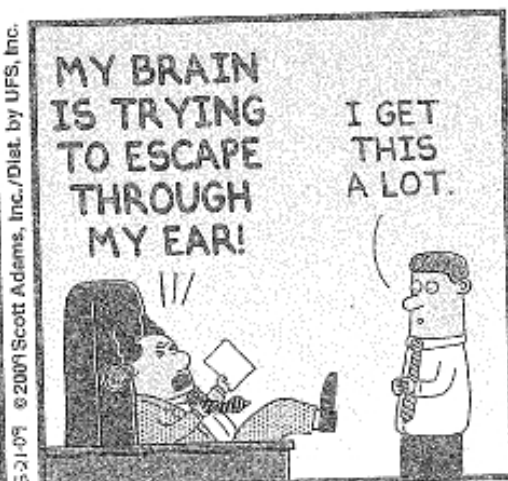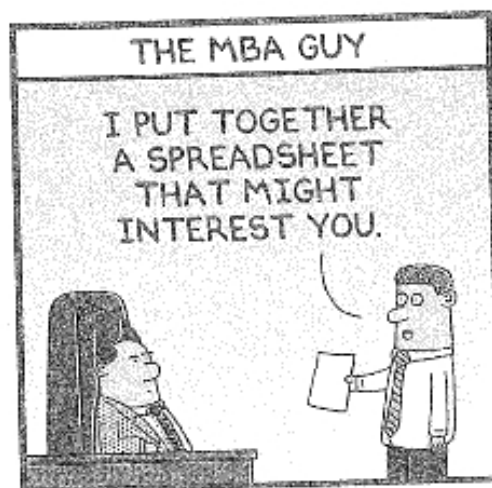# North Carolina Systems Evaluation Project (SEP)

Measuring Indigent Defense System Performance

Margaret A. Gressens
Research Director
North Carolina Office of Indigent Defense Services

August 2018

THE MBA GUY

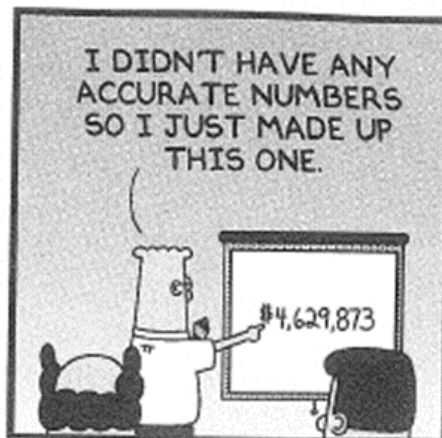I PUT TOGETHER A SPREADSHEET THAT MIGHT INTEREST YOU.

OW! OW! IT'S SO BORING, IT HURTS MY HEAD!

MY BRAIN IS TRYING TO ESCAPE THROUGH MY EAR!

I GET THIS A LOT.

Victoria Day (Canada)

MONDAY

MAY 21

DILBERT by SCOTT ADAMS
dilbert.com
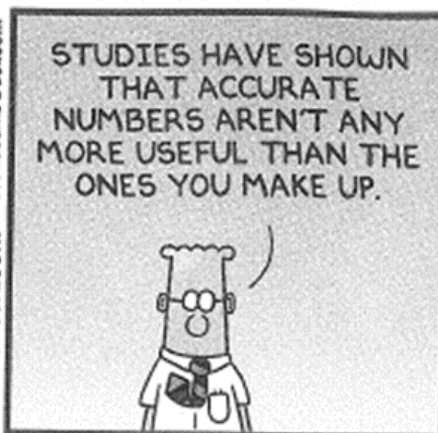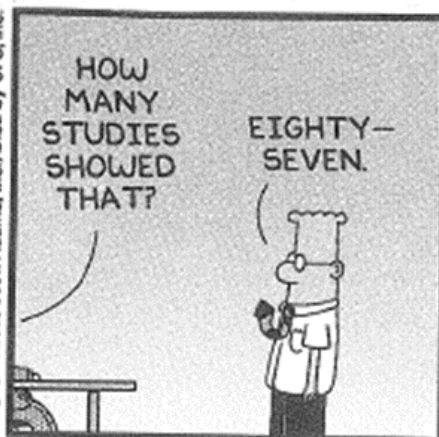
TUESDAY
MAY 10

Systems Evaluation Project (SEP)

An innovative project to measure indigent defense system performance

Evidence-Based Evaluation

Widely Used Methodology

*Using "metrics" or "indicators"
to evaluate system performance*

Sports Indicators of Performance

Category: Offensive   Conference: NBA   Period: Season-to-date   Update

Team Offensive Statistics for 2011-2012

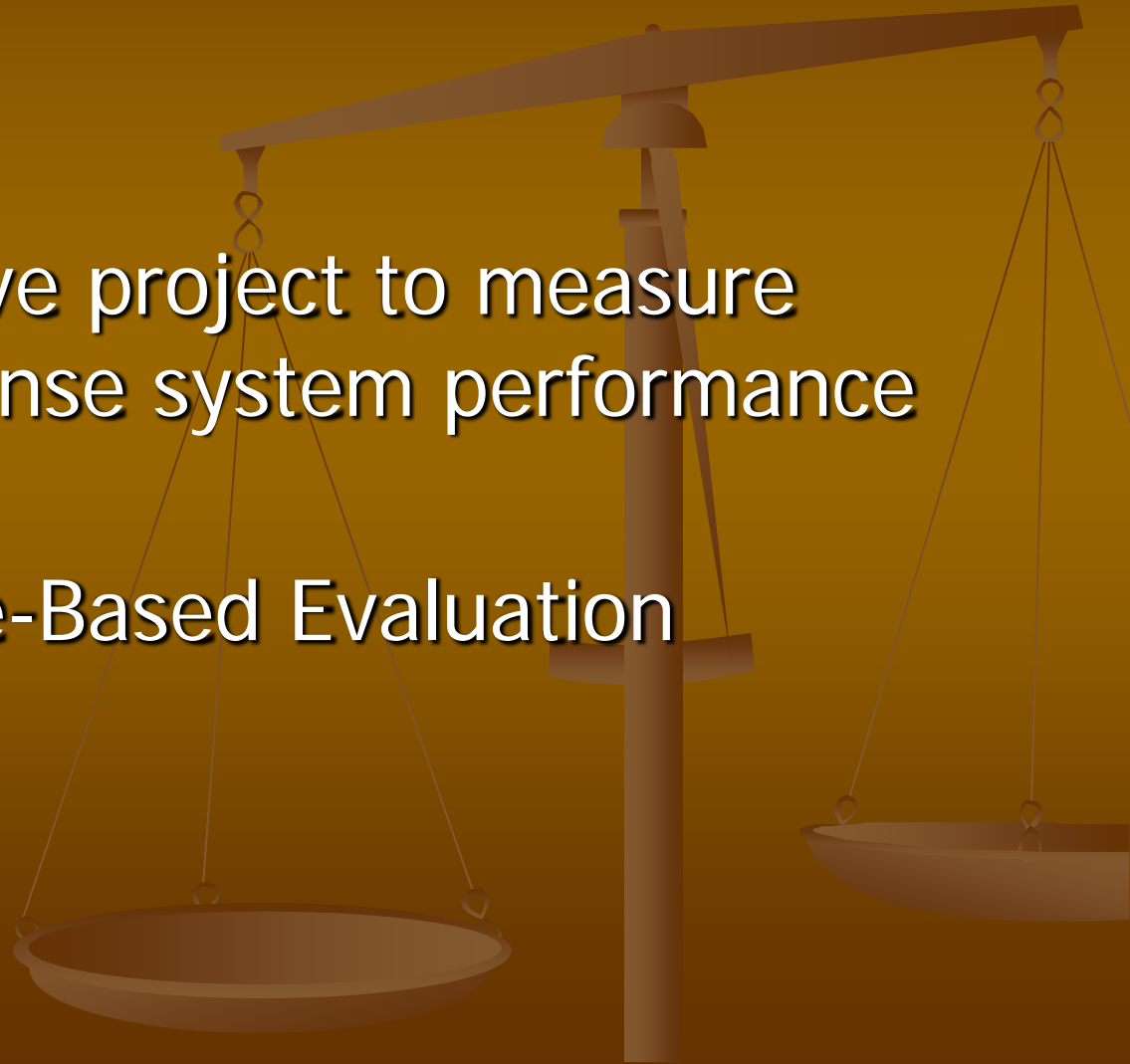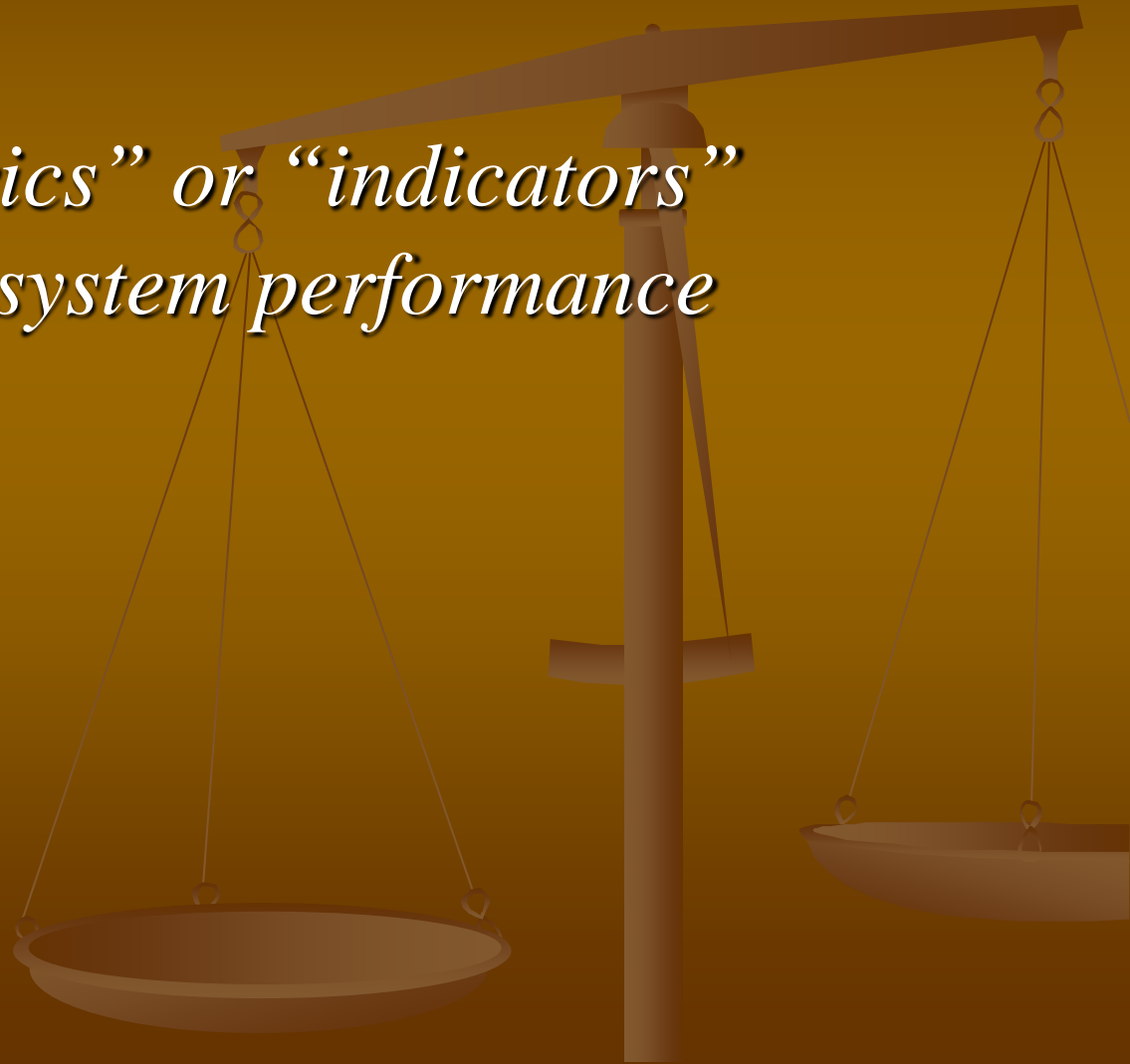|	TEAM	GAMES	PPG HME	PPG OPP	PPG DIFF	FG% HME	FG% OPP	3PT% HME	3PT% OPP	FT% HME	FT% OPP	APG HME	APG OPP	APG DIFF
1	Denver	21	105.38	99.19	+6.19	0.481	0.449	0.338	0.364	0.744	0.752	24.05	21.91	+2.14
2	Miami	21	104.05	96.19	+7.86	0.486	0.433	0.382	0.363	0.764	0.732	21.38	20.19	+1.19
3	Oklahoma City	20	100.35	95.05	+5.30	0.473	0.425	0.356	0.311	0.802	0.778	18.40	19.55	-1.15
4	Houston	21	98.67	96.95	+1.72	0.450	0.450	0.327	0.304	0.794	0.758	21.00	19.48	+1.52
5	L.A. Clippers	18	98.56	96.56	+2.00	0.459	0.444	0.371	0.377	0.660	0.760	21.78	20.44	+1.34
6	San Antonio	22	97.86	94.55	+3.31	0.460	0.456	0.386	0.339	0.715	0.750	23.18	18.55	+4.63
7	Atlanta	22	97.59	90.59	+7.00	0.456	0.425	0.404	0.335	0.732	0.776	22.36	21.50	+0.86
8	Philadelphia	21	97.48	86.10	+11.38	0.465	0.414	0.383	0.289	0.723	0.717	22.24	18.00	+4.24
9	Portland	21	96.95	92.43	+4.52	0.436	0.435	0.308	0.311	0.782	0.732	21.43	19.62	+1.81
10	Chicago	23	96.87	87.44	+9.43	0.459	0.426	0.362	0.354	0.734	0.717	22.26	19.04	+3.22
11	Utah	19	96.79	95.58	+1.21	0.450	0.448	0.294	0.331	0.738	0.757	20.21	19.79	+0.42
12	Minnesota	21	96.57	94.81	+1.76	0.434	0.442	0.340	0.339	0.756	0.745	18.05	19.86	-1.81
13	Golden State	19	96.16	99.21	-3.05	0.457	0.449	0.369	0.365	0.722	0.724	22.74	22.05	+0.69
14	Dallas	22	94.73	90.64	+4.09	0.442	0.421	0.321	0.362	0.731	0.752	21.32	18.23	+3.09
15	New York	21	94.62	95.14	-0.52	0.421	0.449	0.314	0.387	0.781	0.724	18.86	19.76	-0.90
16	Milwaukee	20	94.25	94.55	-0.30	0.434	0.440	0.324	0.321	0.789	0.753	21.65	20.55	+1.10
17	Indiana	20	93.75	90.80	+2.95	0.427	0.420	0.375	0.347	0.798	0.705	17.95	18.85	-0.90
18	Cleveland	20	93.60	96.85	-3.25	0.434	0.465	0.363	0.347	0.694	0.754	19.85	22.75	-2.90
19	L.A. Lakers	22	93.59	90.64	+2.95	0.457	0.414	0.294	0.325	0.746	0.719	21.91	19.82	+2.09
20	Memphis	21	93.57	92.29	+1.28	0.445	0.433	0.323	0.346	0.744	0.745	18.86	18.95	-0.09
21	New Jersey	22	91.86	98.96	-7.10	0.420	0.490	0.358	0.408	0.772	0.689	19.86	23.41	-3.55
22	Phoenix	20	91.60	96.40	-4.80	0.439	0.446	0.344	0.350	0.773	0.742	20.85	22.60	-1.75
23	Orlando	21	91.24	90.81	+0.43	0.434	0.442	0.386	0.327	0.631	0.763	19.62	20.10	-0.48
24	Sacramento	21	90.57	101.86	-11.29	0.400	0.473	0.285	0.310	0.731	0.744	15.95	23.24	-7.29
25	Boston	20	89.80	88.00	+1.80	0.457	0.422	0.415	0.293	0.754	0.790	21.70	16.30	+5.40
26	Washington	21	88.81	98.24	-9.43	0.419	0.456	0.289	0.360	0.727	0.726	17.52	22.71	-5.19
27	Charlotte	22	88.14	100.82	-12.68	0.422	0.469	0.303	0.364	0.730	0.742	19.82	22.77	-2.95
28	New Orleans	21	87.43	92.10	-4.67	0.439	0.446	0.277	0.330	0.738	0.779	18.81	20.05	-1.24
29	Toronto	22	87.00	93.18	-6.18	0.421	0.423	0.322	0.333	0.771	0.744	20.09	18.77	+1.32
30	Detroit	23	85.65	96.83	-11.18	0.420	0.486	0.353	0.387	0.779	0.792	18.17	22.87	-4.70

