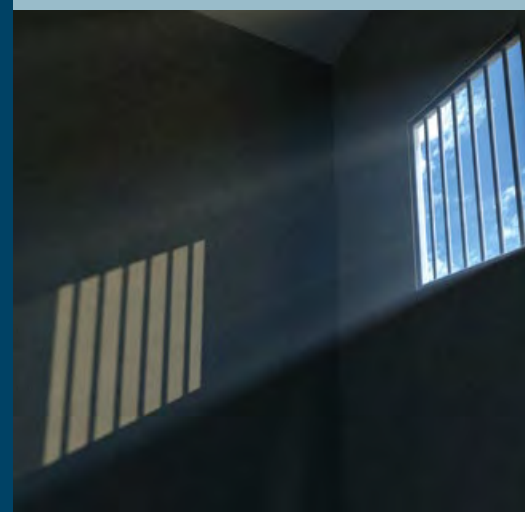


2016

Trends in State Courts

Special Focus on Family Law and Court Communications



Trusted Leadership. Proven Solutions. Better Courts.

www.ncsc.org

Table of Contents

Preface			
Mary Campbell McQueen	vii		
Keynote			
Recent Sentencing Reform Initiatives to Reduce Recidivism, Promote Fairness, and Control Costs	1		
Roger K. Warren			
Family Law Issues			
Maryland’s Family Divisions Are a Model for Change	11		
Barbara A. Babb, Gloria H. Danziger, and Michele H. Hong-Polansky			
Trends in U.S. Adoptions 2008–2012	17		
Matthew Shuman			
Parenting Coordination and the Courts	25		
Serpil Ergun			
The Interstate Compact for the Placement of Children and the National Electronic Interstate Compact Enterprise	31		
Diana Graski			
A Proactive Approach to Self-Assessment in the Juvenile Justice System	39		
Hon. Mark A. Ingram and Kari L. Harp			
Opening Courts to the Public			
Awareness, Adjustment, and Perseverance Are the Keys to Communication	45		
Hon. Kevin S. Burke			
A Contrarian View of Two Key Issues in Court Records Privacy and Access	53		
Tom Clarke			
Public Legal Information as Common Ground for the Justice Community		61	
David Pantzer			
Should I Tweet That? Court Communications in the 21st Century		67	
Hon. Jorge Labarga, Hon. Nina Ashenafi Richardson, and Tricia Knox			
Alaska Court System Legal Notice Website		75	
Alyce Roberts and Stacey Marz			
Overall Court Improvements			
Michigan’s Performance Measures Improve Public Service		81	
Jennifer Warner and Laura Hutzal			
Meeting the Challenges of High-Volume Civil Dockets		89	
Hannah E. M. Lieberman and Paula Hannaford-Agor			
Revitalizing the Jury		97	
Victor E. Flango			
Court-Funding Issues Raised by Detroit’s Bankruptcy		105	
Diane M. Hartmus and Julie Walters			
Applying Outcomes Management to Client Services in the Lake County Circuit Court		111	
Robert J. Verborg and Robert Zastany			
Adaptive Reuse of Old Buildings for New Court Functions in Polk County, Iowa		121	
Gordon M. Griller			

Overall Court Improvements



Michigan's Performance Measures Improve Public Service

Jennifer Warner Trial Court Services Director,
Michigan State Court Administrative Office

Laura Hutzel Statistical Research Director,
Michigan State Court Administrative Office

This article highlights how the Michigan Supreme Court and the State Court Administrative Office (SCAO) use performance measures to generate critical data to improve service to the public. The pathway to implementation of metrics, barriers to change, and lessons learned will be reviewed.

Michigan's third branch of government is a constitutionally created, decentralized, and, many would argue, byzantine, system of 242 trial courts. In addition to state funding for judicial salaries, those trial courts are funded by 163 city and county governments, with 150 different computer systems, 83 independently elected county clerks, and 20 different case management systems. This non-unified, 19th-century structure has long hindered reform efforts to increase efficiency and improve service to the public. For years, governors and judicial leaders fought in vain to change Michigan's constitution to remove some of these structural barriers.

In 2011 Chief Justice Robert P. Young, Jr., and his colleagues on the Michigan Supreme Court adopted a new approach to making reform a reality. Instead of wholesale, top-down, constitutional changes to how Michigan courts were structured and funded, the court worked from the bottom up and focused on results. This new strategy intentionally recognized the structural obstacles to change and created "work-arounds" using the legal and administrative tools already in place.

