

GUIDE TO COURT PERFORMANCE STUDIES



FOR CIVIL SOCIETY ORGANIZATIONS

Kyiv, 2010

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The Guide to Court Performance Studies for Civil Society Organizations is intended to be useful for civil society organizations, courts, bar, media, and any other organizations interested in promoting dialog between courts and public to support judicial reform and improvements in court operations, help judicial system become more transparent, effective, and accessible to public.

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UKRAINE RULE OF LAW PROJECT

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PREFACE

This Guide to Court Performance Studies was prepared with support from the United States Agency for International Development (USAID) Ukraine Rule of Law Project implemented by Chemonics International Inc. in partnership with the Institute for Sustainable Communities¹. Together with a variety of Ukrainian partners, the USAID Ukraine Rule of Law Project supports rule of law in Ukraine through increasing judicial transparency and accountability and promoting policy and legislative reform related to the judiciary.

This Guide is intended to encourage communities to become knowledgeable about the courts on which they rely for justice and introduce civil society organizations to court performance studies. It is not intended as a complete step-by-step manual or “cookbook”, but rather as an introduction to key concepts and components. The USAID Ukraine Rule of Law Project intends the Guide to be useful for civil society organizations that focus on issues of concern to citizens who seek the court’s protection. These issues include, but are not limited to, civil, political, and human rights, family law, labor disputes, environmental concerns, and effective governance. The Guide provides civil society organizations with information on how to conduct court studies with a focus on standards and measures of court performance that can be used to support court improvements. It may also be useful for academics, attorneys, journalists, and the courts themselves. The Guide is complemented by the Curriculum on Court Monitoring and the Citizen Report Card Training and Implementation Manual created by the USAID Ukraine Rule of Law Project to assist civil society trainers to prepare and conduct training programs on how to design and implement court performance studies for civil society organizations and advocates.

The structure of the Guide is as follows:

Part 1, **A FRAMEWORK FOR COURT EXCELLENCE**, provides an overview of the internationally recognized standards for what courts are expected to do.

Part 2, **GETTING STARTED**, focuses on the steps necessary to prepare for court performance studies.

¹www.usaid.gov, www.ukrainerol.org.ua, www.chemonics.com, www.iscvt.org.

Part 3, **GATHERING AND ANALYZING DATA**, addresses how to implement court performance studies from collecting data to turning data into information.

Part 4, **REPORTING RESULTS**, includes approaches to preparing findings and recommendations and communicating results.

Part 5, **ATTACHMENTS**, contains international and Ukrainian resources to support court performance studies.

This Guide was prepared by Kathryn Fahnestock, international judicial expert, and David Vaughn, Chief of Party, USAID Ukraine Rule of Law Project with the participation of Julia Sedyk, Legal and Civil Society Specialist, USAID Ukraine Rule of Law Project. This Guide would not be possible without the support of numerous lawyers, sociologists, psychologists, and law students, who conducted fieldwork over the past three years to promote cooperation between Ukrainian civil society and the judiciary to assist courts become more efficient, transparent, and open to the public.

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ABBREVIATIONS AND ACRONYMS

| | |
|--------|--|
| CEPEJ | EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE |
| COE | COUNCIL OF EUROPE |
| CRC | CITIZEN REPORT CARD |
| COJ | COUNCIL OF JUDGES OF UKRAINE |
| CSO | CIVIL SOCIETY ORGANIZATION |
| EU | EUROPEAN UNION |
| NCSC | NATIONAL CENTER FOR STATE COURTS (US) |
| NGO | NON-GOVERNMENTAL ORGANIZATION |
| PRISMA | DUTCH QUALITY AGENCY FOR THE JUDICIARY |
| SJA | STATE JUDICIAL ADMINISTRATION OF UKRAINE |
| TCPS | TRIAL COURT PERFORMANCE STANDARDS |
| UN | UNITED NATIONS |
| UROL | USAID UKRAINE RULE OF LAW PROJECT |
| USAID | UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT |

INTRODUCTION

According to the internationally recognized UN Bangalore Principles of Judicial Conduct, “public confidence in the judicial system and in the moral authority and integrity of the judiciary is of the utmost importance in a modern democratic society.” It follows that an independent and impartial judiciary cannot flourish without public support for its institutional needs and trust in its processes and decisions. Civil society organizations can support judicial independence and impartiality, as well as court improvement by becoming knowledgeable about the judiciary, studying court progress in meeting standards, providing opportunities for courts and community stakeholders to exchange information and ideas, educating the public about the judiciary’s role and challenges, assisting with judicial education where appropriate and necessary, and advocating for judicial reform, improved practices, and adequate funding for courts. Although there are limitations on the role civil society can play during the adjudicative process, an independent and effective judiciary benefits from an informed and involved citizenry. Credible, well-constructed studies of court performance can serve as both a foundation and framework for court accountability.

Over the past three years, the USAID Ukraine Rule of Law Project has implemented a program that supports cooperation between civil society and the courts to promote improved access to justice. During this program, more than twenty Ukrainian civil society organizations worked with over 90 courts throughout Ukraine by conducting court monitoring programs and surveys measuring citizen satisfaction with court services by using the citizen report card methodology. Numerous sociologists, lawyers, psychologists, and volunteer law students worked in the field conducting observations and interviews with litigants, lawyers, journalists, and judicial officers. They analyzed collected data to identify main issues related to access to justice in Ukraine, while focusing on two important questions: (1) What needs to be done to improve the quality of court performance and increase public trust in confidence in courts, and therefore, citizen satisfaction with court services?; and (2) How can courts utilize citizen feedback to strengthen court operations and improve public perception of the courts?

These programs focused primarily on public perception and trust, access to courts, and relations between courts and media, although specific case types, such as parental rights and traffic violations were addressed by some organizations. Taken as whole, these studies reached a number of common conclusions:

- Facilities at many courts do not support public access to court information, including review of files by litigants and attorneys;
- Facilities at many courts are inadequate to meet the needs of judges and court staff;

- Court practices do not support effective participation of self-represented (*pro se*) litigants in court processes;
- Hearings are frequently postponed or delayed without adequate notice;
- Judicial education and training for both judges and court staff is inadequate to support fair and timely adjudicative processes and efficient and effective court operations;
- Media coverage of the courts is inconsistent and at times inaccurate; and
- Courts generally lack mechanisms and tools to communicate effectively with the media and public, including public information offices and officers appropriate to their size and circumstances.

In addition, there are a number of important issues learned during the implementation of courts and society programs. First, cooperation between courts and society is possible and can stimulate tangible results. As a direct result of implementing court monitoring programs and citizen report card surveys, courts in Kharkiv, Ivano-Frankivsk, Kyiv, and Lviv introduced changes in the hours of operation for the reception (court clerk's) office, provided court users with improved court scheduling information and sample of documents, and provided training for court staff on how to treat court visitors. Second, civil society efforts to support improved court operations will only be effective and sustainable when courts are involved in designing, implementing, and evaluating a court performance study. For example, active participation of judges and court staff in focus group discussions on the development of questionnaires for the citizen report card surveys ensures buy-in at the outset of the process and further supports subsequent implementation of recommendations. Finally, a successful court performance study must be based on a sound methodology that includes standards and measures of court performance, as well as standards for collecting and analyzing data as part of a thorough implementation plan that also includes a strong communication strategy. A court monitoring project in Khmelnytsky, for example, selected two standards of court performance, access to the court buildings and court related information, and timeliness in decision-making. Project experts then developed indicators and relevant questions together with judges and court staff that were included into monitoring forms and questionnaires. These well-structured monitoring tools helped to prepare realistic recommendations that were effectively communicated to courts and to the media during a public roundtable.

In an effort to consolidate best practices and lessons learned in supporting court monitoring and citizen report card surveys, the USAID Ukraine Rule of Law Project prepared a series of publications on methodologies and strategies for courts and society programs. The Curriculum on Court Monitoring was developed to assist civil society trainers to prepare and conduct training programs on how to design and implement court monitoring programs for civil society organizations and advocates.

The Citizen Report Card Training and Implementation Manual provides civil society advocates and courts with the tools necessary to organize and conduct a survey program to measure citizen satisfaction with different aspects of court performance using the citizen report cards methodology. This includes step by step instructions on how to design, prepare, and implement a survey program, including a post survey action plan to promote the adoption of recommended changes in courts.

As a result of these efforts, the USAID Ukraine Rule of Law Project prepared this Guide to Court Performance Studies for Civil Society Organizations. This Guide is aimed at covering the key concepts, components, and basic elements on how civil society can work with courts in improving performance and access to justice. In using the Guide, civil society organizations will be able to conduct court performance studies, which are an especially effective tool for educating civil society and bringing reliable information to the public and the courts alike.

In general, court performance studies examine empirical evidence relating to an area of court operations or practice, which is followed by the development of findings that indicate where courts are doing a good job, identify areas where improvements are needed, and, most importantly, discover where more information and/or understanding is needed to increase access and guarantee high quality adjudication. Through these studies, civil society organizations can effectively address issues relating to access, case disposition rates, compliance with due process guarantees in public hearings, transparency and openness of proceedings, and the court's public education and media relations practices. It must be acknowledged at the outset that there are limits to the performance areas a civil society organization can credibly study using staff and volunteers who will participate in a study only once or twice. Potential studies are also constrained by the limited information available to the public. Nonetheless, important aspects of court performance can be reliably examined using routinely accessible data sources and international standards.

We have learned that effective court performance studies set clear goals and articulate the standards and measures used for assessment. Also, findings are drawn only from the evidence in the study and recommendations are developed in collaboration with courts. Moreover, effective court studies are also both usable and used by the courts and policy-makers. It is our hope that this Guide will support effective court performance studies and strengthen collaboration between courts, government, and civil society to work together to improve judicial independence and accountability, public trust and confidence in the courts, and access to justice.

DAVID VAUGHN
Chief of Party
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1. A FRAMEWORK FOR COURT EXCELLENCE

As the twenty-first century begins, societies around the globe struggle to define and guarantee human rights. Political guarantees, civil rights, and economic, social, and cultural protections are matters of daily concern for citizens² in every nation, including Ukraine. Whether acting to prevent improper detention, deciding difficult divorce and custody cases, or ruling on the validity of an election process, courts are the single most important guarantors of individual rights and social justice.

There is general agreement in the international community that the judiciary is expected to do six things:

- courts must do individual justice in individual cases;
- courts must be transparent. They must appear to do justice, i.e., demonstrate the workings of a fair and responsive judiciary;
- courts provide an impartial forum for the resolution of legal disputes;
- courts protect citizens against the arbitrary use of government power;
- courts protect the powerless, whether a child, a crime victim, or an impoverished elder; and
- courts establish and maintain a formal record of decisions and legal status.

Independent and impartial adjudication, i.e., finding facts, applying law, and guaranteeing rights one case at a time, is the heart of the court's role as an institution. But, judges cannot adjudicate individual cases and the citizenry cannot have access to justice without a wide range of planning, management, monitoring, communication, and education activities that fall under the aegis of court administration.

Court administration balances judicial independence with the need to collaborate and coordinate with other justice system actors and civil society. Although legal frameworks vary globally, the focus of court administration is to manage courts as institutions so that:

- judges have the support, education, and resources they need to adjudicate each case fairly and in keeping with the law;

²Citizen is used in the original sense to refer to an inhabitant of a state rather than in the more restrictive meaning of a member of a state owing allegiance to its government.