*FG%: Field Goal Percentage *3PT%: Three-Point FG Percentage *FT%: Free Throw Percentage
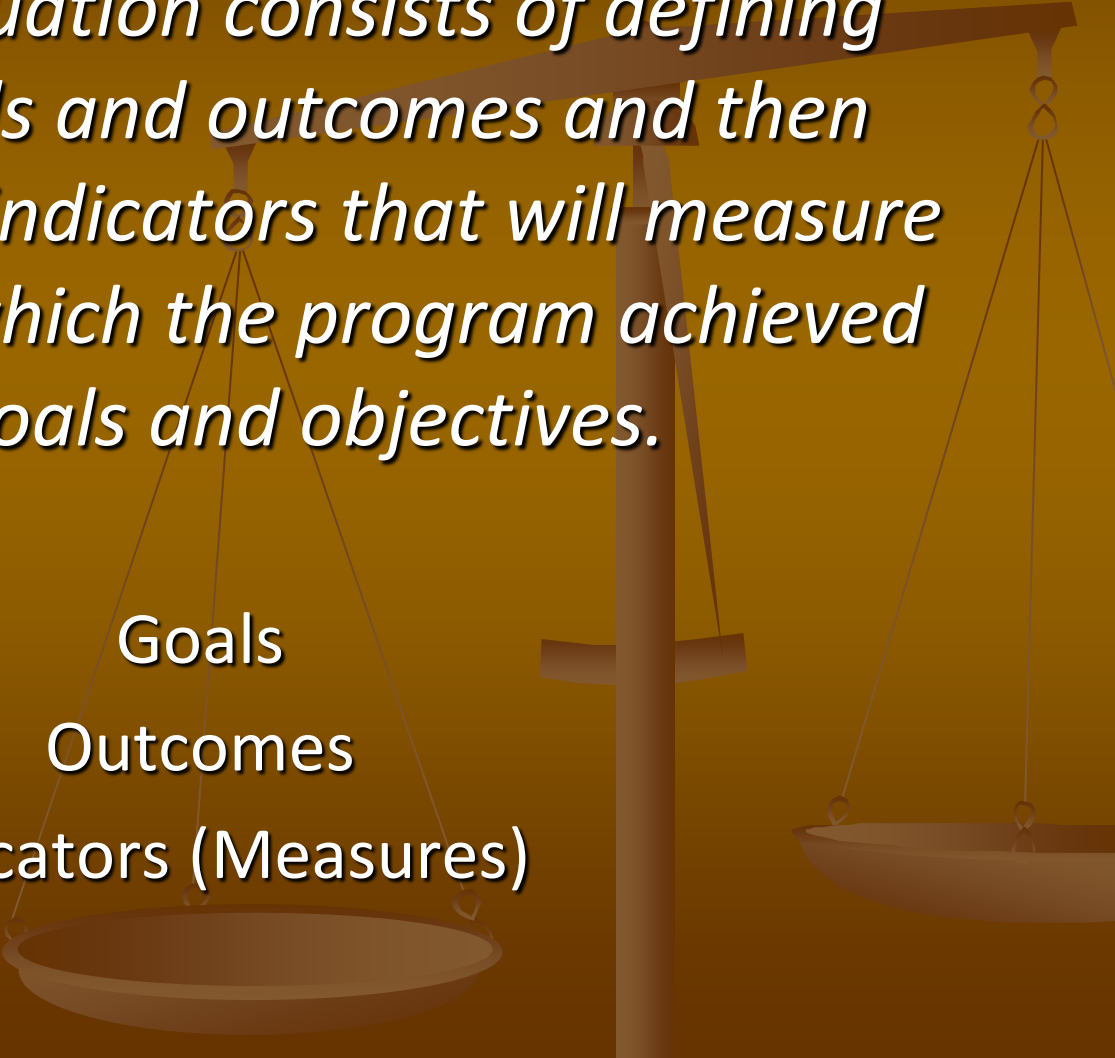*PPG: Points Per Game *APG: Assists Per Game

U.S. Economic Indicators

Even Very Complex Systems Can Be Measured
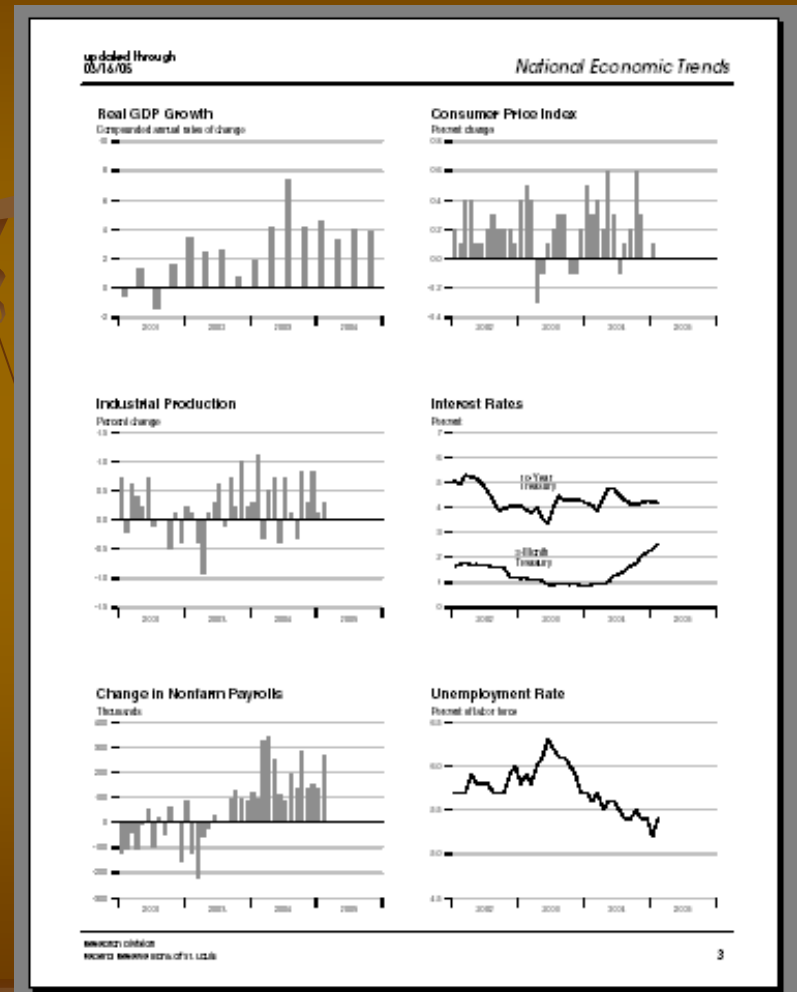
Program Evaluation: The Basics

Program evaluation consists of defining program goals and outcomes and then identifying the indicators that will measure the extent to which the program achieved those goals and objectives.

Goals

Outcomes

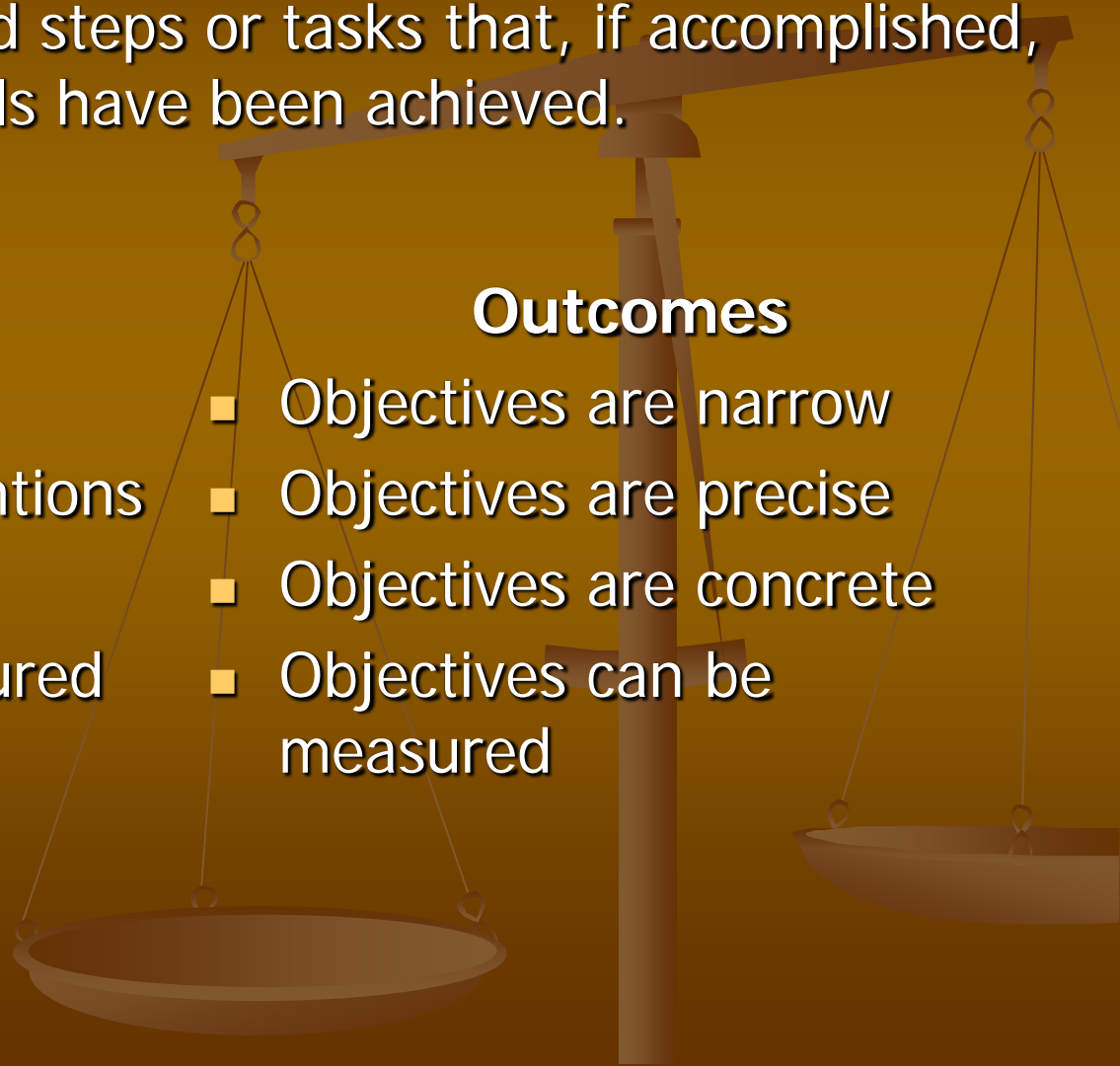Indicators (Measures)

Goals vs. Outcomes

Objectives: Clearly defined steps or tasks that, if accomplished, mean the goals have been achieved.

