence fill distinct but related roles. First, data about individuals who are court-involved informs system responses to them, as individuals. Second, court-level data about those who are involved with that court, their characteristic and outcomes, can reflect back to that court information about the appropriateness and impact of court actions. Often, local court-level data is also used in the local design of behavioral interventions, such as the juvenile court-developed evidence-based practice, Education and Employment Training. Local court-level data can, and should, be made available to affected communities, as they comprise the people served by the courts and justice system. Third, data from across courts can be used at the state level to inform policy responses to the status quo and to assess the impacts of policy, program, and practice innovations.

Data silos must also be identified and remedied. For example, when data about the size and characteristics of the jail population is separate from local court information about pretrial, it becomes impossible to understand in detail the consequences of decisions about detention, bail, and release on personal recognizance. Even when jail and court data are connected locally, as with Pierce County’s integrated court and jail data in the Legal Information Network Exchange ([LINX](https://linxonline.co.pierce.wa.us/linxweb/Main.cfm)), such integrated data is an exception, and the statewide use of detention in pretrial cannot be accurately stated.

Recognizing the problems of data silos, Snohomish County has provided funding for linking data from law enforcement, the prosecutor’s office, and courts to assess disproportionality across the county’s justice system. The Snohomish example should be assessed and considered for expansion to cover all court jurisdictions.

Other sources of evidence to support decisions include professional associations that serve as learning communities, research that has been translated for practitioners, and inclusive program reviews with diverse representation from different professionals routinely involved with court (prosecutors, defenders, and treatment providers) and members of the public with lived expertise who have matters before the courts.

1. Data through the Equity Lens: There are many things to consider when looking at data through the equity lens. The categories below are merely a starting point:
	1. Transparent: There are bridges to mend and transparency is a good first step. We want people to know that they are safe and seen within our justice system. We must therefore disseminate data responsibly, honestly, and with an awareness of the implications for all the people who are data points in our reports (Ngo et al.).
	2. Inclusive: We must be mindful of the labels we use to categorize people and actively prioritize diversity (Turiel et al.). It is much too easy to wish to aggregate data in such a way that removes all cultural responsiveness. There have been and will continue to be times when doing so is necessary but we must then be sensitive in our presentation of that data, and be ready to explain our choices. It is not difficult to show thoughtfulness and respect for the kaleidoscope of values and differences.
	3. Community and Collaboration: We must do our best to include community members and stakeholders in every aspect of our efforts if at all possible. For example, every study begins with a question. The community has insights into their needs and experiences that we do not, and those insights are not only valid but also valuable (Del Campo et al.). We should really make efforts to democratize our data so that the results can be useful to the community; it’s a perfect way to empower them to help themselves. Data sovereignty is also important to consider and respect.
	4. Accountability and Sustainability: With equity as the lens, we must look back as well as forward at our efforts and choices. We must become sensitive to our implicit biases and always strive for a more just system (Center for the Study of Social Policy).

**Implementing Data for Justice**

For the Data for Justice initiative to grow in an orderly and sustainable manner, we recommend a systematic approach to planning that includes judicial branch partners.

1. **Create Inclusive Workgroups to Identify Priority Areas and Plan for Implementation**
* A workgroup process can be used to identify data gaps and training needs.
* Workgroup reports will inform setting of priorities and help prepare for a legislative budget request under the Data for Justice Initiative.
1. **Develop Legislative Budget Packages**

Similar to the previous successful BJA funding task forces, the BJA can develop a legislative budget package that implements Data for Justice into court program areas. Implementation could be similar to the models developed for the Family Treatment Court program (currently grant-funded) and the Behavioral Health Court program which consists of a researcher, trainer, court program expert, and support staff.

1. **Support Judicial Branch Education, Training, and Technical Assistance**

Education should be utilized to instill norms and culture that support the local implementation of Data for Justice. Training and technical assistance, focused on practical aspects of interpreting data and applying data to decisions, should be offered to court staff and leaders.

1. **Data for Justice Components Should be Part of Court Program Changes**

So that new programs and expansion of existing programs will incorporate Data for Justice, we suggest that ongoing funds for research, education and staff who are subject matter experts be included in any future legislative funding requests for court program development. This has occurred with recent program development led by the AOC (Behavioral Health, Equity and Justice, Family Treatment Courts, Early Childhood Court Program, of which only the Early Childhood Court Program support is permanently funded). It also occurred in 2021 with HB 1219 (and budgeted ongoing funding) for expansion of the Office of Civil Legal Aid’s Dependent Children Legal Representation program.

Washington’s justice system can and must do better in delivering equal justice, effective interventions, and access to justice. The development and application of data to decision making is key to making justice a reality.

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