- each case and all cases are managed so that justice can be done in a timely way;
- every person is guaranteed access to justice and equal treatment under the law; and
- citizens know and trust that their courts are open, transparent, and accountable.

Effective judicial administration enables courts to do individualized justice, not merely “process” cases in a mechanical fashion.

In many countries, including Ukraine, public trust in the courts is at low ebb. Citizens have little confidence in their access to impartial and timely judicial process that protects rights and reaches lawful, just decisions. There is certainly room for improvement in most courts, but much of the citizenry’s mistrust is based on lack of knowledge about the court’s role, its limited resources and legal procedures. For example, citizens interpret poorly-maintained courthouses as reflective of the quality of judicial process rather than as a symptom of the low level of court funding. Parties often expect judges to devise solutions to problems not directly addressed in the case pleadings, especially in family matters. And they sometimes see essential due process protections as legal technicalities that give their opponents an unfair advantage. It is difficult for courts to engender and maintain public trust in an environment of vague expectations and in the absence of information about court performance trusted by both the judiciary and citizenry alike.

**The problems
that citizens face
in using the courts
mirror the court’s own
problems in providing
accessible, fair,
and efficient court
services.**

The Ukrainian courts’ role has changed since independence and continues to evolve as societal expectations increase. Now, the judiciary faces a legion of obstacles to improving court access and guaranteeing high quality adjudication. They are not alone; courts globally share the same challenges. The most obvious problem is under-funding; Ukrainian courts simply do not have adequate money to support operations, personnel, and facilities improvement. But lack of financing is not the only, or most serious, obstacle to excellence in court performance. While each court prepares semi-annual and annual statistical reports and is required to keep registration cards that detail key case processing information, the judiciary does not collect and use essential management information about court operations and performance. Further, few courts are proactively managed by their chief judges (court presidents). Innovation, collaboration and experimentation

are largely absent in Ukrainian first and second instance courts. Judges and court staff are not provided with the continuing education and training required for administration of a judiciary that meets European standards. Public distrust of the judiciary as an institution erodes societal standing of, and support for, the courts, raising another barrier to the courts' garnering the resources they need and instituting needed reforms.

Current Ukrainian practice and regulations regarding court administration also complicate court management. The State Judicial Administration of Ukraine (SJA), responsible for court resources and allocation thereof, is an executive branch agency. Local courts cannot solve the most trivial resource issue, e.g., fix a leaky roof or buy a printer, without SJA involvement. SJA's and the judiciary's differing perspectives and priorities sometimes can hinder local problem-solving and responsiveness to citizen concerns.

The Ukrainian judiciary, including its self-governance bodies led by the Council of Judges of Ukraine, is now working hard to develop a "judicial branch community" that can collaborate to improve access to courts. Judicial and SJA officials have come together around a variety of challenges to high quality court performance.

What do the Ukrainian courts need in order to meet the expectations of society for high quality courts and win greater public support? Leadership is essential to an effective judiciary and the Council of Judges of Ukraine (COJ) can significantly contribute to the creation of a strong, independent, impartial, and accessible judiciary that can protect the rights of all. Courts as institutions require the capacity for priorities setting, innovation and experimentation. Strong financial management is also essential as is proactive case flow management. All of the foregoing building blocks for a strong judiciary rely on collecting and using reliable and useful information:

- information for identifying and addressing operational problems, managing the court, and budgeting;
- case flow management data to guarantee fair and timely adjudication; and
- accurate and complete case files.

Finally, and critically, the courts need standards. Standards are statements in which the judiciary identifies excellence in court performance and articulates its intention to be transparent about its achievements and challenges. Standards are aspirational, iterative, and never fully achieved – excellence in court performance is always a work in progress. The Council of Judges of Ukraine has recently undertaken to develop court performance standards and measures, a process that will enable new conversations between courts and the communities they serve.

2. GETTING STARTED

2.1. COURT PERFORMANCE STANDARDS

The relevance and utility of court performance studies is increased if they employ a framework that is congruent with specific, commonly-held expectations for court excellence. Internationally, **court performance standards** are used to link the broad guarantees of international covenants and constitutional guarantees with daily court practices. Standards are not statutes, nor are they rules; they are statements that the judiciary makes in order to:

- articulate self-expectations of excellence;
- guide court policies and operations;
- evaluate performance; and
- hold itself accountable to the society it serves.

Standards articulate core values for the judiciary and define excellence. Standards define court performance, not individual judicial performance. A court's progress in meeting standards is assessed by "measures" that indicate successes as well as areas for court improvement.

A number of countries and international consortia, such as International Consortium for Court Excellence, the European Commission for the Efficiency of Justice (CEPEJ), have developed and employed court performance standards during the last twenty years. Links to international standards can be found in the Attachment A, page 39. Illustrative examples from the Finnish and US approaches appear in the text box below.

SAMPLE COURT PERFORMANCE STANDARDS AND MEASURES

| FINNISH EXAMPLE | |
|-----------------|--|
| Area | Treatment of Parties and Public |
| Standard | Parties and other participants in proceedings are provided with all necessary information about the proceedings. |
| Sample Measures | 1) Scheduling and other information is provided to the parties timely. 2) Brochures and bulletin boards are in use. |
| US EXAMPLE | |
| Area | Access to Justice |
| Standard | Public Proceedings: the court conducts its proceedings and other business openly. |
| Sample Measures | 1) Participants in the proceedings are audible to all in the courtroom. 2) Hearings are open to the public. |

Regardless of how they are framed or articulated, court performance standards:

- are used by individual courts to improve, educate, and communicate;
- focus on the court and not the individual judge;
- are not used to compare courts to each other, but as a tool for a single court to gage its performance over time; and
- are measured by agreed upon indicators using reliable data collection and analysis methods.

Standards are usually developed by the judiciary itself. CSOs are able to assess court performance using commonly-articulated standards and sample measures such as those in the following chart. This is not an all-inclusive listing of possible criteria but simply represents important aspects of court performance that are measurable and appropriate for CSO study using data sources accessible in Ukraine.

SAMPLE STANDARDS AND MEASURES FOR COURT PERFORMANCE STUDIES

AREA 1: ACCESS TO COURT

| SAMPLE STANDARD | SAMPLE MEASURES |
|--|---|
| 1. 1 Court proceedings are public. | <p>Schedule of hearings is posted daily.</p> <p>Public access to open hearings.</p> <p>Hearings are closed only after judicial decision in open court.</p> <p>Participants in open hearings are Audible.</p> |
| 1. 2 Court is accessible and convenient. | <p>Court is easy to locate and well-marked on the outside.</p> <p>Information kiosk manned by court staff at entrance.</p> <p>Bulletin boards are updated daily.</p> <p>Case information is accessible to parties by telephone and internet.</p> <p>Court is accessible to persons with disabilities.</p> |
| 1.3 Court access is affordable to all. | <p>Laws and procedures enable financially disadvantaged citizens to use the courts without costs.</p> |

AREA 2: PROMPTNESS OF PROCEEDINGS

| SAMPLE STANDARD | SAMPLE MEASURES |
|--|---|
| 2.1 The court disposes cases in a timely manner. | Clearance rate: ratio of case dispositions to cases filings. |
| 2.2 Hearings occur within the procedural time standards. | Scheduled hearings are held within the time limits established for each case type. Scheduled hearings are not postponed or continued without a judicial determination of good cause. |

AREA 3: TRANSPARENCY AND ACCOUNTABILITY

| SAMPLE STANDARD | SAMPLE MEASURES |
|---|--|
| 3.1 The court communicates effectively with the public. | Court publishes an annual report with data on key aspects of operational performance and distributes it to the media. Court has a protocol for media inquiries. Court has a designated public information officer. The court regularly welcomes public groups, such as school children or community organizations, to the court to explain its mission and observe proceedings. |
| 3.2 The court accounts for its use of public resources. | The court publishes an accounting of its income and expenditures each year. Court budget requests are public. |

AREA 4: COMPETENCE AND PROFESSIONAL SKILLS OF JUDGES AND STAFF

| SAMPLE STANDARD | SAMPLE MEASURES |
|--|---|
| 4.1 Judges participate in training sessions regularly. | The court has a training plan for judges that is updated annually. All judges attend 8 – 10 days of training each year. |
| 4.2 Key court staff participates in training sessions regularly. | The court has a training plan for key staff that is updated annually. All key staff attends 8 – 10 days of training each year. |

The above fundamental aspects of court performance are among the areas likely to be addressed in the forthcoming Ukrainian standards.

2.2. SELECTION OF STANDARDS AND MEASURES FOR STUDY

CSOs usually choose subjects for court studies that are relevant to their overall organizational mission and the resources available. Certain international court performance standards, such as the completeness of case files or times from filing to disposition, may rely on information that is not readily available to the public in Ukraine or that requires expert assessment. But court performance in relation to key standards such as those outlined above can be assessed by relying on court reports and public access to facilities and hearings. There are five basic questions that CSOs should ask themselves.

- What are our goals for using the information we will collect about court performance?
- Which aspects of court performance and practice are relevant to our core organizational mission?
- What data will we need to collect?
- Is that data accessible in the selected jurisdiction(s)?
- How can we most reliably collect and analyze it with the resources, time, and skills available?

It is also critical to determine which case types will be studied and what legal and geographical jurisdictions will be included.

Regardless of the standard(s) selected, any study should be planned and executed with awareness of the court's full jurisdictional responsibilities since many court practices result from balancing competing demands. CSOs should identify all of the case types that the court must resolve and, broadly, the type of process required for each. If the study is to focus on such issues as access or transparency, then this knowledge serves as the basis for identifying performance indicators. If the study is to focus on a particular case type, then a basic court profile allows the findings and recommendations to be grounded in realities of the court's entire mission.

All studies should complete the following basic Court Profile as an essential foundation for considering any aspect of court performance and as a basis for selecting a sampling methodology.

In order to complete the basic Court Profile, the study can request the necessary information and data from respective court, or from SJA.

| COURT PROFILE | | | | | | | | |
|------------------------------------|---------------------|---------------------|------------------------|---------------------|---------------------|------------------|-----------------------|-----------------------|
| Name of Court: | | | | | | | | |
| Location: | | | | | | | | |
| Chief Judge: | | | | | | | | |
| Population of Jurisdiction: | | | | | | | | |
| Date: | | | | | Data Source: | | | |
| Case Type | Pending 01/01/10 | Cases Filed 2009 | Cases Disposed 2009 | Pending 31/12/08 | Number of Judges | Average Caseload | Number of Court Staff | Number of Court-rooms |
| | | | | | | | | |
| | | | | | | | | |
| Total: | | | | | | | | |

Once the profile is completed, the results should be shared with the court to ensure accuracy of the information.

2.3. OUTCOMES AND AUDIENCES

As an organization contemplates a study and focuses on selection of standards, it also needs to ask itself what will happen after the study is completed.

- Who will be interested in the results and why?
- Who will use the information resulting from the study and for what purposes? What, realistically, could be the actions for reform taken by the courts, SJA, COJ, policy-makers, media, bar, and/or civil society?
- What follow-up programming does the CSO imagine might flow from the study?

Answering these questions carefully helps to define the scope of the study and analysis. Formulations of recommendations and strategies for communicating results are also affected by how a CSO articulates desired outcomes and potential audience. These critical decisions will allow the study to decide what data is necessary and sufficient to meet its goals – and the level of resources required for success.