Goals

- Goals are broad
- Goals are general intentions
- Goals are abstract
- Goals cannot be measured as is

Outcomes

- Objectives are narrow
- Objectives are precise
- Objectives are concrete
- Objectives can be measured

Performance Measures/Indicators

- Statistical measures that quantify how well you have achieved your objectives

  Key Performance Indicators (KPIs)
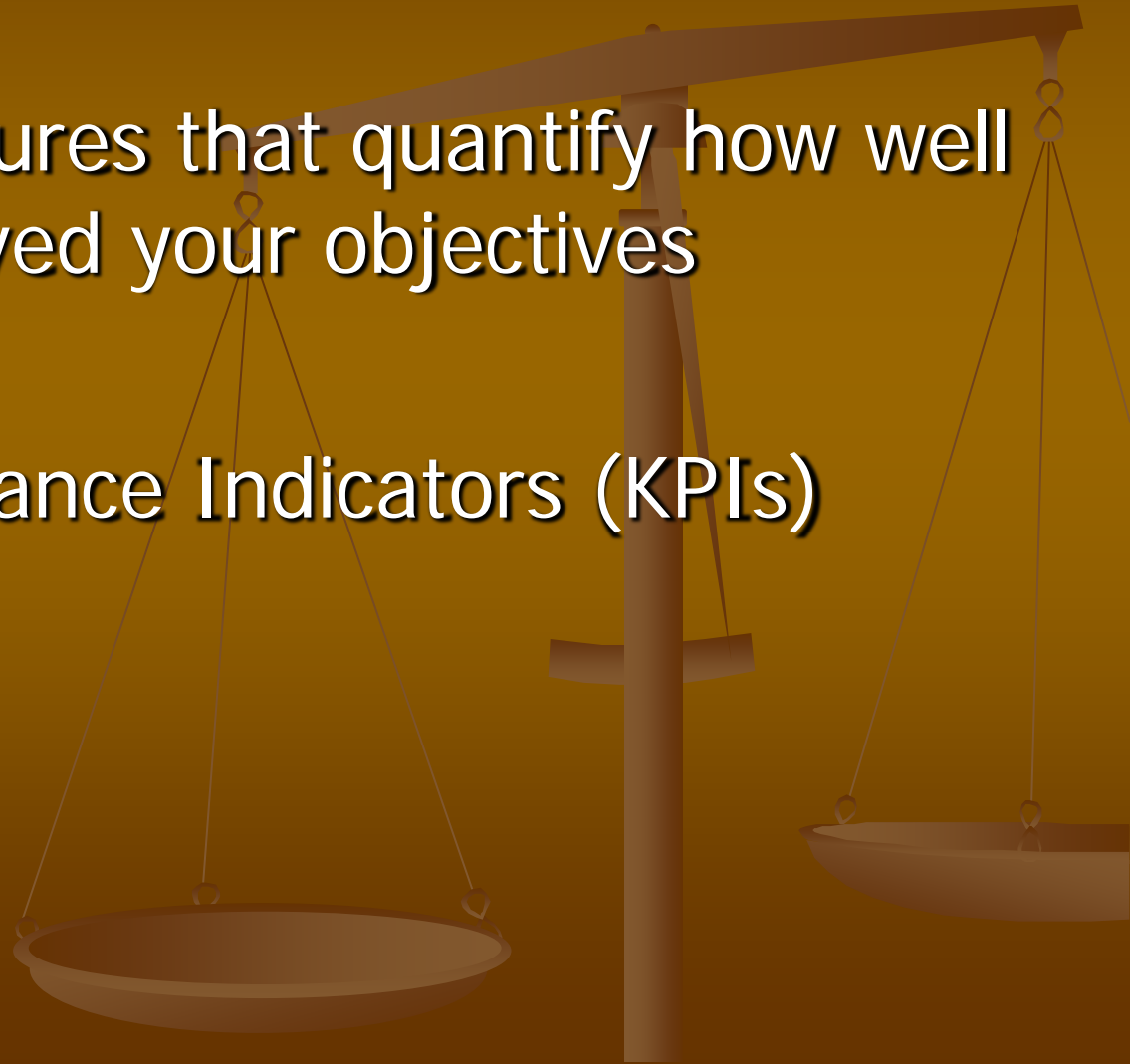
The Best Evaluations Measure Outcomes Not Inputs

- Inputs: people, resources, raw materials, and money, that go into a system to produce desired results.

- Outcome: The desired results.
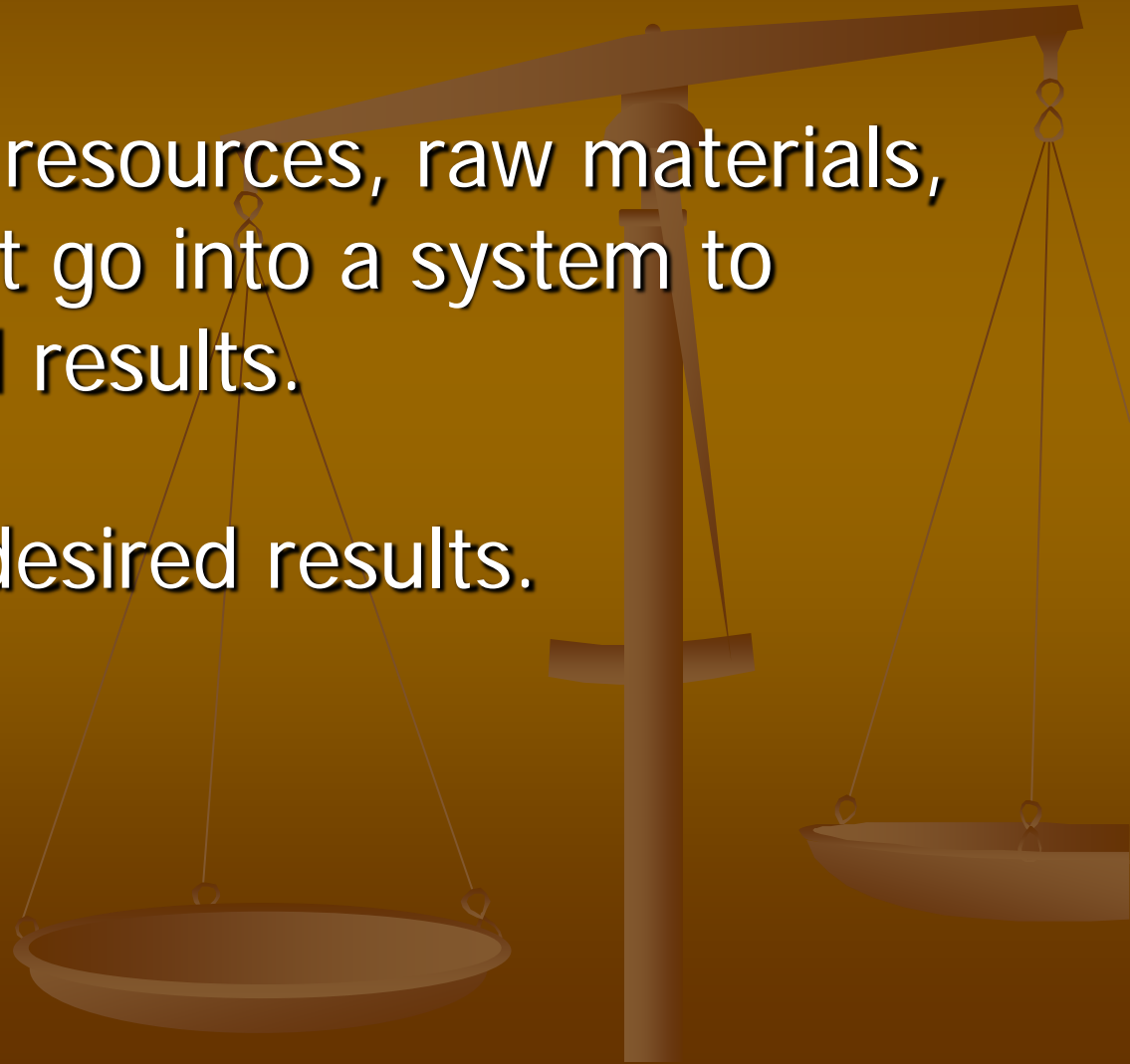
Evaluating a Garden
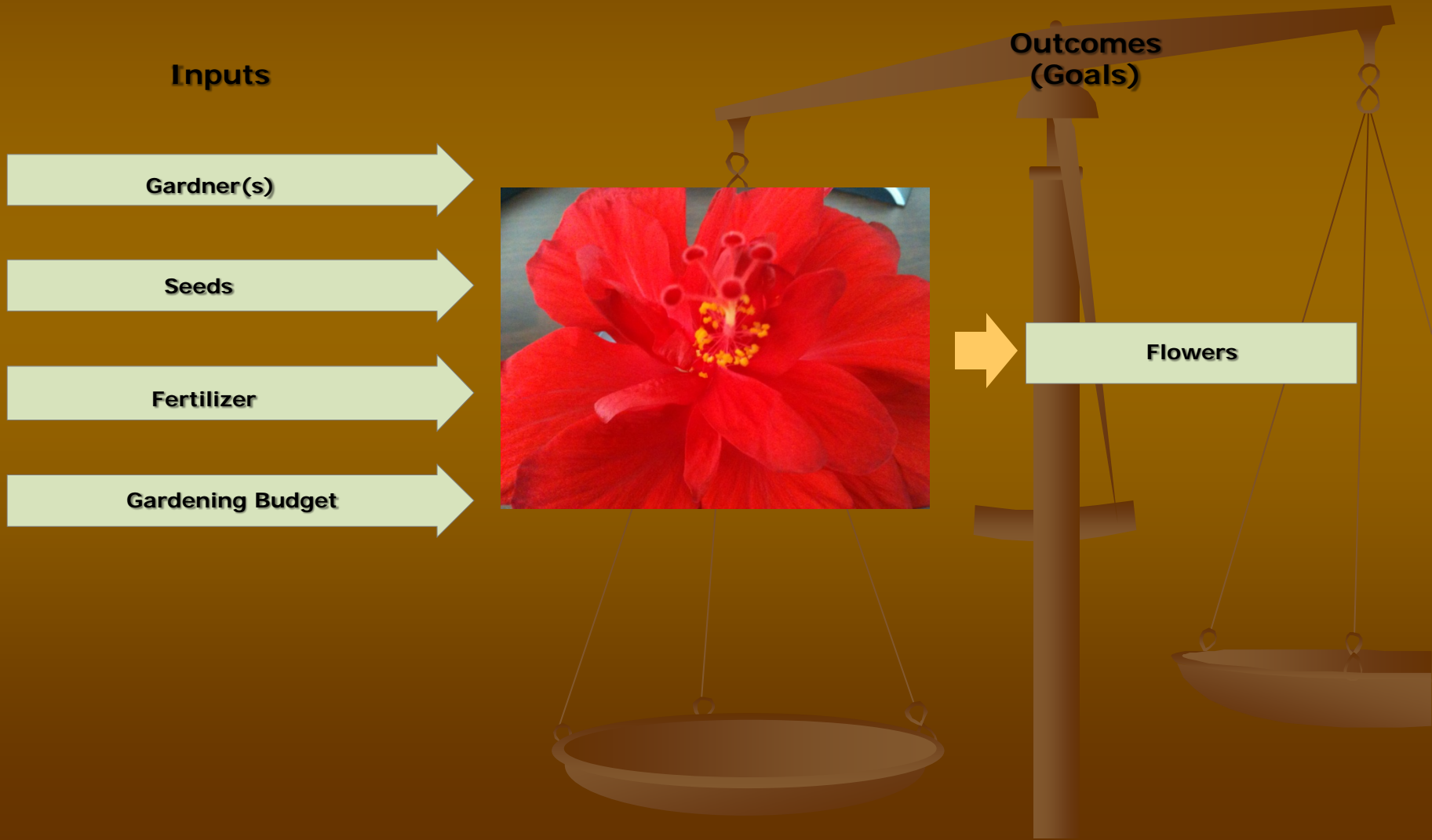
What This Is Not

Sounds great but how can you possibly evaluate whether I did a great job defending my client

- System evaluation is not about evaluating whether the outcome of a specific case was good or bad

- System performance is about measuring how well the *system* is working to help our clients
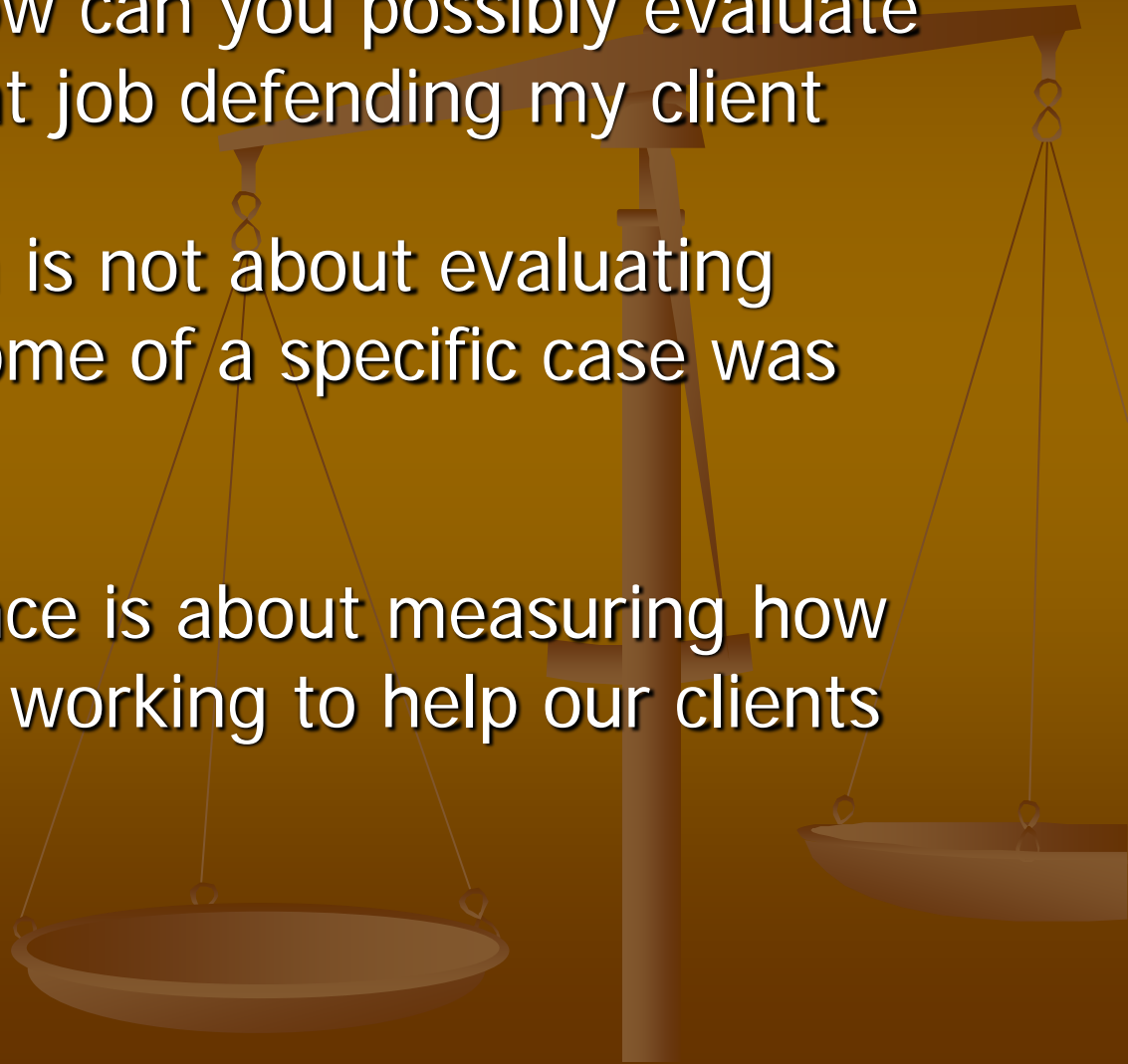
Evaluating Service Industries Difficult—But Done

Health Care

- Patients come to doctors sick
- There are a lot of factors outside the control of the doctor
- Doctors often have to deliver bad news
- Patient outcomes are often negative
- Patients are not in the best position to evaluate medical performance

Indigent Defense

- Defendants arrive in trouble
- There are a lot of factors outside the control of the attorney
- Attorneys often have to deliver bad news
- Defendant outcomes are often negative
- Defendants are not in the best position to evaluate legal performance

Evaluating Health Care in the Aggregate

Looking at a Patient Case

- Whether individual patient dies of cancer does not tell you much

- Doctors and staff may be doing everything possible and patient still dies

- There may have been nothing anyone anywhere could have done that would have prevented client from dying

- The results of an individual case do not tell a doctor which treatment strategies are the most effective

Looking at the Patient Aggregate

- Hospital A has 40% patient survival rate for cancer, Hospital B 20%

- Information tells you something about the <u>system</u> – not the doctor

- The next step is to figure out why Hospital B's rate is lower, such as lack of equipment, poorer community, hospital procedures, etc.

- Doctors rely on outcome studies to identify effective treatment strategies
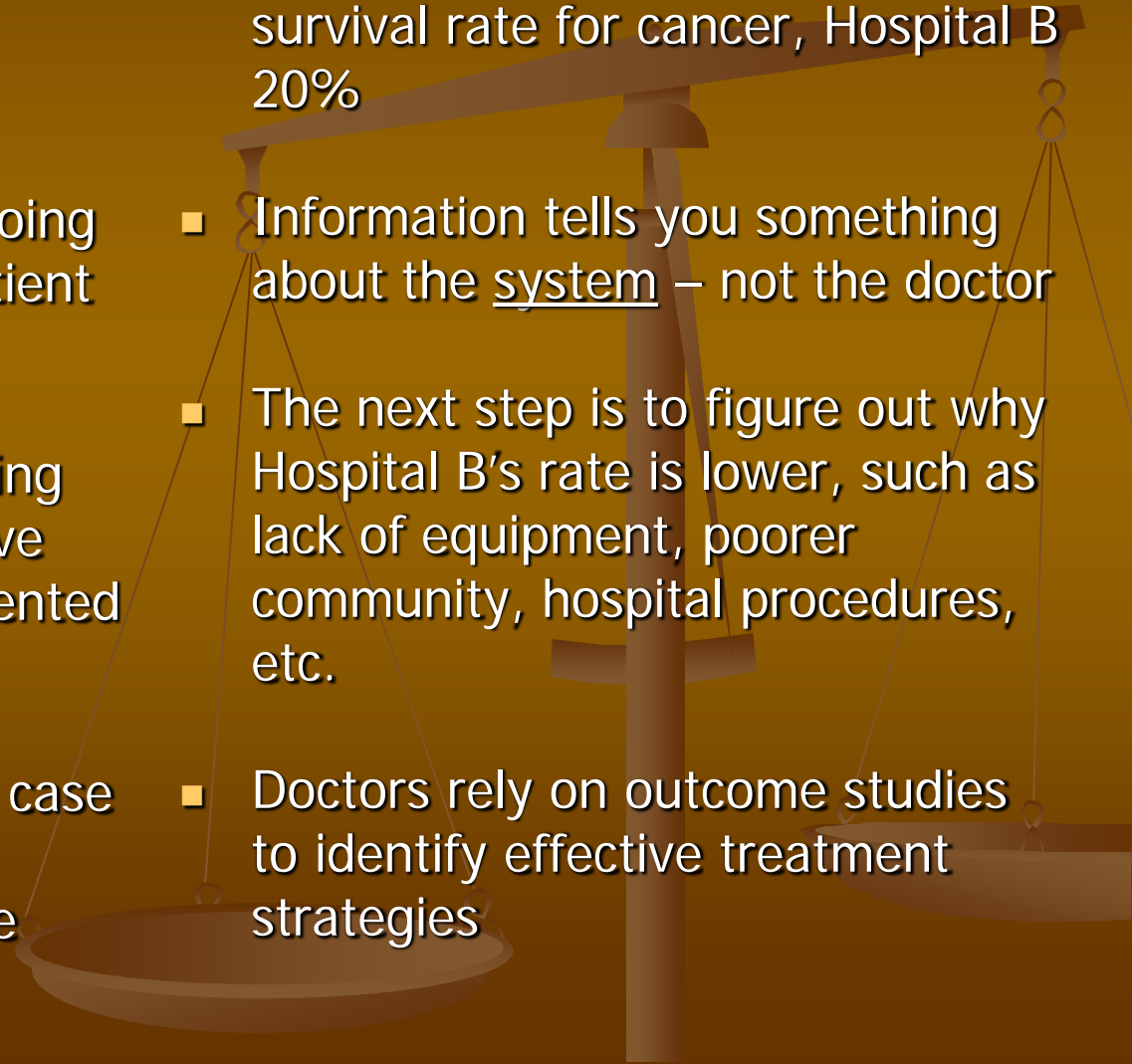
KPIs

- Trend data to see if you were improving over time

- Before and after data to see if your system actually got better after a new policy was initiated

- Data to compare different areas of the state: find best practices, areas that need resources/help
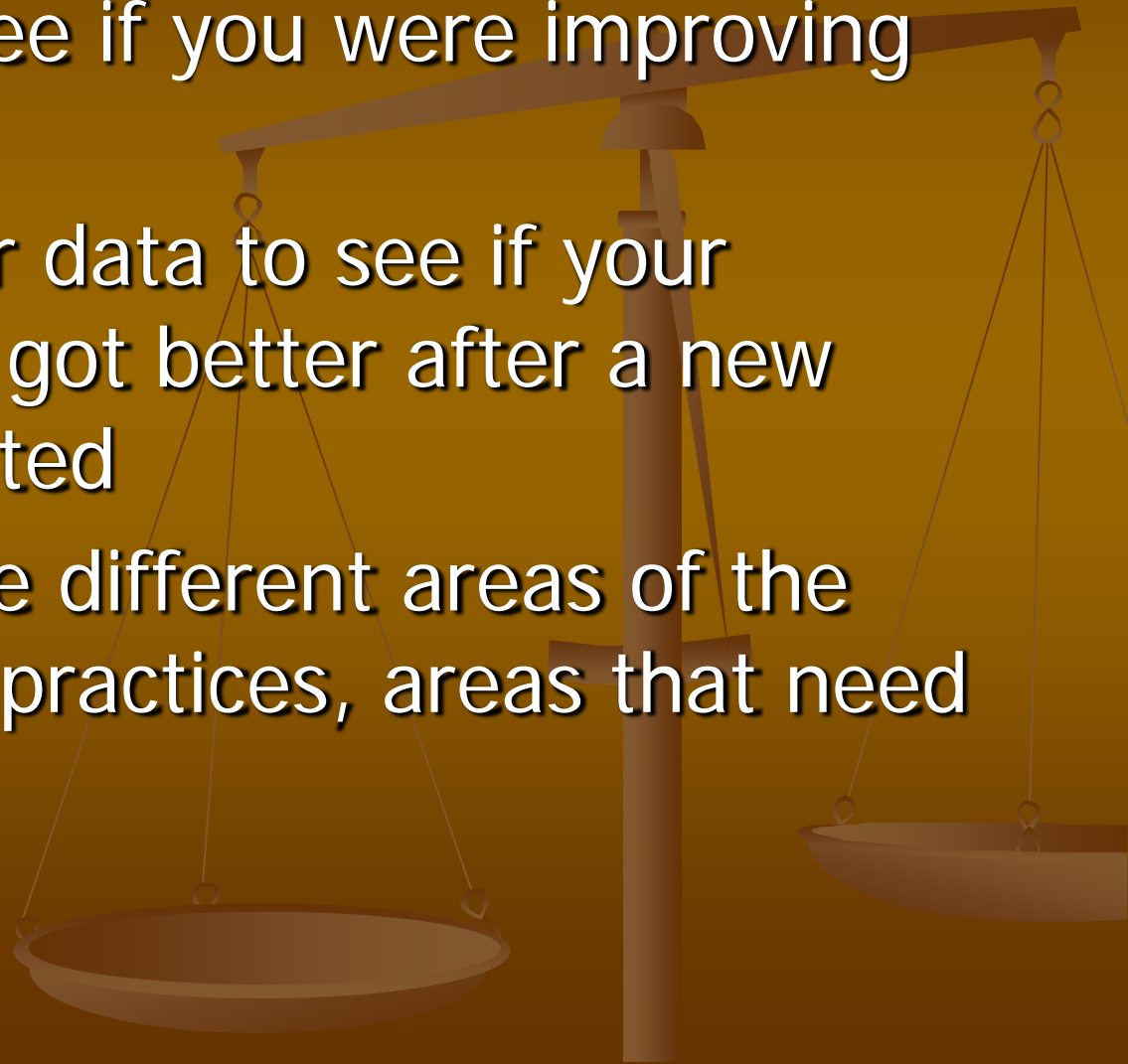
SEP System Performance Measures Guide Identifying Goals, Outcomes, and Indicators