2.4. WORKING WITH COURTS

As is common in any society, court practices are determined in large part by institutional socialization and by what behaviors are supported and rewarded by the courthouse culture. Judicial officers want to do a good job – following law and procedures – but often well-entrenched court habits and limited resources appear to be insurmountable obstacles to change. It is not surprising that CSO performance studies introduce accountability and transparency in ways that are not always comfortable for the court.

CSOs should approach the court leadership as planning for the study begins. It is vitally important to make the court aware of study purposes and content from the outset. The court should never feel ambushed. Study team leaders wisely seek cooperation. They express (and intend) that CSO will support court betterment and an increase in public knowledge about the court rather than to undermine the court's reputation and operations. It is important to emphasize how courts will benefit from the study so they can feel more confident and be supportive of the study. Several meetings may be necessary to establish a two-way conversation between the study team and the court leadership.

In the first meetings with the chief judge, the CSO should present a brief summary of the proposed project verbally and in writing. Early on, answers should be sought to the following questions.

- On whose cooperation (in the court) does successful project implementation depend?
- Who in the court should be involved in the study? What do they need or want from a court performance study?
- If the CSO is requesting access to documents or reports, what is the most convenient way (vis-a-vis the court) for court staff to provide them?

The CSO must demonstrate to the court that the study will be relevant both to issues the community faces in using the court, and those courts face in doing justice. They must demonstrate methodological integrity and commit to employing unbiased researchers. The study team leadership should assure the court that they will welcome regular contact during and after the study, as the study is only a first step in the CSO's support for court improvement.

Once a plan and timeline for the study are in place, the CSO should meet with the court leadership to present the plan and seek feedback for improving the plan. What other measures might be used to study the selected standards? What is the best way to

access specific data or hearings? The team should also conduct interviews with court leadership, ordinary judges, and court staff about procedures, case flow, and obstacles encountered in meeting legal requirements. After effective communication has been established, the team should ask the chief judge to appoint a court liaison to the study (either a judge or court staff member) who can answer routine questions and coordinate any matters of access to publicly available documents. It is important that the study not interrupt or delay the work of the court.

A sound and usable court performance study is clear about its desired outcomes and potential audience from the very beginning.

Seeking the court's cooperation is not an invitation to change the study's focus or findings, but a strategy for improving and amplifying the project's results.

2.5. STUDY TEAM

Every study requires a different balance of knowledge, skills, and level of effort, but the basic tasks and staffing options are the same for all. In addition to the technical and management skills of the CSO, the study cannot succeed without an effective research team leader. The skills and responsibilities for that position are discussed on page 32.

The core of the study team will probably be drawn from existing CSO staff who can provide project planning, implementation, monitoring and evaluation skills. CSO leadership commonly liaises with the court, stakeholders, and the advisory group (see below). They also may be called upon for:

- legal, research, and other technical expertise;
- data collection, analysis, and drafting findings;
- coordination and training of data collectors; and
- design and implementation of communication strategy.

Both experts and non-experts have roles to play in planning, methodological and sampling decision-making, data collection and analysis. Experts contribute to the study design and often to data collection and analysis that requires specific knowledge and skills. For example, it may be desirable to engage the services of legal experts on the type(s) of case to be studied, research methodologists, and communications specialists. Experts may be paid or volunteer workers. Non-experts frequently are trained to be reliable interviewers and observers; they also may be paid or volunteer staff. As discussed later in this Guide, all researchers should be supported by a good team leader and a sound research protocol.

2.6. ADVISORY GROUP

Court performance studies are well-served by the establishment of a stakeholder advisory group to augment the CSO's perspective and knowledge. Often there is an overlap between the intended audience, especially the court, and advisory group members. The purposes of the advisory group are to:

- provide general guidance on the design of the study and the context for examining particular aspects of court operations;
- serve as a source of expertise about the issue(s) studied;
- provide suggestions for analysis (What more do we need to know?) after review of preliminary findings;
- collaborate on development of recommendations based on completed findings; and
- broaden and increase project credibility with all audiences.

Advisory group members can also critically discuss the significance of the information generated by the study, provide additional insights, and explore appropriate recommendations, but cannot modify or suppress the findings.

Group composition should include five to seven key stakeholders and/or experts who bring differing perspectives to the study. The CSO should select well-respected members of the court and legal community who are willing to commit time and careful attention to the court performance study process. Depending on the focus, members might also be drawn from social services, NGOs, academia, or the business community. All points of view critical for the study should be included. The study will be better and more credible as a result of a strong, active advisory group.

3. GATHERING AND ANALYZING DATA

Court performance studies produce a valuable “snapshot” of access to the court, judicial and court staff practices, and/or community perceptions. The resulting information can provide benchmarks against which a court can measure its improvement. Findings from court studies can enable better court practices, improve allocation of limited resources, and indicate where further information is needed to understand or resolve an issue.

Regardless of the performance area and jurisdiction under consideration, there are components that are essential to any sound court performance study. The time and effort required will vary by subject, but the basic structure remains the same, involving:

- identification of data collection methodology and specific data sources;
- identification of the sample(s);
- data collection instruments;
- data collection management, including the research team; and
- analysis – turning data into information.

The following short descriptions of each of these components illustrate the decisions and processes necessary to a court performance study. This section assumes that the CSO will choose standards and measures for study as described earlier.

3.1. DATA COLLECTION METHODOLOGY AND SPECIFIC DATA SOURCES

Data collection methodology and specific data sources must be identified to allow quick and effective collection of necessary data. The following data sources are accessible in Ukraine:

- 1) Documents are the foundation of any court study. Laws, rules, orders, decrees, and court regulations must be examined to define the parameters of accessible information and the legal expectations with which courts should comply. Court statistics contained in official Supreme Court and SJA reports inform the public about court caseloads and are the

foundation for defining study samples. Professional reports and expert research describing the Ukrainian justice system and international experiences such as those documented by the European Commission on the Efficiency of Justice can also inform CSO studies.

- 2) Observations are an excellent way to examine access, openness, and transparency issues. Interiors and exteriors of courthouse facilities can be examined, hearings observed, and court schedule integrity monitored simply through public access. Observations also can be conducted during court hearings. Court hearings are open and public unless a judge rules otherwise, in cases directly stipulated in legislation.
- 3) Court decisions are public unless a judge rules otherwise, in cases directly stipulated in legislation. Court standards relating to clarity and completeness of decisions can be measured by using “readability” experts and panels composed of knowledgeable practitioners such as first and second instance judges, an attorney, a prosecutor, a law professor, and a journalist.³
- 4) Interviews with judicial branch practitioners, lawyers, media, court users, and the general public can provide valuable information about court performance and public trust. The interviews can be conducted in the following ways:
 - a. **Structured interviews** (a large number of short interviews using a set questionnaire) and sampling methods should be designed by an expert in applied research. All researchers must be well-trained; and the analysis performed by competent professionals.
 - b. **In-depth interviews** are one-time events in which court practitioners and other informants provide detailed information about key issues and specific operational practices, as well as perspectives on major issues. These interviews can add important dimensions to quantitative data collected from other sources or to observations made by the research team.
 - c. **Key informants** are a third type of interview employed in court studies. By its very nature, this interview is a free discussion on one or several key topics. This type of interview requires a small number of respondents who are experts in a certain area or typical representatives of a certain target group who are being questioned one time, or more than once at certain intervals.

³ This model was successfully utilized in Finnish Project on Evaluation of the Quality of Adjudication in Courts of Law, see at <http://www.courtexcellence.com/pdf/qualitybenchmarksfinlanddetailed.pdf>, page 65.

These interviews can be single or multiple contacts with a small number of court and justice system professionals who provide perspectives and information during the course of the court study.

The prospects for obtaining reliable information will be increased if all interviewees are guaranteed confidentiality. Their comments may be used in the study, but without identifying information, including a description of their position or responsibilities if it would reveal the source. Ground rules for interviews should be included in the research protocol and agreed to by interviewees before any queries are made and answered.

5) Written surveys of citizens including court users, the general public, media, bar, and other stakeholder groups including courts themselves (judges and court staff) are a common methodology employed in court performance studies.

Survey design and analysis require guidance from experts. Surveys can be conducted by volunteers, but under the guidance and instructions of experts and study team leader. The design of a survey questionnaire requires specialists in empirical research. Some standardized questions that were already designed during other research on judicial systems (e.g., completed by the USAID Ukraine Rule of Law Project) can be used as well. Between 2008 and 2010 the Project's court studies program developed standardized data definitions and reliable sampling and data collection techniques.⁴

Depending on its intended use, any study may rely on a single data source and collection method or may combine several methodologies. For example, a study of clarity of court decisions might be enriched by interviews with judges. Even studies of a single standard should utilize more than one measure. A single measure will produce a skewed picture of court performance. Multiple measures provide both depth and breadth to an assessment.

Data collection methods must be sufficiently rigorous so as to be credible in the eyes of the court and the public, yet simple enough to allow accurate recording by non-experts. They must produce reliable data for measuring court performance against standards, but need not rise to the level of sophistication of a sociological journal.

⁴ More information can be obtained from other USAID Ukraine Rule of Law Project publications: CRC Training and Implementation Manual (2010) and Court Monitoring Curriculum (2010) available at www.ukrainerol.org.ua.

DATA AND INFORMATION

Accurate information for the assessment of court performance is one critical outcome of court studies. In conducting the study, it is critical to differentiate between data and information.

Quantitative data are numbers or statistics; they are the results of counting. For example: 600 criminal cases were disposed last month or 25% of plaintiffs in divorce cases lacked counsel.

Qualitative data are varied in nature and include any research results that are not numerical. Typically qualitative data come from interviews or document review.

Data must adhere to **common**, clearly stated, definitions or they will not be accurate. Consistency is essential. Data must be collected **as close to the original source as possible** to maintain accuracy. Data must be reviewed as it is collected: Do they make sense?

Data are information if:

- They tell those conducting the study (and ultimately the users of the study report) something it's necessary to know.
- They are trustworthy.

In other words, the difference between data and information can be explained as follows: data are recorded in data collection tools (e.g. in survey questionnaire, observation form, etc.) while information is the result of analysis of data.

Good court performance information meets **seven important criteria**. It is:

- Relevant
- Accurate
- Timely
- Understandable to non-experts
- Disaggregated where appropriate
- Usable
- Used for: measuring performance against standards; measuring progress toward improvement goals; problem identification, leading to further analysis; judicial branch and community education; advocacy for justice system improvements.

3.2. SAMPLING METHODOLOGY

Since court studies are intended to produce information that is credible, usable, and utilized by the court for improvement, the sources (individual cases, persons, or observations) from which the data is drawn are critical to the study's success. For example, it would not be valid to judge the audibility of court hearings by observing only one judge known to have a very soft – or very loud – voice. The CSO's challenge is to collect data from sources that can be considered to reasonably represent the performance of the court as a whole.

There are two main categories of sampling methods: probability and non-probability methods. In **probability sampling**, each object in the population to be studied has an equal and known chance of being selected for study.

Random samples can be drawn by computer programs using descriptive information, such as names or case numbers, about the objects to be sampled. The computer selects the objects to be sampled using a mathematical program for randomness. This sample selection approach is extremely reliable, but can be time consuming, expensive, and unnecessarily sophisticated for simple court studies.

A more utilitarian approach for CSOs is **nth object selection**. In this method, the entire population is listed and objects are selected for study at an interval that will allow creation of the sample size needed by the project. For example, assume a CSO decides that it has the resources to look at 100 child custody decisions out of 500 child custody decisions written in Court A in 2009. The CSO would list all 500 decisions (case numbers) in chronological order, then select every fifth decision starting with the first case and move chronologically to the last – resulting in a 20% chance that any particular decision will be selected for the study. Each of the 500 cases then would have a known and equal chance of selection and so the sample of 100 would meet the basic criteria for reliability.