- Identified 11 goals of a high quality indigent defense system

- Broke down the goals into 33 outcomes that can be quantified and measured

- Identified the indicators or data to be collected to quantify performance
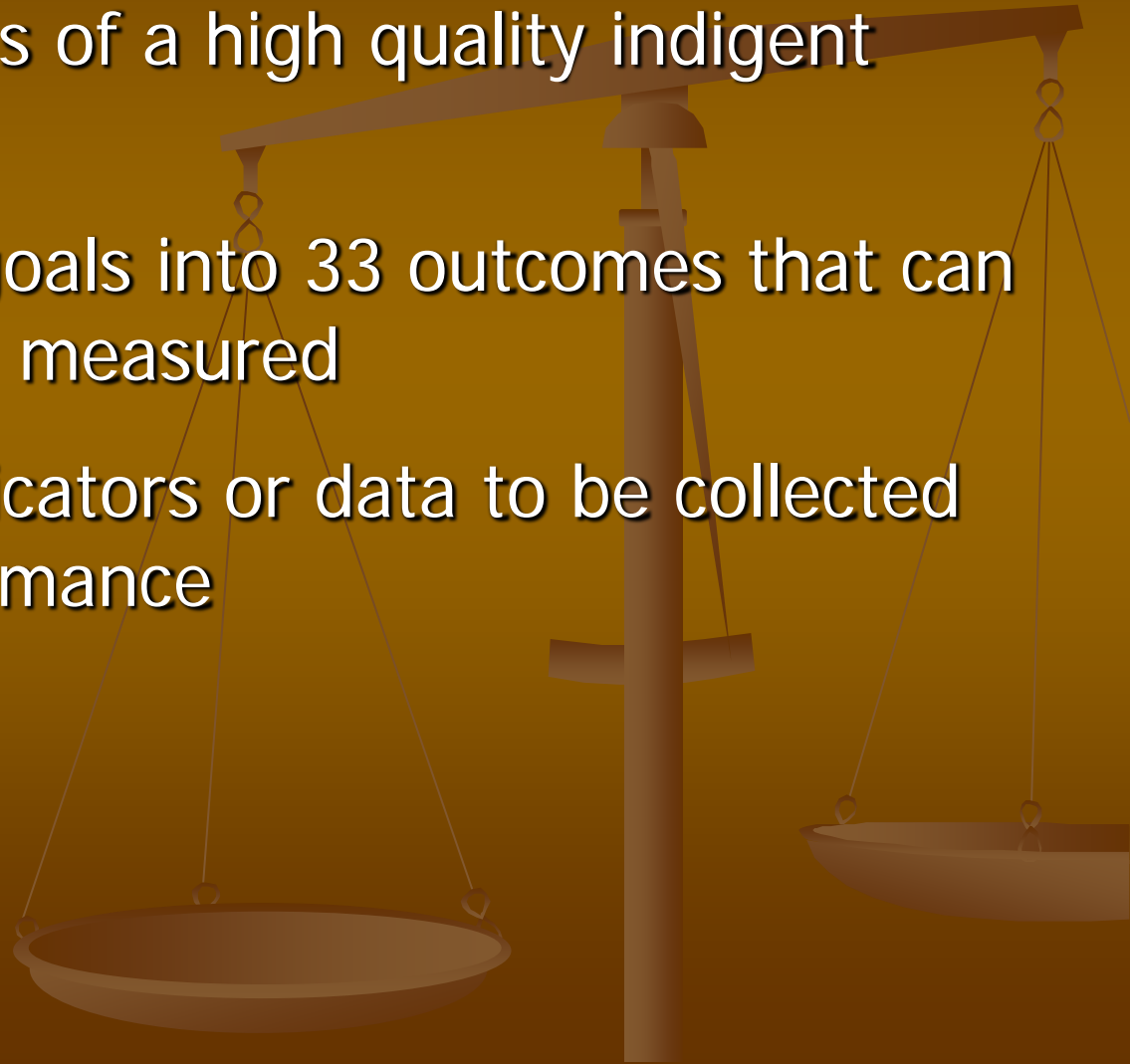
SEP Performance Measures Guide

www.ncids.org/ Reports & Products/Systems Evaluation Project/Performance Measures

SEP in Action

2012 SEP Grant Project

Work with 4 states and actually do it:

Develop national Key Performance Indicators (KPIs)

2012 SEP Grant Project

* Connecticut Division of Public Defender Services, CT (statewide agency)

* Knox County Public Defender's Community Law Office, TN (county PD Office)

* NC Office of Indigent Defense Services (statewide agency)

* Travis County Court Administration, TX (county oversight agency)

* *Project Partner*: National Legal Aid & Defender Association (NLADA)

Developed KPIs

**Client Case Outcomes:
The Bottom-Line in Performance**

Using the Data to Assess System Performance: KPIs

* Quantify how often best client outcomes happen
* Quantify how often worst client outcomes happen

Best Client Outcomes ⬆
Worst Client Outcomes ⬇

= System Performing Better

Evaluating System Improvements, Impact of Policy Changes, Success of Training Programs, Benefits of Innovative Programs

Best Case Outcomes

Best Outcomes

* The client walks away without a conviction

* If client is convicted they receive an alternative to incarceration and avoid jail or prison sentence

* If client is convicted, if they faced a felony charge the conviction was reduced to a non-felony

* If convicted, received the shortest sentence possible

Worst Outcomes

* Client convicted of highest charge

* The alternative to incarceration was supervised probation

* The defendant's conviction was time served

Both Best and Worst

* The cost of the case

* How much did the client have to pay in court fees and fines

KPIs Operationalized

Area	Outcome	Key Performance Indictor (KPI)
Client Case Outcomes	Best	I. The % of cases that ended in non-conviction, disaggregated by dismissal without leave, non-criminal responsible, and deferred prosecution
	Best	II. The % of convictions that ended in an alternative to incarceration**
	Best	III. The % of felony cases that ended in a conviction where the conviction was a non-felony*
	Best	IV. The average % of sentence avoided for cases that ended in a conviction and the average jail or prison sentence received (months)*
	Worst	V. The % of cases defendant is convicted of the highest charge and all charges and convicted of the highest charge and some, but not all, charges*
	Worst	VI. The % of alternative to incarceration *convictions* that ended in supervised probation**
	Worst	VII. The % of convictions and jail sentences that were time served*
	Both	VIII. Average case cost (per-case attorney fees only)
	Both	IX. Average cost of court fees and fines (excludes restitution, attorney fees)

Convictions include: Flat Time/Straight Sentence, Split Sentence, Time Served, Non-Custodial Sentence, Financial and/or Civil Penalties Only, and Adjudication/Judgment Withheld.

**Alternative to incarceration convictions include: Non-Custodial Sentence, Financial and/or Civil Penalties Only, and Adjudication/Judgment Withheld.*

Standardized Uniform Coding of All Key Variables

* Definition of a case
* Type, Class, Category of Case
* Disposition (Determination of Guilt)
* Judgment (Sentence)
* Sentence length

* Attorney Type
* Case Length
* Method of Disposition
* Case Cost
* Court Fees and Fines

Developed Universal Coding Schemas for Variables

- Standardized protocols and data definitions

- Comparable data

- Developed common language so terminology would be instantly transparent

Coding Protocols for *DeterminationofGuilt* Variable for the Case Outcomes Study

Dispositions from All Pilot Sites	Determination of Guilt Categories
Family Violence (CT)	Deferred Prosecution
Mental Commitment (54-56d) (CT)	Deferred Prosecution
Other Diversionary (CT)	Deferred Prosecution
Dismissal – Failure to Prosecute (TX, TN)	Dismissal With Leave/Inactive
Dismissal with Leave (NC)	Dismissal With Leave/Inactive
Retired/Unapprehended Defendant (TX)	Dismissal With Leave/Inactive
Rearrest (CT)	Dismissal With Leave/Inactive
Incompetent to Stand Trial (TX)	Dismissal With Leave/Inactive
Mistrial Requiring Retrial (CT, TX)	Dismissal With Leave/Inactive
No Billed (TX)	Dismissal With Leave/Inactive
No True Bill (NC)	Dismissal With Leave/Inactive
No Probable Cause (NC)	Dismissal With Leave/Inactive
Nolle Prosequi (CT, TN)	Dismissal With Leave/Inactive
Rearrest - terminated representation (CT)	Dismissal With Leave/Inactive
Acquittal (TN, TX, CT)	Dismissal Without Leave
Acquittal – Jury Trial (TN, TX)	Dismissal Without Leave
Not Guilty (NC, CT)	Dismissal Without Leave
Not Guilty By Reason of Insanity (CT, TN, TX)	Dismissal Without Leave
Not Responsible (NC)	Dismissal Without Leave
Dismissed by DA - Speedy Trial (NC)	Dismissal Without Leave
Dismissal w/o Leave (NC)	Dismissal Without Leave
Dismissed All Charges on Docket (CT)	Dismissal Without Leave
Dismissed by the Court (NC)	Dismissal Without Leave
Dismissal (TN, TX)	Dismissal Without Leave
Want of Prosecution (TX)	Dismissal Without Leave
Responsible to Lesser (NC)	Dismissal Without Leave
Responsible (NC)	Dismissal Without Leave
Other (TN, TX)	Unknown
Unknown (NC, TN, TX)	Unknown
Fight Extradition (NC)	Unknown
Waive Extradition (NC)	Unknown
Pending (NC)	Pending

DeterGuiltCat / Sample Tables

Coding Class and Categories

Based on Uniform Crime Reporting (UCR), National Incident-Based Reporting System (NIBRS)