Non probability sampling methods are used to obtain preliminary or rough information about a topic but the results cannot be used to represent the characteristics of the population as a whole. In non probability methods, subjects for study are chosen

PROBABILITY SAMPLING METHODS

- The population consists of a given number (N) of objects
- The sample consists of a smaller number (n) of objects selected from N
- All the objects in the population have an equal and known chance of selection for the sample

for convenience – with varying degrees of credibility. For example, a CSO may choose to estimate the number of hearings conducted in a particular courthouse during one week.

If the week selected is a summer vacation week, then the results would not indicate usual demands for hearing space. Alternatively, a stronger non-probability approach might document the number of hearings conducted every Tuesday and Thursday for a two month period in which there are no major holidays or vacation periods.

Collect only the data that is essential for the study. Collecting more information than can be usefully analyzed wastes time and resources.

CSOs will use non-probability sampling methods for many studies because the population of objects to be studied cannot be known without extensive expenditures and access to information that may not be public. Non-probability sampling methods should be thoughtfully and carefully constructed to provide the best approximation of ordinary court performance. Results reported should be accompanied by a clear explanation of data sources and rationale for selection.

3.3. DATA COLLECTION INSTRUMENTS

Taking time and care to design a data collection instrument (form) that facilitates accurate and consistent recording is a necessary investment. All data collection instruments should:

- make it easy to code data at source;
- identify the specific sample and objects being coded, date of collection, and data collector;
- use clear and consistent data definitions;
- code all (or almost all) responses as numbers; and
- complete every question, including “no data.” If information is missing from the data source, code the box with a number representing “no data.” Empty fields are not permitted.

The font should be easy to read and plenty of space available for researchers to enter data. The larger and clearer the entries, the easier the job of data base creation and data cleaning.

A simple form to document representation by counsel in criminal proceedings might look like this:

REPRESENTATION BY COUNSEL IN CRIMINAL CASE HEARINGS

| DATA ELEMENT | DATA COLLECTOR ENTRIES |
|--|------------------------|
| Date (dd/mm/yy) | 22/01/09 |
| Data Collector | 3 |
| Court | 2 |
| Number in court study sample | 35 |
| Case Number | 12345 |
| Type of Charge | |
| (1) serious (2) minor | |
| (99) can't tell | 1 |
| Time hearing begun (1-24) | 11:45 |
| Hearing postponed or continued | |
| (1) yes (2) no (99) can't tell | 2 |
| Time hearing ended (1-24) | 12:10 |
| Type of hearing | |
| (1) preliminary hearing (2) main trial (3) judgment (99) can't tell | 2 |
| Type of attorney | |
| (1) public defender (2) private (3) none (99) can't tell | 1 |
| Comments: | |

The research team leader and experts should pilot the instrument before finalizing it and beginning to collect the data for the study. First, test it in the office with the data collection staff using one or two sample case files.

- Are the definitions clear, mutually exclusive, and inclusive of all likely responses?
- Is the form easy to use, one sided, visually accessible?
- How easily can data be lifted from the form and entered into a data base or captured manually?
- Is there a blank space for comments or data collector notes?

While it's important to capture the flavor of court operations or to record insights in the comments section, as a practical matter these text notes often are not used in the findings because of the time required to refer to or copy them. Instrument designers should make comments space available, but data collectors should be encouraged to use it sparingly. Once the instrument appears "final," the study team should take it to court and pilot it in the same circumstances in which the data will be collected. After the necessary revisions are made, the instrument is complete. To ensure the study's integrity and reliable analysis, the instrument should not be changed once data collection has begun.

RESEARCH PROTOCOL CONTENTS

- **standard(s), measures, indicators addressed;**
- **detailed instructions for sampling process (if applicable);**
- **templates for all instruments used in sampling;**
- **data definitions for every field on the data collection instrument;**
- **templates for all data collection instruments covered by the protocol;**
- **detailed data collection and coding instructions;**
- **quality control procedures;**
- **where to go for help – including contact information for all team members;**
- **names and contact information for key court counterparts;**
- **process and responsibilities for updating protocol; and**
- **timeline for the study, including the data collection schedule if known.**

Each study and data collection effort should be supported by a research protocol. The research protocol is simply a guide for data collectors and a reference for analysts and study users that describes how the data is collected. The protocol should be updated at the end of every week by the research team leader to reflect any new circumstances or definitions added to the study.

The research protocol need not be long or complicated. It should articulate expectations and practices to which data collectors are held accountable and serve as **an aide memoire** when the study is completed.

3.4. DATA COLLECTION MANAGEMENT

The quality of data collection management determines whether a court study meets its goals. Proactive, consistent management of researchers, data sources, and time available will produce credible and timely data. It is easy for a data collection effort to falter because court decisions are not available, court schedules change, key informants “don’t have time” or volunteers fail to show up. While a CSO’s work plan should include coordinated timelines for all court study-related activities, each separate study should be supported by its own research protocol (see above) and management decisions.

CSO leadership should ask and answer key questions as they implement a study.

The sample key questions include the following:

- How many separate data collections will be employed, i.e. surveys, sets of observations, document reviews?
- And, for each data collection:
 - How many data sources?
 - Persons (e.g., 100 civil litigants)
 - Decisions (e.g., 50 custody decisions)
 - Hearings (e.g., 100 detention hearings)
 - Courthouses observed (e.g., all district courts in Lviv)
 - What is the sample for each source and how will it be drawn?
 - What is the source for drawing the sample?
 - On whose cooperation does sampling rely?
 - How long will sampling take?

- How will data sources be accessed?
 - Who controls access to the data sources?
 - What time or institutional constraints exist?
- Will there be a time lapse between identifying the sample and accessing it?
- Where will data be collected?
 - Courtroom/judge's chambers
 - Courthouse
 - Street/parking lot/public space
 - Court offices
 - Library
 - Internet
 - CSO office
- How will the data collection be sequenced (does one segment depend on completion of another?)

Managing data sources and **data entry** are two key elements this phase of the study. The third is the **researchers** themselves.

The composition and size of the data collection team should ensure high quality data and rapid acquisition of skills. Trustworthy and useful information relies on accurate data collection, an end more easily accomplished by well-supervised small teams than large number of collectors who have only one or two day's experience in the court. Small teams of two to six members:

- facilitate training, monitoring, managing;
- quickly become skilled and able to identify problems or spot inconsistencies;
- can contribute informed suggestions to project; and
- become familiar to, and trusted by, court.

Managing the data collection team is discussed later in this Guide (see pages 32-33).

Many CSOs use data collection as a community education strategy. While it is good to increase community knowledge of the courts and the issues they face, using too many data collectors can undermine the study. The quality of data collected and the

credibility of the study will necessarily suffer from using large numbers of researchers who do not have the opportunity to acquire the skill and experience necessary for reliable data collection. If community education is a main, or even ancillary, purpose of a court performance study, then court observations should be structured as a separate program.

How long will data collection require? Estimating the time required for data collection is integral to planning and managing a court performance study. Data collection is often delayed because data access is much more difficult than anticipated, researchers make mistakes and segments must be re-done, demands of other activities postpones completion. CSOs should take a realistic look at planned studies and carefully estimate the number of person hours required. For planning purposes, this calculation should be made at the outset of the project. After the data collection instrument testing process is completed, the calculation should be revised. Whatever the result, planner should add 20% to allow for the unforeseen and routine inefficiencies caused by the study's inability to control data sources and availability. Court study leadership should ask:

**The smaller the team,
the more accurate
the data is likely to be.**

- How long will it take to lift data for an individual data source?
- What is the anticipated data collection rate?

The text box below contains a sample calculation. Once these calculations are made, the study leadership should take a hard look at how multiple data collection efforts might impact each other and whether sequencing issues arise.

SAMPLE CALCULATION FOR DATA COLLECTION RATE

| | |
|-------------------------------|---|
| Data source: | Litigants in civil cases with written decisions |
| Methodology: | 15 minute interview |
| Number of respondents: | 100 (50 plaintiffs; 50 defendants) |
| Data collection team: | 1 team leader 4 researchers |

PERSON HOURS NEEDED

100 interviews @
2 interviews per hour = 50 person hours
(allowing time for set up, checking, coffee...)
Plus 20% = 10 person hours

Estimated total 60 person hours

60 hours divided by 4 researchers = 15 person hours per researcher

Managing the research team. Effective data collection requires a strong research team leader who guides both the substantive and administrative activities of data collection. The team leader can make or break a court study and should be carefully selected to take on critical responsibilities, e.g.:

- Oversee integrity and accuracy of the data collection process;
- Keep the process smooth and running on time;
- In collaboration with any research experts, develop research protocol and update as needed;
- Daily liaison with court(s) and other partners;
- Arrange access to data;
- Schedule and supervise data collection team;
- Review all completed data collection forms daily;
- Debrief the team weekly; and
- Report problems to study director or CSO leadership.

The team leader should know the subject matter of the study well and be experienced in data collection for court studies or applied research projects. Good interpersonal skills are essential to work well with the data collectors, court leadership, and the court staff – people with whom they will have to interact on a regular basis during the course of the study. The ability to organize and proactively manage teamwork is another key requisite for this position. Finally, the team leader should be able to focus simultaneously on the big picture and the fine details of the court study.

Managing researchers (data collectors) is aimed at: 1) producing accurate data for performance measurement; and 2) taking advantage of the important knowledge and observations that arise from skilled staff spending time in the courts. A good team starts with an intensive training seminar focused on study purposes, data definitions, using collection instruments, and project expectations.⁵ At a minimum, the training agenda should include:

- role and jurisdiction of court(s) to be studied;
- court procedures/process for relevant case types;
- data collection sources, samples and sampling,
data collection methods;
- data definitions;
- familiarization with research protocol;
- practice data collection; and
- expectations regarding conduct and ethics.

The training seminar should be followed by “on-the-job” training at court before data collection begins. Once data collection begins in earnest, the team leader is responsible for the accuracy,

⁵ The detailed agenda and training modules can be found in CRC Training and Implementation Manual (2010) and Court Monitoring Curriculum (2010) available at www.ukrainerol.org.ua.

integrity and speed of the effort. S/he should accompany the data collectors to court and check all of their work until confident that each team member will record data uniformly and accurately every time. Whether researchers are paid or volunteers, the CSO and each team member should discuss and sign a letter of agreement setting forth expectations and responsibilities.

It will be important to ensure a close linkage between data collection and analysis of the data. If possible, **every** study team member who will be involved with data analysis, formulation of findings and recommendations, or communicating study results should participate in the training seminar and spend some time collecting data. All aspects of the data analysis and findings will benefit from their knowledge of data collection practices and challenges.

3.5. TURNING DATA INTO INFORMATION

The transformation of coded data collection forms, document review data, and interview notes into information useful for the improvement of court practices requires careful attention and focus. The essentials of the analytical process are the same whether the study utilizes computer software or paper and pencil. In either case, the study will want to find expert help if there is no one with data analysis experience already on the team.

Data entry, data analysis, and development of findings are a time consuming process; adequate time must be allowed for these steps. The “turning data into information” phase always requires more time than anticipated even by experienced researchers. As a rule, a CSO should allow at least two person days of cleaning, entry, and analysis for every calendar day spent in data collection. Time for advisory group comments on the findings followed by further analysis is also to be factored into the study plan. CSOs should ensure that these processes are planned and conducted with the guidance of a skilled and experienced professional. Following are the basic steps in the post-collection phase.

- 1) Reviewing each and every completed data collection form for completeness. Where possible, return to data source and complete blanks. If it is not possible to complete a form, enter a code for “uncoded.”
- 2) Entering the data into the data base, if using a computer. If analyzing manually, sequence the forms in a way that makes sense for the subject being studied, i.e., chronologically, by case type, by type of representation and so forth.
- 3) Checking the database or sequenced forms for invalid or inconsistent data, i.e. a hearing scheduled for November 4, 2009 and postponed until July 7, 2008. These data should be checked with the source and corrected if possible. Analysts should avoid “correcting” by assuming that the data follow a known legal or procedural pattern. If data does not occur in the original source, it is not to be included in the court performance study.
- 4) At this point, the study is ready to calculate frequencies for all of the questions on the data collection form, i.e., determine how many times each response to each question occurs in

the study. For example, if the question on the form reads, "Is the judge audible from the rear of the room?" the possible answers might be "Always," "Most of the time," "Some of the time," and "Never." If 100 hearings were observed, then the frequencies might be:

| AUDIBILITY OF JUDGES | FREQUENCIES |
|----------------------|-------------|
| Always | 23 |
| Most of the time | 35 |
| Some of the time | 17 |
| Never | 19 |
| No data | 6 |
| Total | 100 |

- 5) After this calculation, the study should check the results for invalid or inconsistent data and determine whether there are data that should be re-coded or discarded from the study. If, for example, there were "no data" in 80 % of the responses, then the question should be discarded from the study. Having cleaned and corrected the database where possible, the frequencies should be calculated again. Then, analysts will calculate percentages for questions in which the data provide useful information for the study. Percentages for the above frequencies would look like this:

| AUDIBILITY OF JUDGES | FREQUENCIES | VALID FREQUENCIES | PERCENTAGE | VALID PERCENTAGE |
|----------------------|-------------|-------------------|------------|------------------|
| Always | 23 | 23 | 23 | 24.5 |
| Most of the time | 35 | 35 | 35 | 37.2 |
| Some of the time | 17 | 17 | 17 | 18.1 |
| Never | 19 | 19 | 19 | 20.2 |
| No data | 6 | — | 6 | — |
| Total responses | 100 | 94 | 100 | 100 |

The "valid percentage" is based on the number of valid responses and does not include the responses for which there is no data.

Frequencies and percentages, deepened by interview data, should suffice for any basic court study. Large CSO studies that utilize personnel with expertise in applied research techniques may wish to conduct multi-variant analyses in some instances, but that level of effort is not necessary for most studies based on court performance standards and measures.

4. REPORTING RESULTS

4.1. FINDINGS

Reports on court performance studies typically contain four key elements: 1) a discussion of the reasons for the study and the methodological approaches followed in conducting it; 2) the results of the analysis of data collected; 3) a discussion of factors that produce or can affect the reported performance information; and 4) recommendations for improvement. The results of data analysis and relevant factors constitute the report's findings. Recommendations usually follow the findings. The report will be strengthened by involving the study team and advisory committee in an interactive process to craft findings and recommendations.

Following the analysis that produces the frequencies and percentages illustrated above, the study team should identify key results that say something important about the court performance standard and measure(s) being studied. Use those results to create readable and easily comprehensible charts and graphs that accurately convey court performance in relation to standards. The next step is to deepen the findings by broadening the perspectives included in the analysis. When the first set of reliable findings is assembled, the CSO should convene a stakeholder advisory group meeting and ask the members to review the material together. Ask for reflections on the information:

- What is surprising in these findings?
- What further analysis is needed?
- What questions need to be asked of court practitioners to explain results?

Reviewing findings with the court leadership (first) and advisory group (second) before releasing the report to the public allows any oversights or misinterpretations to be corrected

The advisory group discussions should be followed, when possible, with needed analysis, research, and/or interviews with key informants.

After data analysis is finalized and contextual information gathered, the study team should prepare a set of final findings that plainly and accurately state the results of the study and other important information from data analysis. There should be no interpretation or ascription of causes that is not strictly supported by either qualitative or quantitative data from the study. For example, using the "Audibility of Judges" results above, a CSO can find that:

"While judges are usually audible to the courtroom audience, the study found their speech inaudible in about one fifth of the hearings attended."

The finding might go on to say that the courtrooms are large and there is no equipment for electronic amplification of voices. It would not be accurate to write, "It appears that many judges attempt to keep proceedings secret by speaking inaudibly in the courtroom." Limit findings to information that is unequivocally supported by the research. As noted at the beginning of this Guide, a study report should:

- indicate where courts are doing a good job;
- identify areas where improvements are needed; and, most important,
- indicate where more information and/or understanding is needed to increase access and guarantee high quality adjudication.

The stakeholders do not have veto power over CSO conclusions, but they are necessary participants in court enhancement and a spirit of respect and cooperation should characterize the relationship.

4.2. RECOMMENDATIONS

Findings relating to court performance vis-à-vis standards are often the only product of a court study. Some CSOs, however, choose to use them as a basis for recommendations. These strategies for improvement can be useful to courts and for public education, especially if they are developed with the participation of key stakeholders. Recommendations answer two questions: "**What** should be done to improve court performance?" and "**Who** should do it?" Ideally, they should be developed as a result of conversations among the courts, stakeholders, and the CSO after mutual consideration of the study's conclusions.

Recommendations should be organized so the reader may easily determine what the CSO proposes. They may, for example, be organized by the court performance standard(s) and measure(s) studied or by the type of action or actor indicated. For instance, a CSO may choose to group all court facilities improvement recommendations together or all judicial education actions. Other areas for recommendations might include judicial and court staff practices, actions by the bar association, media coverage, public education, advocacy for judicial reform, and legislative action. Useful recommendations focus on practices, education, and sensibilities.

Effective recommendations clearly relate to the standards and measures treated in the study and flow from the findings. The characteristics of useful and effective recommendations are:

- concise;
- as specific as possible;

- realistic, i.e., results-oriented, actionable, and within the institutional capacity of the court(s).
- achievable within the current legal framework;
- do not require expenditures that will not or cannot be made by the state;
- sequenced, if appropriate;
- result from stakeholders collaboration; and
- can be read as a stand-alone document.

Support from key elements of court leadership and important stakeholders will increase the likelihood the study conclusions and recommendations will engender genuine improvement.

4.3. COMMUNICATING RESULTS

CSOs should develop communications strategies that are appropriate to their intended audiences and project outcomes. Dissemination methods should be governed by the same questions as were asked in Section 2.3 of this Guide ("Outcomes and Audiences"). Whichever strategies are employed, the essential foundation for using the results of the study is a written report. The report should be both concise and inclusive of any necessary information to support the findings and recommendations. In general, the results of a CSO court performance study can be conveyed in forty pages or fewer with a two page executive summary. The report's contents should include:

- acknowledgements;
- an executive summary of findings and recommendations;
- background or context for study (CSO's reason for interest in courts);
- rationale for selection of standards;
- data collection methodology and sources;
- sampling methodology and size;
- simple description of analytical process;
- findings including basic court profile;
- recommendations;
- names of all involved in the study; and
- appendices such as copies of data collection forms.

The written report is only the beginning. It will provide content for other dissemination methods such as: briefings for the courts, COJ, SJA, bar, or members of parliament; press

releases and conference; roundtables of stakeholders; internet based communications such as web sites and listservs. Effective report dissemination targets stakeholders who can help improve court policies, practices and resources. CSOs should utilize methods and language that open conversations rather than close minds by casting blame.

While it is important to get the word out about study results, CSOs should remember to use the study to inform and improve their own programming as an organization. How will they use the results to work with the courts and with their own community? What outcomes can be achieved? What new (and old) partners should be engaged? Court performance studies are a **first step** to increasing access to justice, to supporting higher quality adjudication and judicial administration, not an end in and of themselves.

IN CONCLUSION

Courts across Ukraine – and the world – are continually challenged to fulfill new legal requirements and address new societal problems. They are almost universally without the necessary human and material resources. It is therefore important to understand how civil society can aid courts in becoming more transparent, accountable, and effective; and how civil society can help promote necessary reforms, and increase resources that underpin an independent judiciary capable of guaranteeing and protecting the rights of every citizen. Court performance studies provide a useful tool to assist courts in meeting these demands.

5. ATTACHMENTS

ATTACHMENT A: INTERNATIONAL COURT PERFORMANCE MEASUREMENT RESOURCES

INTERNATIONAL COURT PERFORMANCE MEASUREMENT TOOLS:

International Framework for Court Excellence (2008):

<http://www.courtexcellence.com/pdf/IFCE-Framework-v12.pdf> provides a model methodology for continuous evaluation and improvement that is specifically designed for use by courts.

US National Center for State Courts 'Trial Court Performance Standards' (1997):

http://www.ncsconline.org/D_Research/tcps/index.html provides a tool to measure court performance using 68 measures for 22 standards within a framework of five areas: access to justice; expedition and timeliness; equality, fairness and integrity; independence and accountability; and public trust and confidence.

US National Center for State Courts 'CourTools' (2005):

http://www.ncsconline.org/D_Research/CourTools/tcmp_courttools.htm provides a set of ten trial court performance measures based on the major areas of court performance defined in TCPS and offers court managers a balanced evaluation of court operations. The ten measures/indicators are: access and fairness; clearance rates; time to disposition; age of active pending caseload; trial data certainty; reliability and integrity of case files; collection of monetary penalties; effective use of jurors; court employee satisfaction; and cost per case.

US National Center for State Courts 'A Unifying Framework for Court Performance Measurement' (2008):

<http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1079> a report that proposes a unifying performance measurement framework for courts to simplify their ability to use collected data to improve court operations. This framework is intended to connect ten individual measures (based on CourTools) on a conceptual level and is arranging the measures in four quadrants: procedural satisfaction, effectiveness, efficiency, and productivity.

The European Commission for the Efficiency of Justice (CEPEJ) 'Checklist for promoting the quality of justice and the courts' (2008):

http://www.coe.int/t/dghl/cooperation/cepej/textes/default_en.asp provides the tool to collect appropriate information and analyze relevant aspects, that addresses

the quality of the judiciary at three levels: at national level, court level, and at the level of an individual judge.

The Subordinate Courts of Singapore: 'The Justice Scorecard and 6 Sigma: A Performance Measurement, Management and Continuous Improvement System to Create A Strategy-Focused Subordinate 'Courts':

http://www.ncsconline.org/wc/publications/KIS_CtPerSScorecard.pdf provides a tool of performance measurement that comprises four perspectives (Community, Internal Processes, Learning and Growth and Financial) and respective sets of key performance indicators. The Justice Scorecard is based on the balanced scorecard technique (<http://www.balancedscorecard.org/basics/bsc1.html>)

Dutch Quality Agency for the Judiciary (PRISMA)

<http://www.prismaweb.nl> provides with an example of tools to measure court users' satisfaction with court performance.

Ministry of Justice Finland, Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi, Finland 'How to Assess Quality in the Courts? Quality Benchmarks for Adjudication are a means for the improvement of the activity of the courts' (2005)

<http://www.oikeus.fi/uploads/6tegx.pdf> provides with quality benchmarks that consist of six aspects that influence the quality of court operations.