Federal program to collect law enforcement data

		A	B	D	E	F	G	O	P

SEP Case Categories for North Carolina Criminal Offense Codes

SEP Case Category Ranking	Case Category for SEP Outcome Study	Type	Class	Offense Description	NC General Statute	NC Court System Case Category	NCAOC Criminal Code
1	Criminal Homicide	F	??	MURDER OF AN UNBORN CHILD	14-23.2(A)	Homicide	0910
1	Criminal Homicide	F	D	VOL MANSLAUGHTER UNBORN CHILD	14-23.3(A)	Homicide	0915
1	Criminal Homicide	F	F	INV MANSLAUGHTER UNBORN CHILD	14-23.4(A)	Homicide	0916
1	Criminal Homicide	F	E	VOLUNTARY MANSLAUGHTER	14-18	Homicide	0920
1	Criminal Homicide	F	D	VOLUNTARY MANSLAUGHTER	14-18	Homicide	0920
1	Criminal Homicide	F	F	INVOLUNTARY MANSLAUGHTER	14-18	Homicide	0922
1	Criminal Homicide	F	A or B2	MURDER	14-17	Homicide	0930
1	Criminal Homicide	F	A	FIRST DEGREE MURDER	14-17	Homicide	0935
1	Criminal Homicide	F	B2	SECOND DEGREE MURDER	14-17	Homicide	0940
1	Criminal Homicide	F	C	ATTEMPTED SECOND DEGREE MURDER	14-17	Homicide	0941
1	Criminal Homicide	F	B2	SECOND DEG MURDER W/O REGARD	14-17(B)(1)	Homicide	0942
1	Criminal Homicide	F	B2	SECOND DEG MURDER DIST DRUG	14-17(B)(1)	Homicide	0943
1	Criminal Homicide	F	B1	SECOND DEGREE MURDER	14-17(B)	Homicide	0944
1	Criminal Homicide	F	E	SOLICITATION TO COMMIT MURDER	COMMON LAW	Homicide	0945
1	Criminal Homicide	F	??	ATTEMPTED MURDER	COMMON LAW	Homicide	0950
1	Criminal Homicide	F	B2	ATTEMPTED FIRST DEGREE MURDER	COMMON LAW	Homicide	0951
1	Criminal Homicide	F	__	SOLICITATION TO COMMIT MURDER	14-18.1	Homicide	0955
2	Forcible Rape	F	B1	FIRST DEGREE RAPE	14-27.2(A)	Sexual Assault	1103
2	Forcible Rape	F	B1	FIRST DEGREE SEX OFFENSE CHILD	14-27.4(A)(1)	Sexual Assault	1116
2	Forcible Rape	F	B1	FIRST DEGREE RAPE CHILD	14-27.2(A)(1)	Sexual Assault	1120
2	Forcible Rape	F	C	SECOND DEGREE RAPE	14-27.3(A)	Sexual Assault	1122
2	Forcible Rape	F	C	SECOND DEGREE SEXUAL OFFENSE	14-27.5(A)	Sexual Assault	1124
2	Forcible Rape	F	F	ATTEMPT 1ST DEGREE RAPE	14-27.6	Sexual Assault	1125
2	Forcible Rape	F	__	ATTEMPT 1ST DEGREE SEX OFFENSE	14-27.6	Sexual Assault	1126
2	Forcible Rape	F	H	ATTEMPT SECOND DEGREE RAPE	14-27.6	Sexual Assault	1128
2	Forcible Rape	F	H	ATTEMPT 2ND DEGREE SEX OFFENSE	14-27.6	Sexual Assault	1130
2	Forcible Rape	F	B1	FIRST DEGREE SEXUAL OFFENSE	14-27.4(A)	Sexual Assault	1132
2	Forcible Rape	F	B2	ATTEMPT 1ST DEGREE RAPE	14-27.2	Sexual Assault	1142
2	Forcible Rape	F	D	ATTEMPT SECOND DEGREE RAPE	14-27.3	Sexual Assault	1146
2	Forcible Rape	F	D	ATTEMPT 2ND DEGREE SEX OFFENSE	14-27.5	Sexual Assault	1148
3	Robbery	F	D	ATT ROBBERY-DANGEROUS WEAPON	14-87	Robbery	1202
3	Robbery	F	G	COMMON LAW ROBBERY	14-87.1	Robbery	1220
3	Robbery	F	E	CONSP ROBBERY DANGRS WEAPON	14-87	Robbery	1221
3	Robbery	F	D	ROBBERY WITH DANGEROUS WEAPON	14-87	Robbery	1222
3	Robbery	F	H	ATTEMPTED COMMON LAW ROBBERY	14-87.1	Robbery	1226
3	Robbery	F	E	CONSP ARMED ROBBERY BUS/PERS	COMMON LAW	Robbery	1228
3	Robbery	F	D	AID AND ABET ARMED ROBBERY	14-87	Larceny	2323
4	Aggravated Assault	F	__	AWDWIKISI HANDICAPPED PERSON	14-32.1(B)	Assault	1302
4	Aggravated Assault	F	__	AWDWISI ON HANDICAPPED PERSON	14-32.1(C)	Assault	1303
4	Aggravated Assault	F	__	AWDWIK ON HANDICAPPED PERSON	14-32.1(D)	Assault	1304
4	Aggravated Assault	F	F	FELONY ASSAULT ON HANDICAPPED	14-32.1(E)	Assault	1305
4	Aggravated Assault	F	F	ASSAULT ISBI UNBORN CHILD	14-23.5(A)	Assault	1315
4	Aggravated Assault	M	1	ASSAULT ATTEMPT SERIOUS INJURY	14-33(B)(1)	Assault	1320
4	Aggravated Assault	M	__	ASSAULT - SERIOUS INJURY	14-33(B)(1)	Assault	1321
4	Aggravated Assault	M	1	ASSAULT BY POINTING A GUN	14-34	Assault	1322
4	Aggravated Assault	M	A1	ASSAULT BY POINTING A GUN	14-34	Assault	1322

Detailed Step-By-Step Description

The North Carolina Systems Evaluation Project (NCSEP)

Case Outcome Data and KPI Toolkit

Welcome to the Case Outcome Data and KPI Toolkit. The toolkit walks you through the steps to create comparable case outcome data and KPIs for your jurisdiction. Each link below represents a step in the process, which begins with a cover page for that step. Each cover page details the end product and provides links to any downloadable documents, sample datasets, tools, and programs provided to help you complete that step. Each step builds on the previous step, so it is best to complete steps in the order presented below. If you skip a step, you may miss key information.

1. Introduction to Case Outcome Data and KPIs

2. Project Equipment and Staffing

3. Getting Data from the Court System Lessons Learned

4. Obtaining Technical Assistance

5. Data Dictionary

6. Creating a Case Flow Chart

7. Defining a Case

8. Identify Case Type

9. Identify Most Serious Disposition

10. Identify Determination of Guilt

11. Identify Method of Disposition

12. Identify Minimum and Maximum Sentence

13. Identify Case Length

14. Identify Attorney Type

15. Identify Average Attorney Cost per Case

16. Identify Total Court Fees and Costs

17. Identify Category Group

Coding Determination of Guilt

Identifying the Disposition of a Case (Most Serious Disposition)

End Product

Identify the most serious disposition category for each case in your dataset. Since cases may contain multiple charges and each charge may have a different disposition, e.g., one charge is dismissed in exchange for a plea to another charge, the disposition of a case is defined by the "most serious disposition" of any charge in the case (similar to the way that the Case Type was defined by the highest charge in the case). The disposition categories below summarize are ranked from most to least serious. The NCSEP pilot sites designed the disposition categories to apply uniformly across jurisdictions, which allows jurisdictions to compare case outcomes at home with outcomes in jurisdictions across the nation. The added benefit of a cross-jurisdictional approach is increased transparency. The pilot sites were forced to develop a lexicon of terms that were more self-explanatory, thus avoiding acronyms, abbreviations, and legal terminology understood only within a local context.

- Flat Time/Straight Sentence
- Split Sentence
- Time Served
- Non-Custodial Sentence, Supervised Probation
- Non-Custodial Sentence, No Supervised Probation

- Financial and/or Civil Penalties Only
- Adjudication/Judgment Withheld
- Deferred Prosecution
- Dismissal with Leave/Inactive

- Non-Criminal Responsible
- Dismissed without Leave
- Probation Revoked
- Probation Modified/Unchanged
- Unknown

Key Variables

- CaseID
- Disposition Fields in Dataset

- Disposition_Charge
- Disposition_Case

Downloadable Tools

- Sample Dataset - Identifying Most Serious Disposition
- Coding Protocols for Most Serious Dispositions

Downloadable Programs

KPIs In Action

2016 Case Outcome Study: A Comparison of Indigent Defense Delivery System Performance

NC Indigent Defense Delivery Systems

* Public Defender Offices
* Attorney Roster System Paid Hourly
* Attorney Roster System Paid Flat Fee Basis
* Request for Proposals (RFP) Contractors
* Retained
* Waived

Case Outcome KPIs Put into Action
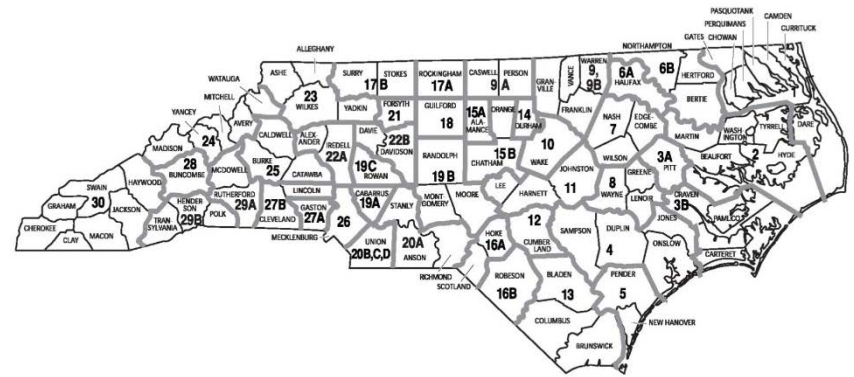
Case Outcome Study

* Study analyzed every case disposed by each delivery system in 2.5 years period (except probation violation cases)

* Indigent Defense handle over 300,000 cases year

Factors Driving Differences Other Than Delivery System

➢ Uniform definition of a "case"

➢ Difference in funding and resource levels

➢ Differences in the Client Population, such as prior criminal history

➢ Prosecutorial and Judicial Practices (PJP)

Other Potential Factors Considered

* The definition of a "case" is uniform across delivery systems, including PD

* Funding

  * Reimbursement rates are standardized across PAC, FF, RFP

  * Increases or decreases in rates applied proportionately across systems

  * Flat Fee & RFP have "Exceptional Case" policy

* Resources: Procedure to access investigators, mitigation specialists, and experts is the same

Differences in Client Population

* Analyzing data by client criminal history is research we hope to do in the future

  Assumption: we can assume that client profiles in the aggregate do not vary greatly across indigent defense delivery systems

Differences in Prosecutorial/Judicial Practices

* Definitely a potential factor
* No straight forward way to measure
* Used Retained Case Outcomes as proxy measure (called PJP in Key Findings)

Key Findings

Ranking Analysis to Compare Delivery Systems

* Ranked Systems for Key Years: FY13, FY14, FY15 Q1Q2

* Systems within .5% of each other received the same rank

* 3-Year Average to measure overall performance, then looked at individual years for consistency in performance

* Reviewed performance of All Cases, then looked at case types individually to see if there were exceptions to overall findings

* Incorporated the Pros./Judicial Practices (PJP) data

KPI # I: % of Cases End in Non-Conviction
(Client Favorable⬆)
&
KPI #V: % of Cases End in Conviction to Highest Charge
(Client Unfavorable⬇)

Together KPI #1 & KPI #V describe the outcome of ≈80% of all cases handled by indigent defense

KPI # I: Non-Convictions

Rank	System	3-Yr Avg.	PJP
1	PD	55.0%	59.0%
2	PAC	47.4%	61.6%
3	RFP	42.7%	57.6%
4	FF	25.3%	53.7%

* Consistent across individual years
* Consistent across case types
  * Exception: DWI cases PAC shared #1 rank with PD and FY14 PD was #2

KPI # V: Convicted of Highest Charge

Rank	System	3-Yr Avg.	PJP
1	PD	28.3%	27.2%
2	PAC	33.1%	25.1%
2	RFP	33.5%	25.6%
4	FF	60.7%	38.1%

* Consistent across years
* By Case Type
  - Felony: PAC dropped to 3 rank
  - DWI: PAC #1 or shared #1 with PD
  - Misd. NT: RFP dropped to 3 rank
  - Misd. T: RFP & PAC swop rankings

Note: DWI case had a much higher rate than all other case types 75% to 30%

KPI #II: % Ended in Alternative to Incarceration

* Appears to be a relationship between KPI #I and #II

* Believe we need to redraft this KPI to make it more meaningful as a stand alone measure

KPI #VI: % of Alterative to Incarceration Ended in Supervised Probation

Rank	System	3-Yr Avg.	PJP
1	PD	40.7%	9.1%
2	PAC	47.4%	9.6%
3	RFP	48.1%	8.0%
4	FF	54.6%	12.2%

* Consistent across most years
* By Case Type
  * DWI RFP Ranked #2 and PAC dropped to #3
  * Misdemeanors RFP shared #1 rank with PD or held #1 rank

KPI# III: Felony Cases Ending in Conviction End in Misdemeanor Conviction

Rank	System	3-Yr Avg.
1	PD	50.3%
1	RFP	50.2%
3	PAC	39.1%
4	FF	20.6%

* Consistent across years

KPI #VIII: Failure To Appears

Rank	System	3-Yr Avg.
1	FF	3.0%
2	PAC	3.9%
3	PD	5.4%
4	RFP	6.5%

* FF consistently #1 but RFP rises to #2 in later years but rank changes by case type

Note: Discussions suggest that FTA may be future convictions

KPI #VIII: Failure To Appears by Case Type

Case Type	Rank	System	3-Yr Avg.
Felony	1	RFP	1.6%
	2	PD	2.3%
	2	FF	2.4%
	4	PAC	4.1%
DWI	1	FF	4.2%
	2	PAC	5.1%
	3	PD	7.6%
	4	RFP	11.5%
Misd. Non-Traffic	1	PAC	2.0%
	1	FF	2.3%
	3	PD	3.7%
	4	RFP	4.8%
Misd. Traffic	1	FF	5.2%
	2	PAC	8.6%
	3	PD	15.4%
	4	RFP	18.5%

* Alarming is the high FTA rates for Misd. Traffic cases

KPI #VIIa: % of Convictions that Were Time Served
KPI #VIIb: % of Jail Sentences that Were Time Served

% Conv. Time Served

Rank	System	3-Yr Avg.
1	PAC	12.0%
2	RFP	15.0%
3	FF	15.6%
4	PD	17.4%

% Jail Sentences Time Served

Rank	System	3-Yr Avg.
1	PAC	26.5%
2	RFP	33.5%
3	FF	35.3%
4	PD	37.8%

KPI #IV: Trial Rate

Rank	System	3-Yr Avg.
1	FF	8.8%
2	PAC	7.3%
3	RFP	4.0%
4	PD	3.7%

* Consistent across years
* By Case Type
  ➢ DWI is the exception PAC is #1, PD #2, FF #3, RFP #4