INTERNATIONAL COURT PERFORMANCE MEASUREMENT REPORTS:

Ministry of Justice Finland, Quality Project of the Courts in the Jurisdiction of the Court of Appeal of Rovaniemi, Finland , 'Evaluation of the Quality of Adjudication in Courts of Law'

<http://www.courtexcellence.com/pdf/qualitybenchmarksfinlanddetailed.pdf>

The European Commission for the Efficiency of Justice (CEPEJ) 'Evaluation of European Judicial Systems'

<http://www.coe.int/cepej>. The reports produced by CEPEJ provide a comparison of judicial systems and the exchange if knowledge on their functioning in 45 member states. Three reports (containing data from 2002, 2004, and 2006) are available.

ATTACHMENT B: INTERNATIONAL ORGANIZATIONS THAT SUPPORT COURT IMPROVEMENT

INTERNATIONAL CONSORTIUM FOR COURT EXCELLENCE

Experts from the United States, Europe, Australia and Singapore, inspired by court quality models used in a number of international communities, formed a Consortium with the goal to take necessary steps to achieve court excellence. The Consortium concluded that the most effective way to achieve this goal was to develop an **International Framework for Court Excellence**. The members of the Consortium are the Federal Judicial Center of the United States of America, the National Center for State Courts of the United States, the Australian Institute of Judicial Administration, the Subordinate Courts of Singapore, the Spring Singapore, the World Bank, and the European Commission for the Efficiency of Justice. The Consortium has developed a Framework of values, concepts, and tools that can be used by courts to assess and improve the quality of justice. The Consortium will regularly edit and revise the **Framework** to reflect new systems and initiatives directed at improving how courts deliver services.

<http://www.courtexcellence.com>

The Australasian Institute of Judicial Administration (AIJA)

The Australasian Institute of Judicial Administration (AIJA) is an independent institute that draws its membership from all levels of the Australian and New Zealand judiciary, legal profession, courts administrators, court librarians, and legal academics. The Institute's principal objectives are research and education focusing on court administration and judicial systems.

<http://www.aija.org.au>

The Federal Judicial Center (FJC)

Established on the recommendation of the Judicial Conference of the United States, the Federal Judicial Center (FJC) is the research and education organization for the federal judicial system of the United States. The Center conducts and promotes research of judicial procedures and court operations and provides orientation and continuing education and training for federal judges and court employees.

<http://www.fjc.gov>

The National Center for State Courts (NCSC)

The National Center for State Courts is an independent, nonprofit court improvement organization that provides consulting, training, research, and evaluation to court systems throughout United States and throughout the

world. It acts as an information clearinghouse in relation to all areas of judicial administration. NCSC's Board consists of state court appellate and trial judges, court managers from all levels and jurisdictions of State courts, attorneys, and court users. NCSC disseminates information to state court leaders on key national policy issues, and helps advocate their policies with Congress as well as supporting several prestigious national organizations.

<http://www.ncsconline.org>

The Subordinate Courts of Singapore

The Subordinate Courts have a broad jurisdiction and encompasses civil and criminal matters, family law, and juvenile justice. The subordinate Courts have a long-standing commitment toward the reform of judicial administration, with particular emphasis on the international community and on the use of technology.

<http://app.subcourts.gov.sg>

The European Commission for the Efficiency of Justice (CEPEJ)

Composed of experts from all of the member States of the Council of Europe, CEPEJ's tasks include identifying difficulties facing judicial systems in general, defining concrete ways of improving the functions of judicial systems, and evaluating their results for general consumption.

<http://www.coe.int/cepej>

Spring Singapore

Spring Singapore is a public body concerned with the betterment of enterprise of all kinds. The organization focuses on quality and the enhancement of productivity in both the private and public sectors.

<http://www.spring.gov.sg/Content/HomePage.aspx>

The World Bank

The World Bank has 185 member countries. Within its broad mission of alleviating poverty worldwide, one significant area of interest is governance reform. Contributing to its work in this area is a multi-disciplinary staff that includes economists, public policy experts, and social scientists.

<http://www.worldbank.org>

Anna Marie's Alliance

The Central Minnesota Task Force on Battered Women, doing business as Anna Marie's Alliance is a private non-profit corporation dedicated to providing safe shelter, support, and referral services for battered women and their children. The Alliance also works with

the community on systems change and violence prevention. The Alliance helps battered women and their children by providing emergency and transitional shelter, legal advocacy, transportation, support groups, information and referral, advocacy at St. Cloud Hospital, and 24 hour crisis phone services. Anna Marie's Alliance works toward changing social conditions which contribute to violence against women and children.

<http://www.annamaries.org/>

The Center for Justice and Accountability

The Center for Justice and Accountability is an international human rights organization dedicated to ending torture and other severe human rights abuses around the world and advancing the rights of survivors to seek truth, justice and redress. CJA uses litigation to hold perpetrators individually accountable for human rights abuses, develop human rights law, and advance the rule of law in countries transitioning from periods of abuse. CJA was founded in 1998 with support from Amnesty International and the United Nations Voluntary Fund for Victims of Torture to represent torture survivors in their pursuit of justice. CJA's first client was a Bosnian torture and detention camp survivor who experienced additional trauma after he learned that his torturer was living freely in the same community in the United States. CJA recognizes that the need for justice is an integral component of a torture victim's recovery process and that healing cannot take place when the perpetrator continues to live without consequence. CJA is part of the movement for global justice for those who have been tortured or have suffered other severe human rights abuses. CJA was founded on the principle, first used during the Nuremberg trials after World War II, that certain crimes are so egregious that they represent offenses against all humankind. These crimes include genocide, crimes against humanity, extra-judicial killing and torture. CJA believes that perpetrators of such violations should be brought to justice wherever they are found.

<http://www.cja.org/>

The Council for Court Excellence: 25 Years Improving Justice for the Community

The Council for Court Excellence is a non-profit, non-partisan civic organization founded in Washington, D.C. in 1982. The Council works to improve the administration of justice in the local and federal courts and related agencies in the Washington metropolitan area and in the nation by:

- Identifying and promoting specific court reforms.
- Improving public access to justice.
- Increasing public understanding and support of our justice system.

<http://www.courtexcellence.org/>

Criminal Justice Policy Foundation

CJPF is a private, nonprofit organization that educates the public about the criminal justice system. The CJPF's mission is to educate the public about the impact of drug policy and the problems of policing on the criminal justice system. It provides information and advice to policy makers, criminal justice professionals, and the public through consultation, education programs, conferences, publications, the news media and the Internet. The foundation assists drug policy reform organizations with advice on legal organization, management, outreach, research, media relations, and coalition building. CJPF also provides speakers to educational institutions and organizations of all kinds.

<http://www.cjpf.org/>

The Fund for Modern Courts

The Fund for Modern Courts is a nonpartisan, nonprofit, statewide court reform organization founded in 1955. Led by concerned citizens, prominent lawyers, and business leaders, Modern Courts strives to improve the administration and quality of justice in our courts. It is the only organization in New York State devoted exclusively to improving the judicial system. Citizen Court Monitoring is one of core programs of the Fund for Modern Courts. In 1975, the Fund for Modern Courts pioneered an initiative designed to give New York citizens a powerful voice in how their courts are run. This groundbreaking program, known as Citizen Court Monitoring, is straightforward: From around the state, groups of non-lawyer volunteers observe court proceedings on a regular basis. The monitors evaluate the courts from the point of view of those outside the system, and recommend improvements to make the courts more efficient and user-friendly for the average person. The monitors' findings and recommendations are then published by Modern Courts and released to court administrators, judges, court personnel, lawmakers, bar associations, civic groups, and the media. For more than a quarter of a century, Citizen Court Monitoring has been the centerpiece of Modern Courts' efforts to involve the public in improving the administration of justice. This award-winning program has been cited by the American Bar Association as one the country's most effective projects "in bringing problems to light and proposing changes to correct shortcomings." The National Center for State Courts has applauded it as one of the "most well-run court monitoring programs in the nation." The American Judicature Society, in presenting Modern Courts with its 1984 Justice Award, described it as "the catalyst for virtually every worthwhile judicial improvement in New York State," and "the model for jurisdictions elsewhere striving to make the justice system more responsive to citizen needs." Today, its volunteer court monitors number more than 600 and work in 16 counties across New York. Their dedication has helped to educate both the judiciary and the public, has made the courts more accountable to the communities they serve, and has produced tangible reforms that benefit all New Yorkers. In 1999, Modern Courts participated in the landmark first-ever national conference on court monitoring, co-sponsored by WATCH of Minneapolis and the

Santa Fe Court Monitors, and held in Santa Fe, New Mexico. Since the conference, Modern Courts continues to share information with other groups and to provide guidance to those seeking to launch new programs.

<http://www.moderncourts.org/>

The Human Rights Center

The Human Rights Center (HRC) protects and promotes human rights worldwide by investigating and documenting human rights abuses and training the next generation of human rights researchers, policymakers, and advocates. HRC occupies a unique position as a human rights organization within a leading research university, bridging the work of scholars and researchers with that of practitioners and activists. The two-way exchange of information and experience strengthens both enterprises, to the benefit of the constituents they serve. The university context – paired with experience in the field – provides rich training opportunities for graduate students who can make significant contributions to human rights activities in the United States and abroad. The HRC is a unit of International and Area Studies (IAS) at U.C. Berkeley and works closely with the International Human Rights Law Clinic, Boalt Hall School of Law and the U.C. Berkeley War Crimes Studies Center.

<http://hrcberkeley.org>

The Human Rights Campaign

The Human Rights Campaign is America's largest civil rights organization working to achieve gay, lesbian, bisexual and transgender equality. By inspiring and engaging all Americans, HRC strives to end discrimination against GLBT citizens and realize a nation that achieves fundamental fairness and equality for all. The Human Rights Campaign represents a grassroots force of more than 700,000 members and supporters nationwide— all committed to making this vision of equality a reality. Founded in 1980, HRC effectively lobbies Congress, provides campaign support to fair-minded candidates, and works to educate the public on a wide array of topics affecting GLBT Americans, including relationship recognition, workplace, family, and health issues. The HRC Foundation – an HRC-affiliated organization – engages in research and provides public education and programming.

<http://www.hrc.org/>

The International Association for Court Administration

The purpose of the International Association for Court Administration is to facilitate networks of court administration-related professionals with a goal of the achievement of more global harmonization of standards for the administration of justice. In the course of its six-year history, IACA has administered four international conferences, with the most recent one being in Istanbul, Turkey (in November 2009). Court professionals from

47 countries participated there in considering worldwide court administration models. IACA has also established the International Journal for Court Administration, having just published its third edition, which is available online.

<http://www.iaca.ws>

The IRIS Center: Institutional Reform and the Informal Sector

IRIS is a research and advisory center located in the Department of Economics at the University of Maryland, College Park. Its mission is to understand and facilitate economic growth and democratic development in poor and transition countries, focusing on the role of institutions – the formal and informal rules by which individuals organize economic, political, and social activity. IRIS takes a comprehensive approach to judicial reform, addressing all the components of a judicial system in an integrated fashion – courts of law, legal and judicial training institutes, and legislative processes. Training programs for judges and lawyers are designed to support streamlined court systems and their procedural reforms. Similarly, legislative processes are designed to incorporate feedback from the public and from non-governmental organizations.

<http://www.iris.umd.edu>

The Judicial Education Reference, Information and Technical Transfer (JERITT) Project

The Judicial Education Reference, Information and Technical Transfer (JERITT) Project is the United States national clearinghouse for information on continuing judicial branch education for judges and other judicial officers; administrators and managers; judicial branch educators; and other key court personnel employed in the local, state, and federal courts. JERITT provides state, national, and federal-system judicial branch educators access to the latest information on judicial branch education programming; educational theories, methods, and practices; and educational research and reference reports and publications through databases, publications, electronic communications, and technical assistance offerings. Since 1989, JERITT has collected monthly judicial branch education programming information from state and national providers. It regularly surveys the field identifying the structure and function of judicial branch education from which best practices can be identified. JERITT also researches issues and trends in judicial branch education and other applicable continuing professional education fields so that individual judicial branch educators can benefit from the advancements and experiences of other professionals while enhancing their knowledge, skills, and abilities. JERITT received State Justice Institute funding from its inception to 2006, and is cosponsored by the National Association of State Judicial Educators (NASJE); the School of Criminal Justice; and the Judicial Administration Program at Michigan State University.

<http://jeritt.msu.edu/>

JUSTICE AT STAKE: A National Partnership Working For Fair and Impartial Courts

The Justice at Stake Campaign is a nonpartisan national campaign with more than 50 national partners, working to keep state and federal courts fair and impartial. Across America, Campaign partners help protect courts through public education, grass-roots organizing and reform. The Campaign provides strategic coordination and brings unique organizational, communications and opinion research resources to the work of its partners and allies at the national, state and local levels. Justice at Stake Campaign partners educate the public and work for reforms to keep politics and special interests out of the courtroom so judges can do their job protecting our Constitution, our rights and the rule of law.

<http://www.justiceatstake.org/>, <http://www.gavelgrab.org>

The Justice Management Institute

The Justice Management Institute is an independent, nonprofit organization created in 1993 at a meeting of fifty national leaders in justice system administration to dedicate a wide range of resources, disciplines, and techniques to improving the administration of justice by helping courts and other justice system agencies achieve excellence in leadership, operations, management, and services. JMI provides the original research, direct technical assistance, workshops, professional publications and seminars, and other continuing education programs. This unusual combination of resources, collaboration, innovation, and custom work products has earned JMI an unequaled reputation for excellence as a partner in justice system improvement. Network Groups (JMI Urban Court Managers Network and the Trial Court Research and Improvement Consortium) coordinates the activities and facilitates meetings of several groups interested in improving the management of trial courts and conducting research and evaluations of trial court programs and activities.

<http://www.jmijustice.org/Home/PublicWeb>

Mothers Against Drunk Drivers

Mother Against Drunk Drivers is a nonprofit grass roots organization with more than 400 entities across the United States. MADD's mission is to stop drunk driving, support the victims of this violent crime and prevent underage drinking. As one of MADD's core programs, the Court Monitoring Program is a tool to observe the criminal justice system and create accountability. The program is focused on forming strong strategic alliances with law enforcement, judges, prosecutors, and the defense bar, including public defenders. In 2002 MADD entered into a partnership with National Highway Traffic Safety Administration to change the focus of the program to collect data to identify potential gaps in the prosecution and adjudication process. MADD is also working with John Hopkins University, through a grant from the Robert Wood Johnson Foundation, to evaluate the effectiveness of MADD's current program. MADD's Court Monitoring program has

three goals: 1) compile statistics on how DWI/DUI cases are handled; 2) make those involved in the prosecution and adjudication process aware of public interest about the outcomes of DWI/DUI cases; and 3) report information gathered by the program to relevant entities so the system can be improved. Court Monitoring sends volunteers trained in court procedures into the courtroom to observe cases and note the outcomes. The program evaluates the courts by regular review of court proceedings, collection of court data and review of court records.

<http://www.madd.org/>

The Vera Institute of Justice

The Vera Institute of Justice works closely with leaders in government and civil society to improve the services people rely on for safety and justice. Vera develops innovative, affordable programs that often grow into self-sustaining organizations, studies social problems and current responses, and provides practical advice and assistance to government officials in New York and around the world.

<http://www.vera.org/>

Victoria Status of Women Action Group

The Victoria Status of Women Action Group (Canada) promotes social, economic and political self-determination and freedom for all women. The Victoria Status of Women Action Group was formed in Victoria in 1971 after the Royal Commission on the Status of Women. Its activities over the past 39 years have sought to educate, empower, and engage. Its Court Monitoring Program focuses on gender bias in the court room using practicum students as volunteers.

WATCH: Bringing a Public Eye to Justice

The objective of the organization is to make the justice system more effective and responsive in handling cases of violence, particularly against women and children, and creating a more informed and involved public. WATCH is committed to ending racial, cultural, and gender bias in the courts and to reflecting that commitment at all levels of the organization.

<http://www.watchmn.org/>

ATTACHMENT C: UKRAINIAN CIVIL SOCIETY ORGANIZATIONS THAT SUPPORT COURT IMPROVEMENT

Association of Ukrainian Judges

The Association of Ukrainian Judges (based in Kyiv, Ukraine) unites more than 1500 active judges throughout Ukraine. The main objective of the Association is to protect judges' interests, and support the introduction of social programs and the drafting of bills, which regulate courts' functioning.

<http://www.uajudges.org>

CCC Creative Center

Charity Fund CCC Creative Center is a Ukrainian non-governmental organization created in 1993 and registered in 1996. Before April 2008 it was named Counterpart Creative Center. CCC Creative Center's mission is to enhance the development of civic initiatives in Ukraine by providing training and consultative services, research, evaluation and advocacy for charity programs, civil society organizations, local self-governance bodies and initiative groups. In 2008 – 2010, CCC Creative Center with support from the USAID Ukraine Rule of Law Project implemented two rounds of pilot court performance studies measuring citizen satisfaction with two trial courts and one court of appeals in Ivano-Frankivsk Oblast, using the Citizen Report Card methodology.

<http://ccc-tck.org.ua>

Center for Civic Advocacy

The Public Organization Center for Civic Advocacy (Lviv, Ukraine) was created in February 2007 to promote and protect human rights according to the Constitution of Ukraine, Ukrainian legislation, and international regulations, develop and support institutions of civic society and promote the rule of law. The main focus of the Center of Civil Advocacy is providing legal aid to citizens and monitoring of legislation and court practice. In 2008 – 2009, the Center for Civic Advocacy, with support from the USAID Ukraine Rule of Law Project, successfully implemented a court monitoring project "Community Studies on Court Performance Standards - Access to Justice and Equality, Justice, and Comprehensiveness of Court Procedures in Lviv Region" resulting in recommendations to four courts of first instance.

<http://www.lawngo.net>

Centre for Judicial Studies

The International Foundation Centre for Judicial Studies (based in Kyiv, Ukraine) is an independent, charitable, non-profit organization founded by Ukrainian and Swiss judges in 2001 to promote judicial reform in Ukraine, provide training and research to the judi-

ciary, and increase public awareness of the judicial system. The Centre also supports bodies of judicial self-government and judges' associations in the enhancement of the independence, rights and interests of judges. In 2007 the Centre for Judicial Studies launched yearly monitoring of the status of judicial independence by polls of judges, defense lawyers, prosecutors and representatives of non-government organizations.

<http://www.judges.org.ua>

Centre for Political and Legal Reforms

Centre for Political and Legal Reforms is an analytical centre and non-governmental, non-profit organization founded in November 1996 to facilitate reforms in the political and legal spheres in Ukraine through performing analytical research, preparation of drafts, conducting independent legal examination of drafts, holding seminars and conferences and distribution of legal information. <http://www.pravo.org.ua>

Cherkasy Committee of Voters of Ukraine

Cherkasy Regional Organization of the Committee of Voters of Ukraine (Cherkasy Committee of Voters of Ukraine) is non-profit organization with the purpose and mission to assist independent, free, and transparent elections in Ukraine by implementing civil initiatives, observations, research, and training. In 2009 – 2010, the Cherkasy Committee of Voters of Ukraine with support from the USAID Ukraine Rule of Law Project implemented a pilot project measuring citizen satisfaction with court performance in Chormobaivsky District Court of Cherkasy Oblast by using the Citizen Report Card methodology.

<http://www.cvu.com.ua>

Community-Consulting Group "Partner"

Non-Governmental Organization Community – Consulting Group "Partner" (CCG "Partner") is non-profit, non-governmental organization created in 2007 by the group of young professionals of Volyn Oblast in Western Ukraine. The mission of organization is the protection of human rights and support for democratic and economic development of the region through implementation of civic initiatives. In 2009, the CCG Partner with support from the USAID Ukraine Rule of Law Project started implementing its citizen report card survey measuring citizen satisfaction with court performance in 5 courts in Lutsk and Volyn region.

Environment – People – Law

The international public interest environmental law organization Environment-People-Law (EPL) since 1994 has been protecting environmental rights, supporting, restoring and improving the environment and providing legal help in protecting other human rights, especially those which overlap with environmental rights. In 2007 EPL, with support from the USAID Ukraine Rule of Law Project, implemented its court monitoring project "Improving Access to Justice in Environmental Matters". The follow-on project,

"Court Monitoring of Cases on Ecological Rights of People in Lviv and Ternopil Oblast" will be completed in April 2010. <http://epl.org.ua>

European Law Students Association – Ukraine

The European Law Students' Association – Ukraine is an international, independent, non-political, non-profit-making organisation run by and for students. It is comprised of students and recent graduates who are interested in academic and personal excellence. ELSA offers law students a perfect platform to develop their existing skills, acquire new skills and meet fellow students and legal professionals throughout Europe. In 2007, ELSA, with support from the USAID Ukraine Rule of Law Project, successfully implemented the court monitoring program "Court Monitoring by Law Students to Ensure Transparency in Ukrainian Court System" in 14 courts in Odesa, Kharkiv, Kyiv, Donetsk, and Lviv.

<http://www.elsa.org.ua>

Freedom House Ukraine

The International Public Organization Freedom House Ukraine is a non-governmental, non-profit, and non-partisan organization created in 2003 by the initiative of the professional team of implementers of a technical assistance program "Partnership for reforms in Ukraine" that was implemented by one of the most experienced US-based human rights protection organization Freedom House. In 2007, Freedom House Ukraine with support from the USAID Ukraine Rule of Law Project implemented two court monitoring projects "Administrative Courts as the Guarantor of the Balance of Interests of Citizens and the State" in the Kyiv Appellate Administrative Court and Kyiv District Administrative Court. In 2008 – 2009, Freedom House Ukraine measured citizen satisfaction with the quality of court performance using the Citizen Report Card methodology in the same courts.

<http://www.freedomhouse.org.ua>

Institute for Applied Humanitarian Research

The Kharkiv City Public Organization «Institute of Applied Humanitarian Research» (Kharkiv, Ukraine) is a non-profit research institution that in 2007 – 2009, with support from the USAID Ukraine Rule of Law Project, implemented two court monitoring projects: "Public Monitoring of Compliance with Democratic Standards in the Relationship between the Courts and Media", step I and step II. Follow-on project on courts and media was completed in April 2010. In 2008 – 2009, the Institute implemented a Citizen Report Card survey project with the Kharkiv Administrative Appellate Court and Kharkiv District Administrative Court. The new CRC project "Improving Quality of Court Services Through Evaluation of Public Perception" will be completed in April 2010.