District Court Conviction Appeal Rate

Rank	System	3-Yr Avg.
1	FF	6.4%
1	PAC	6.4%
3	RFP	3.3%
4	PD	2.8%

* Consistent across years and case types

KPI #IV: Appeal Rate Detail

| Appeal Type	Rank	System	4-Yr Avg. FY12 to FY15 Q1Q2
Disposed in Superior Court	1	FF	4.89%
	2	PAC	4.36%
	3	RFP	2.42%
	4	PD	1.55%
Remanded	1	PAC	1.85%
	2	FF	1.45%
	3	PD	0.93%
	4	RFP	0.88%
Withdrawn	1	PAC	0.12%
	2	FF	0.06%
	2	PD	0.06%
	4	RFP	0.05%
Outcome Unknown	1	PAC	0.14%
	2	FF	0.10%
	3	RFP	0.07%
	4	PD	0.06%

Examples of Using KPI Data

Potential Areas for New PD Offices

		Selected Adult Criminal Case KPIs: PAC Counties: FY16 thru FY18 YTD (1/23/2018)				Felony Trial Rates: PAC County: FY16 thru FY18 YTD (1/23/2018)	Top 2 KPI	All KPI
County	Nbr Cases in KPI	KPI: % NonConv (excl FTAs)	KPI: % HghstChrg (excl FTAs)	KPI: % Conv Hghst Chrg	KPI: FTA Rate	Felony Case Trial Rate (Excl. FTA)	No Red Xs2	No Red
Alleghany	379	15.4%	63.3%	74.8%	5.8%	0.0%	2	4
Cabarrus	6,379	18.3%	62.5%	76.5%	2.8%	1.5%	2	4
Rowan	6,379	21.8%	54.0%	69.0%	0.9%	1.7%	2	4
Rutherford	4,179	23.2%	55.5%	72.3%	9.7%	2.1%	2	4
Ashe	807	18.5%	59.6%	73.1%	6.2%	2.4%	2	4
McDowell	2,407	14.7%	67.3%	78.9%	10.8%	3.2%	2	3
Rockingham	3,993	29.3%	56.5%	79.9%	10.4%	3.4%	2	3
Yancey	736	19.7%	57.2%	71.3%	5.0%	4.7%	2	3
Cleveland	4,707	28.2%	53.4%	74.4%	2.9%	6.6%	2	3
Mitchell	555	22.7%	53.1%	68.7%	5.4%	8.3%	2	3
Madison	1,054	24.9%	49.6%	66.0%	5.0%	1.7%	1	3
Sampson	1,575	26.6%	47.8%	65.1%	5.6%	2.0%	1	3
Yadkin	1,318	16.6%	49.4%	59.2%	10.1%	0.6%	1	2
Wilkes	2,574	20.2%	47.7%	59.7%	2.9%	0.9%	1	2
Nash	3,013	30.8%	18.7%	27.0%	1.5%	1.6%	1	2
Iredell	5,181	25.3%	42.9%	57.5%	4.2%	2.0%	1	2
Duplin	1,712	26.6%	41.2%	56.2%	6.5%	2.4%	1	2
Watauga	1,464	30.5%	41.1%	59.1%	5.9%	5.0%	1	1
Davie	1,588	30.8%	43.3%	62.7%	6.3%	0.3%	-	2
Davidson	7,067	32.8%	42.3%	62.9%	3.8%	0.9%	-	2
Burke	3,693	49.6%	36.9%	73.2%	2.1%	1.1%	-	2
Haywood	2,895	35.8%	31.8%	49.5%	14.5%	1.2%	-	2
Caldwell	4,596	52.1%	30.7%	64.1%	0.9%	1.3%	-	2
Moore	3,140	32.1%	44.7%	65.9%	6.9%	1.3%	-	2
Swain	670	42.0%	23.3%	40.1%	16.6%	1.6%	-	2
Jackson	1,305	34.5%	33.3%	50.9%	21.6%	1.7%	-	2
Pender	1,676	40.0%	39.3%	65.5%	8.8%	2.4%	-	2

Court Improvement Project: Reducing Pretrial Incarceration Rate Project

North Carolina Adult Criminal Defendants Who Received Time Served and the Percentage of Jail Sentences that Were Time Served: FY14
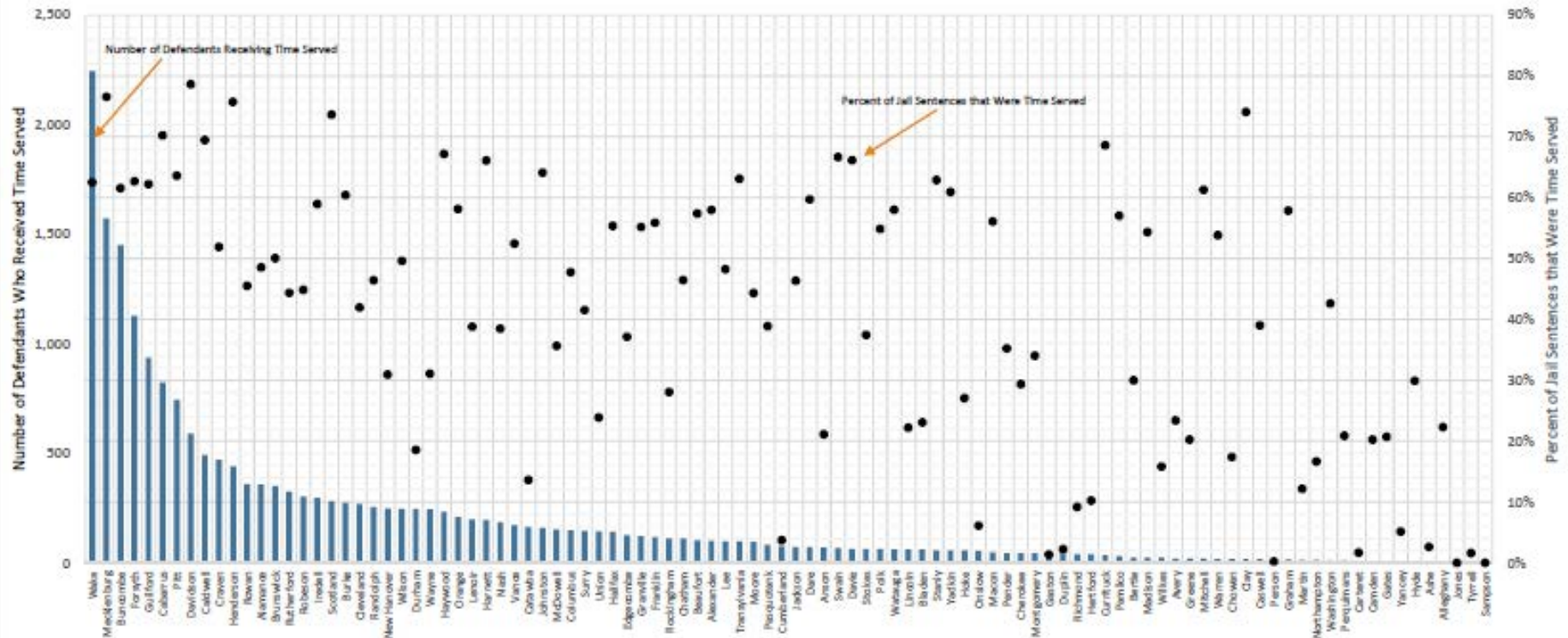
Definitions:

Time Served: When a defendant's jail credit was greater than or equal to the sentence and the most serious disposition was nonsupervisory probation (excludes split sentences with supervised probation).

Jail Sentences: Includes cases that resulted in Flat Time or Straight Sentences, Split Sentences, and Time Served Sentences.

Convictions: Include the following dispositions: Flat Time/Straight Sentence, Split Sentence, Time Served, Non-Custodial Sentence: Supervised Probation, Non-Custodial Sentence: No Supervised Probation, Financial and/or Civil Penalties Only, and Adjudication/Judgment Withheld.

Source: NC IDS, Research Department, Systems Evaluation Project, ACIS data through 12/31/2014, September, 7, 2017.

ID pilot sites

Before and After Rate Cut Study

Flat Fee Pilot Site Evaluation Case Outcome Study

Measure Quality
as Well as Cost Impact

Quality Meter: Real-Time Warning System

12-Month Rolling KPI Calculations

% of Non-convictions

% of Convictions to Highest Charge
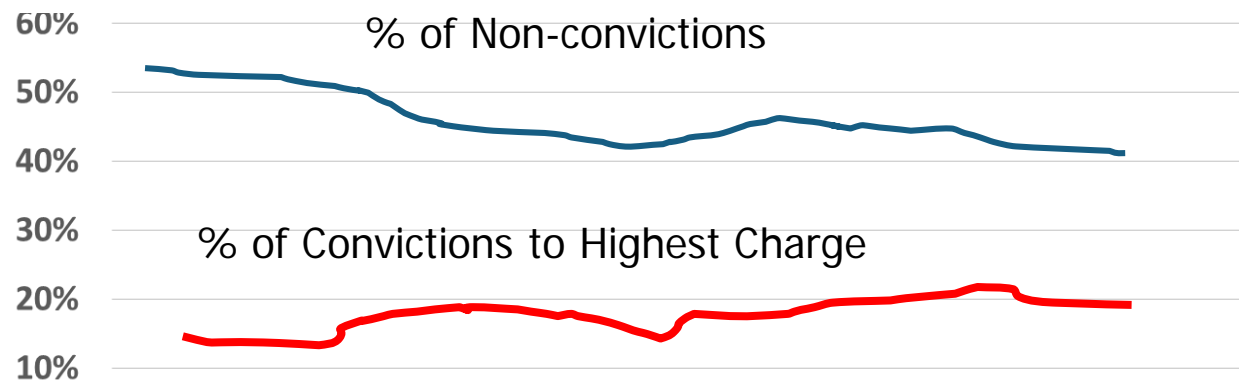
Sometimes the most important discoveries revealed by data are for questions we did not know to ask

New KPI in Development
Combined Resolution Rate (CRR)

Combined Resolution Rate (CRR): A Measure of Quality

* Resolving charges jointly avoids multiple convictions and minimizes criminal record points, especially in this age of plea bargaining

* Respect client: time, court appearances, negative consequences

* Reduce FTAs

* Cost Issue: impact cost and efficiency of court system; indigent defense, DAs, courts

Combined Resolution Rate KPI: Disposing Concurrently Pending Charges Together

Measures the rate at which defendants facing multiple charges concurrently had those charges resolved jointly.

Since 97% of sentences for convictions on multiple charges run concurrently, it is in the client's interest to resolve all pending charges together, especially if doing so avoids multiple convictions.

Significance and Application

- Measure CRR rate: rate where concurrent charge ends in:
  - Dismissal (cost implications only)
  - Second conviction (cost and quality implications)
  - FTA (cost and quality implications)

Defining A "Case"

SEP Case Definition

One client, one judge, same day, any number of charges

All charges resolved together before a judge in a court

How Did We Get There

Investigated Using Actual Data
Alternate Definitions of Case

Bureau of Justice Statistics: Survey of Case Definitions

* Each charge = case

* Each defendant = case

* All charges in a charging document, i.e. Docket/File Number or Indictment

* All charges with the same offense date

* All charges disposed together

Requirements or Need

Identify a case definition that:

* Standardized unit: each case is equivalent unit
* Valid for research
  ➢ Measure workloads, case costs, hours of work to resolve case
* Free from manipulation and data distortion: applies to all parties uniformly
* Creditable to stakeholders, including DAs: trustworthy