Law and Democracy Foundation

The Regional Public Charity Foundation Law and Democracy is a non-profit organization that provides research in different areas including human rights protection, access to jus-

tice, judicial reform, administrative reform, reform of penitentiary system, and people's advocacy. Its activities include court monitoring, legal aid, monitoring of violation of human rights in Lviv region, etc. In 2007 – 2009, with the support of the USAID Ukraine Rule of Law Project, the Law and Democracy Foundation implemented two court monitoring projects "Monitoring Access to Courts" and "Monitoring of Citizens' Access to Court". The follow-on court monitoring project, "Monitoring Citizen Access to Courts and Effectiveness of their Operations in Lviv and Lviv Oblast", will be completed in April 2010.

<http://www.fond.lviv.ua>

Podilsk Human Rights Protection Foundation

Podilsk Human Rights Protection Foundation was created in 2000 to protect the rights and freedoms of citizens, and promote rule of law in Ukraine by providing legal aid, conducting legal research and training, as well as conducting public awareness campaigns to increase citizen knowledge on the judicial system. In 2008 – 2009, Podilsk Foundation with support from the USAID Ukraine Rule of Law Project successfully conducted a court monitoring project with courts of general jurisdiction as well as economic and administrative courts on "Community Monitoring of the Courts' Activities in Khmelnytsky in the Respect of Keeping to International Standards". In 2009 – 2010, Podilsk Foundation conducted pilot project on "Improving Quality of Court Services Through Evaluation of Public Perception" and measured citizen satisfaction with court performance using the Citizen Report Card methodology in two trial courts.

<http://www.ppf.net.ua/>

Pravozakhyst

Sumy City Citizen Union Public Bureau "Pravozakhyst" is independent, non-governmental, non-profit organization created in 2000 to provide legal aid, increase public awareness on judicial system, and promote the rule of law in Ukraine. In 2008 – 2010, the Pravozakhyst, with support from the USAID Ukraine Rule of Law Project, successfully implemented a court monitoring project in nine trial courts in Sumy Oblast "Community Studies in Selected Courts of Sumy Region as a Mechanism of Court Activity Improvement and Increase of Trust of Society in Justice".

Public Alternative

The Kharkiv Regional Foundation Public Alternative is an independent, non-governmental, non-profit organization created to protect children's rights in Ukraine by providing legal research, training, and legal aid. In 2007 – 2009, with support from the USAID Ukraine Rule of Law Project, the Public Alternative implemented two court monitoring projects: "Judicial Protection of Children's Best Interests and Rights to Family Care" and the "Court Friendly to the Child". The follow-on project "Children's Rights in Courts: Monitoring Changes" will be completed in April 2010.

Rivne Committee of Voters of Ukraine

The Rivne Regional Public Organization of the Committee of Voters of Ukraine (Rivne CVU) is non-profit organization with the purpose and mission to assist independent, free, and transparent elections in Ukraine by implementing civil initiatives, observations, research, and training. In 2007, the Rivne CVU with support from the USAID Ukraine Rule of Law Project successfully implemented a pilot court monitoring project "Right to Fair Justice as the Foundation of the Rule of Law" in three courts in Rivne Oblast.

<http://www.cvu.com.ua>

Ukrainian Association for Court Advancement

The Ukrainian Association for Court Advancement was created in December 2009 and currently unites judicial professionals from fifteen regions of Ukraine. The mission of the organization is to promote effective, transparent and professional court administration, and support court improvements.

Your Right

The Charitable Organization Your Right is an independent, non-profit, non-governmental organization created in 2000 to promote the rule of law in Ukraine, provide legal aid, conduct legal research and training, and increase public awareness on legal issues. In 2008 – 2009, Your Right, with support from the USAID Ukraine Rule of Law Project, successfully implemented a pilot project using the Citizen Report Card methodology "Administrative Courts: Monitoring Accessibility and Effectiveness of Lviv Appellate Administrative Court and Ivano-Frankivsk District Administrative Court". The organization continued piloting Citizen Report Card methodology in 2009 – 2010 by conducting the project on "Improving Quality of Court Services Through Evaluation of Public Perception" (Survey of court users regarding the quality of court operations using the Citizen Report Card methodology in Donetsk. <http://www.tvoe-pravo.org.ua>

ATTACHMENT D: USEFUL LINKS TO UKRAINIAN AND INTERNATIONAL JUDICIAL INSTITUTIONS

Ukrainian Judiciary

www.court.gov.ua

Information about court practice, court statistics, international activity and the activity of the High Qualifications Commission of Judges and the Council of Judges of Ukraine.

Unified Registry of Court Decisions

www.reyestr.court.gov.ua

According to the Law "On the Access to Court Decisions" of December 22, 2005 and the Resolution of the Cabinet of Ministers of Ukraine of May 25, 2006, access to court decisions is ensured by publicizing court decisions on this official web-page of the judicial branch of power of Ukraine. All citizens have the right to access to court decisions in order to ensure openness of courts and to promote unified court practice.

Supreme Court of Ukraine

www.scourt.gov.ua

Information about the activity of the Supreme Court of Ukraine, a list of pending cases, legislation on the court system, publications in media, etc.

Constitutional Court of Ukraine

www.ccu.gov.ua

Information on the history and current activity of the Constitutional Court of Ukraine, information for citizens, standing orders and acts of the Constitutional Court of Ukraine.

High Administrative Court of Ukraine

www.vasu.gov.ua

You can find information about the activity of the High Administrative Court of Ukraine, the administrative court system, and a database of HACU decisions.

High Economic Court of Ukraine

www.arbitr.gov.ua

On this web page, you can find peculiarities of local, appeal and High Economic Court's functioning, court's practice, information on the pending cases in all economic courts.

High Council of Justice of Ukraine**www.vru.gov.ua**

The High Council of Justice of Ukraine is a constitutional authority, with the mandate to form a highly professional judiciary that is capable to administer justice impartially. The web page of the High Council of Justice contains information for citizens about the staff, structure, legislation, contacts.

State Judicial Administration of Ukraine**www.gca.court.gov.ua**

Information about the status and objectives of SJA activities, the organizational maintenance of courts, about the collaboration of SJA with mass-media, etc.

Academy of Judges of Ukraine**www.aj.court.gov.ua**

The Academy of Judges of Ukraine functions under the State Judicial Administration as a state specialized educational establishment, aimed to build and maintain the skills of the Ukrainian judiciary. It is possible to find information about educational process, events, international activities, etc.

Office of the Council of Europe in Ukraine**www.coe.kiev.ua**

Basic information about the Council of Europe, its documents and decisions of the European Court of Human Rights, as well as materials of the informational bureau of the Council of Europe in Ukraine.

European Court of Human Rights (*in English and French*)**www.echr.coe.int**

The European Court of Human Rights is the organization created to control the observance of human rights and fundamental freedoms, stipulated in the European Convention on Human Rights. The court is the supranational authority. In order to apply to the Court it is necessary to exhaust all national means of protection. The web-site contains information about the Court, decisions, press releases, etc.

ABOUT THE USAID UKRAINE RULE OF LAW PROJECT

THE UKRAINE RULE OF LAW PROJECT is a project of the United States Agency for International Development (USAID).

The goal of the Project is to strengthen the rule of law in Ukraine through:

- supporting the judicial reform process
- increasing the transparency and accountability of the judiciary
- promoting public awareness of the judicial system
- increasing the public trust in the judiciary

The Project is implemented in two phases:

- Phase I: May 2006 – October 2007
- Phase II: October 2007 – September 2011

PROJECT PARTNERS:

- Verkhovna Rada (Parliament) of Ukraine
- Supreme Court of Ukraine
- Ministry of Justice of Ukraine
- High Council of Justice of Ukraine
- Council of Judges of Ukraine
- High Qualifications Commission of Judges of Ukraine
- High Administrative Court of Ukraine
- State Judicial Administration of Ukraine
- Academy of Judges of Ukraine

The Project also cooperates closely with civil society organizations, educational institutions, media, and the international donor community.

PROJECT COMPONENTS:**1: LEGAL FRAMEWORK FOR THE JUDICIARY**

- Provide assistance in building consensus for legal and regulatory reform related to the judiciary.
- Support legal drafting initiatives concerning laws, regulations, and codes of conduct.
- Provide expert analysis of draft laws and regulations to ensure compliance with international and European standards.

2: COURT ADMINISTRATION AND CASE MANAGEMENT

- Implement and test an automated random case assignment system in selected pilot courts as part of a national strategy for automating the courts.
- Support development of standardized administrative policies, procedures, and forms for courts and court personnel.
- Provide technical assistance, training and equipment to the judiciary to improve access to court decisions.
- Conduct public awareness campaign on how to access and use the national database of court decisions.

3: JUDICIAL SELECTION, ETHICS, AND DISCIPLINE

- Support competitive and merit-based judicial selection and appointments.
- Assist in designing, developing, and implementing a transparent testing mechanism for prospective candidates for judicial office.
- Support enhancement of judicial capacity to monitor and enforce judicial ethics through training and organizational support.
- Strengthen judicial discipline procedures by improving administrative processes related to filing and adjudicating complaints of judicial misconduct.

4: JUDICIAL TRAINING

- Design, develop, and implement training curricula for judges and court personnel, including courses on judicial opinion writing, administrative law, judicial ethics, human rights law, and relations between courts and media.
- Publish resource materials for judges and court personnel, such as legal manuals and benchbooks for judges.

5: COURTS AND SOCIETY

- Enhance capacity of civil society organizations to promote greater judicial transparency and accountability through the design, implementation, and evaluation of court monitoring programs.
- Conduct advocacy campaigns to promote awareness of the public's right to effective administration of justice and access to courts.

6: COURTS AND MEDIA

- Conduct surveys of judges, journalists, and the general public on justice-related issues and disseminate the survey results.
- Organize training programs for journalists on judicial structure, policies, procedures, and guidelines on covering courts.
- Assist in establishing a press secretary position in courts and provide training on media relations.
- Implement public events and design materials to support greater understanding of the judiciary and judicial reform.

For more information about the USAID Ukraine Rule of Law Project's Courts and Civil Society program, please call +38 (044) 581 3303 or visit the Project's website at www.ukrainerol.org.ua.

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David VAUGHN is an attorney with more than 10 years of experience in designing, implementing, and evaluating legal and judicial reform projects throughout Europe and Eurasia, Africa, and Latin America. He acted as Rule of Law Advisor for the American Bar Association's Central Europe and Eurasian Law Initiative (ABA/CEELI) in Kazakhstan, helping to establish a legislative drafting office, a regional bar association, and a judicial advocacy organization. Mr. Vaughn also served as Deputy Chief of Party for the USAID Russian-American Judicial Partnership in Moscow, Russia, where he led judicial education and court administration programs. As a Director at Chemonics International in Washington, DC, he supervised and provided technical guidance to rule of law and commercial law reform projects in Albania, Armenia, Bosnia, Georgia, Kazakhstan, Kyrgyzstan, Macedonia, Morocco, Nicaragua, Russia, and Zambia. Mr. Vaughn also served as Chief of Party for the USAID Women's Legal Rights Initiative, a worldwide project implemented by Chemonics International that focused on legal drafting, justice sector enforcement, civil society advocacy, and public awareness with activities in Albania, Benin, Guatemala, Madagascar, Rwanda, and regional programs in southern Africa that included Lesotho, Mozambique, South Africa, and Swaziland. He currently serves as Chief of Party for the USAID Ukraine Rule of Law Project. Mr. Vaughn holds a J.D. from the American University Washington College of Law, as well as a M.A. in political science and B.A. in Russian from the University of Vermont.

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