Count Defendants: Data Distortion
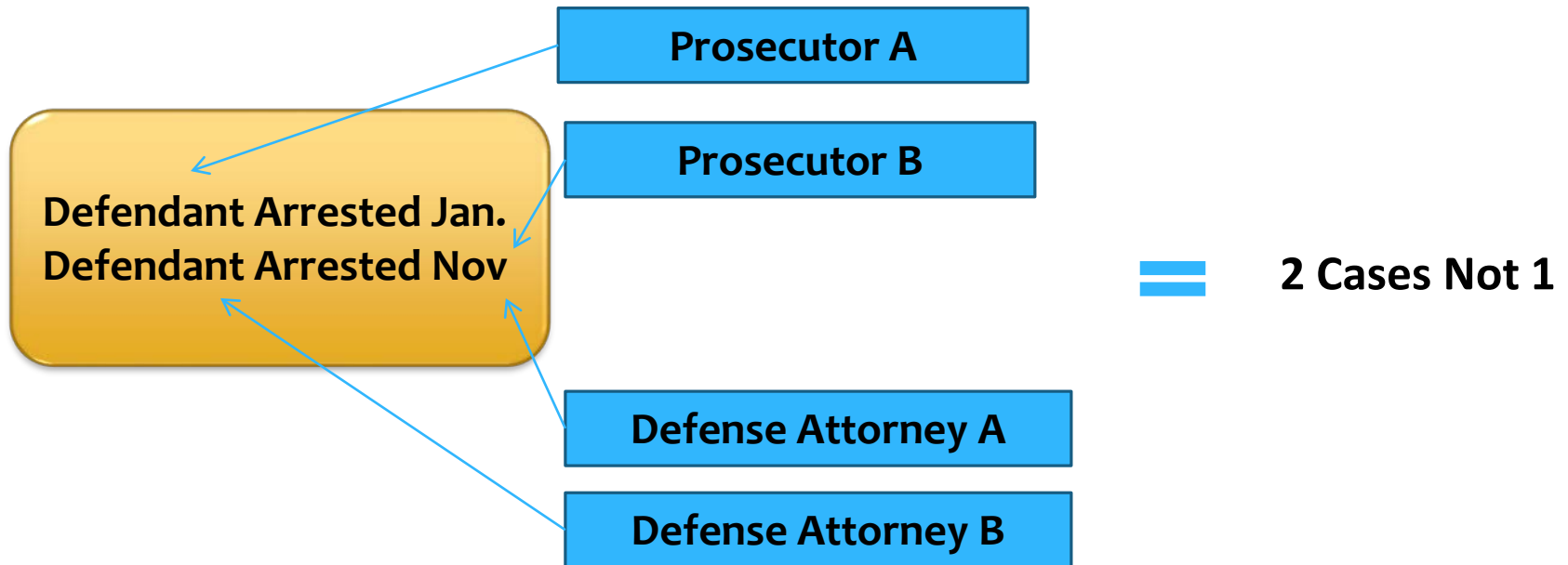
Count FileNo/Docket : Data Distortion

Prosecutor Discretion

Defendant Arrested
* Felony I
- **DWI**
- **DWLR**
- **Expired Registration**
- **Failure to Notify DMV of move**

Defense Attorney

All Charges under Single FileNo or Docket Numer = **1 Case**

2 FileNo or 2 DocketNo Felony + Misdemeanors DWI Charges = **2 Cases**

6 Separate FileNo or Dockets = **6 Cases**

Count Indictments: Data Distortion

Prosecutor Discretion

Defendant Arrested
* Felony I
- **DWI**
- **DWLR**
- **Expired Registration**
- **Failure to Notify DMV of move**

Defense Attorney

Indicts on All Charges = **1 Case**

Indicts on Felony Only DWI & Misd. Handled Separately = **2 Cases**

Indicts on Felony Indicts on DWI Misdemeanors Handles Separately = **3 Cases**

Not uncommon to see cases with over 100 different File/Docket numbers resolved together.

In NC had a case with 400 File Numbers (worthless check) resolved together by 1 attorney in 3 hours

Imagine the distortion that would produce to case costs, workload measures, etc.

Same Offense Date: Data Distortion

Prosecutor

Defendant Arrested
* Felony I
- **DWI**
- **DWLR**
- **Expired Registration**
- **Failure to Notify DMV of move**

Additional Charges Different Date

Disposed together

Defense Attorney

Results of Analysis

	Actual No. Cases	Offense Date Cases
Number of Cases	1,456,383	1,515,251
Split Charges resolved together into 2 cases		17.2%

Using Offense Date Created cases that did not exist
- 260,769 cases
- 122,349 of which were Dismissed Without Leave

SEP Case Definition
(Based on Prosecution Definition)

* Felonies = All charges served on warrant date
  +
  Additional charges within 21 days

* Misdemeanors= All charges served on warrant date

* Probation Violation = Separate case (unique outcome)

96% accuracy rate

Access to Attorney KPIs

Goal: A Defendant's Constitutional Right to an Attorney is Preserved

* The right to counsel is a constitutional right.

* Quality indigent defense systems will make sure clients have access to an attorney and that waivers of counsel are made voluntarily and intelligently and not the result of undue pressure, influence, or lack of understanding

Access to Attorneys KPIs: Best

Key Indicator
I.   The percent of all cases handled by the indigent defense system
II. The percent of cases where the number of days between arrest and appointment of counsel occurred within three days
III. The percent of cases where the defendant was incarcerated pretrial and met with a member of the defense team within seven days of arrest
IV. Environmental scan of the proportion of initial bail determinations where the indigent defense system provided access to counsel in adult criminal cases
V.   Environmental scan of the proportion of first appearance court sessions before a judge where the indigent defense system provided access to counsel to qualified defendants in adult criminal cases

Access to Attorneys KPIs: Worst

VI.	The percent of cases that ended in conviction or deferral where the defendant waived counsel and pled guilty
VII.	The percent of cases that ended in time served where the defendant waived counsel
VIII.	The percent of cases where the defendant was incarcerated pretrial and met with a member of the defense team for the first time more than 20 days after arrest
IX.	The percent of cases that ended in conviction or deferral where at-large defendants met for the first time on the day of disposition with the attorney who disposed the case
Supplemental Metric: The percent of cases where the defendant's request for appointed counsel was denied	

"Environmental Scan" KPIs

Access to attorney data was sparse.

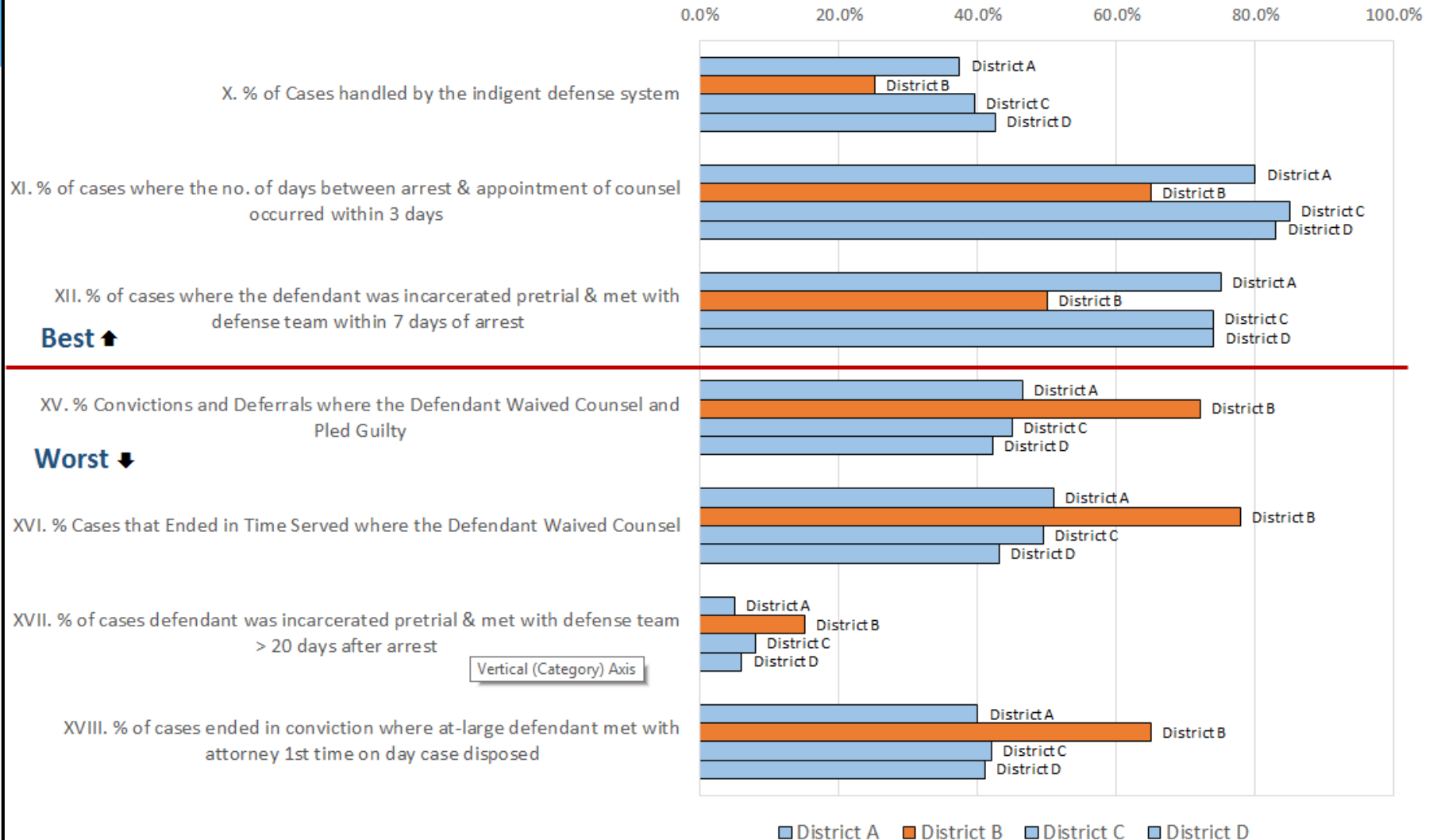**Solution**: "Environment Scan" indicators

Lessons:

1. Collaboration can lead to strategies to overcome data issues.

2. Don't give up too early, brainstorm alternative solutions to achieve your objective.

FY14 U.S. States	KPI XIII: The Proportion of Initial Bail Determinations Where the Indigent Defense System Provided Access to Counsel in Adult Criminal Cases.				KPI XIV: The Proportion of First Appearance Court Sessions Before a Judge Where the Indigent Defense System Provided Access to Counsel to Qualified Defendants in Adult Criminal Cases.			
	All	At Least 50%	Less than 50%	None	All	At Least 50%	Less than 50%	None
Alabama								
Alaska								
Arizona								
Arkansas								
California								
Colorado								
Connecticut				●	●			
Delaware								
District of Columbia								
Florida								
Georgia								
Hawaii								
Idaho								
Illinois								
Indiana								
Iowa								
Kansas								
Kentucky								
Louisiana								
Maine								
Maryland								
Massachusetts								
Michigan								
Minnesota								
Mississippi								
Missouri								
Montana								
Nebraska								
Nevada								
New Hampshire								
New Jersey								
New Mexico								
New York								
North Carolina				●			●	
North Dakota								
Ohio								
Oklahoma								
Oregon								
Pennsylvania								
Rhode Island								
South Carolina								
South Dakota								
Tennessee								
Knox County, TN				●		●		
Texas								
Travis County, TX				●	●			
Utah								
Vermont								
Virginia								
Washington								
West Virginia								
Wisconsin								
Wyoming								

NCSEP Access to Attorney Selected Key Performance Indicators (KPIs) U.S. States At-a-Glance: Access to Counsel at Initial Bail Determinations & First Appearances Before a Judge

KPIs Identify Areas Needing Attention

Access to Attorney KPIs by Jurisdiction

Length of Case (Procedural)

Median Number of Days to Dispose of Trial Level District Court Adult Criminal Cases by Case Type & Fiscal Year Disposed: FY09 to FY15 YTD					
Case Type	Year Disposed	Statewide Indigent Defense	Cabarrus (FF)	Rowan (FF)	Union (PAC Comparison County)	Statewide Private Appointed Counsel (PAC)
Felony Cases	FY09	96.0	40.0	60.0	200.0	103.0
	FY10	94.0	49.0	60.0	162.0	103.0
	FY11	102.0	57.0	64.0	225.5	113.0
	FY12	105.0	108.0	69.0	233.0	118.0
	FY13	111.5	115.0	69.0	251.0	133.0
	FY14	117.0	173.0	76.5	204.5	150.0
	FY15 Q1Q2	118.0	271.0	74.0	104.0	156.0
DWI Cases	FY09	212.0	153.5	162.0	223.0	215.0
	FY10	228.0	160.5	176.0	256.0	229.0
	FY11	243.0	181.0	214.0	233.0	245.0
	FY12	281.0	222.0	219.0	277.0	280.0
	FY13	283.0	189.0	204.0	274.0	283.0
	FY14	294.0	190.5	218.0	268.5	309.0
	FY15 Q1Q2	308.0	177.0	184.0	288.0	321.0
Misdemeanor Cases	FY09	127.0	111.0	124.0	127.0	121.0
	FY10	134.0	117.0	128.0	129.0	127.0
	FY11	147.0	139.0	145.0	147.0	146.0
	FY12	150.0	144.0	132.0	144.0	149.0
	FY13	153.0	135.0	129.0	146.0	155.0
	FY14	157.0	134.0	123.0	133.0	159.0
	FY15 Q1Q2	149.0	133.0	111.0	135.0	151.0
All Cases	FY09	128.0	109.5	119.0	138.0	125.0
	FY10	135.0	117.0	125.0	137.5	130.0
	FY11	147.0	141.0	137.0	157.0	148.0
	FY12	151.0	148.0	126.0	159.0	152.0
	FY13	154.0	140.0	123.0	157.0	159.0
	FY14	158.0	140.0	121.0	146.0	166.0
	FY15 Q1Q2	152.5	140.0	106.0	149.0	162.0

This Concludes the Presentation