1991

Supreme court publishes guidelines

The new, grassroots strategy also recognized that resources were limited, so the court focused on three critical strategic objectives it believed would have the greatest impact:

- measuring performance to improve outcomes
- implementing technology to increase access
- reengineering court processes to be more efficient

Taken together, these initiatives represent the heart of the court’s “Driving Change” initiative to transform the judiciary and to become more customer focused and results oriented.¹ Beyond their intrinsic utility as a management tool, this article describes how performance measures are being used to tell Michigan courts’ success stories, provide accountability to the public, and help achieve the court’s vision of improving service to the public. “Performance measures were the first step in a fundamental transformation of our court system to focus on customer service,” said Chief Justice Young. But even that first step was not simple, easy, or without its detractors. Five years after adoption of the new strategy, Michigan’s trial courts can see the value of this process and the benefits to both the judiciary and the public.

History

Performance measurement of our courts has been a long-term project, but one that was given low priority in the early years. In 1991 the Michigan Supreme Court published guidelines for case disposition. In 1998 SCAO, together with work

1998

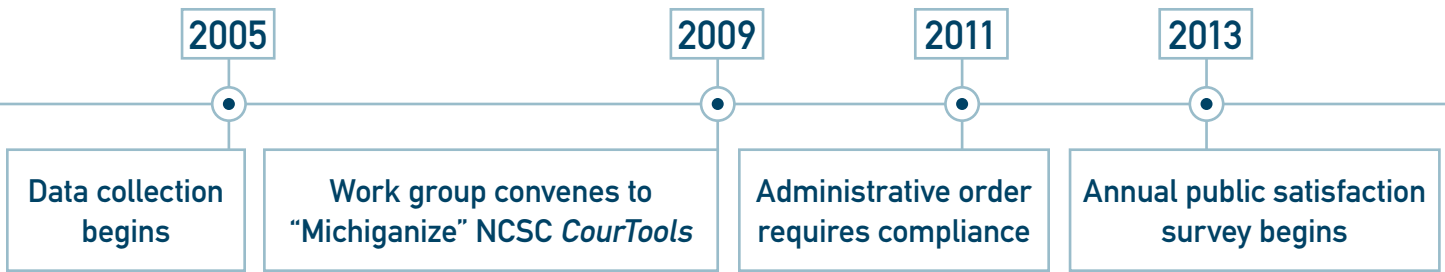
Task force recommends voluntary measures

groups of trial judges and administrators, started looking at performance measures (and the initial performance measures), specifically reviewing large numbers of performance measures that had been identified by the Department of Justice. The work groups and SCAO encouraged courts to adopt those measures voluntarily. However, only some courts took any action to measure their performance. It was not until 2005 that SCAO began collecting case-age data. “Until recently, progress on implementation of performance measures was painfully slow,” notes Chief Justice Young. “We needed to kick-start the process by making the case for performance measures with the judiciary and getting judges to buy-in to the process.”

In 2009, after the National Center for State Courts published the ten *CourtTools*, the Michigan Supreme Court convened a new work group, the Trial Court Performance Measures Committee. This committee of judges and court administrators started by testing and “Michiganizing” the *CourtTools* to reflect input from Michigan’s judiciary. Once the trial courts learned that SCAO intended to publish the case-age data, progress accelerated dramatically. The committee chair, 17th Circuit Court Judge Paul Sullivan, has stressed repeatedly to his colleagues across the state that their input was critically important to the successful implementation of performance measures. The promise of publication was a catalyst to engage the judiciary.

In 2011 the Michigan Supreme Court adopted an administrative order requiring all trial courts to comply with a performance measure

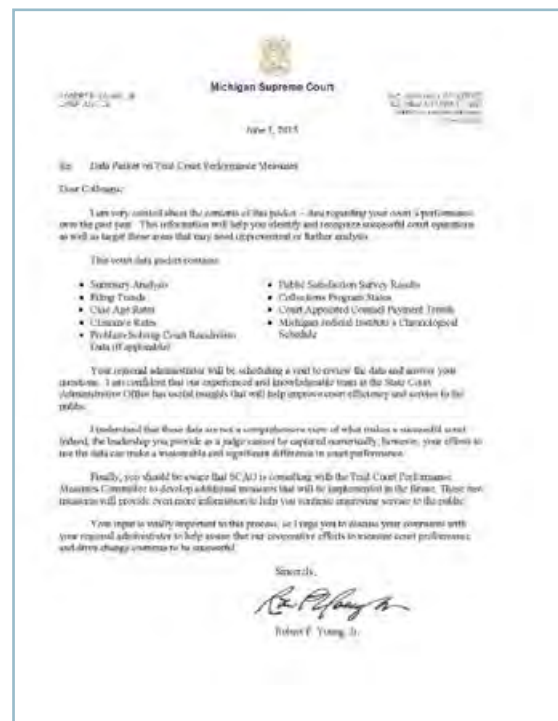
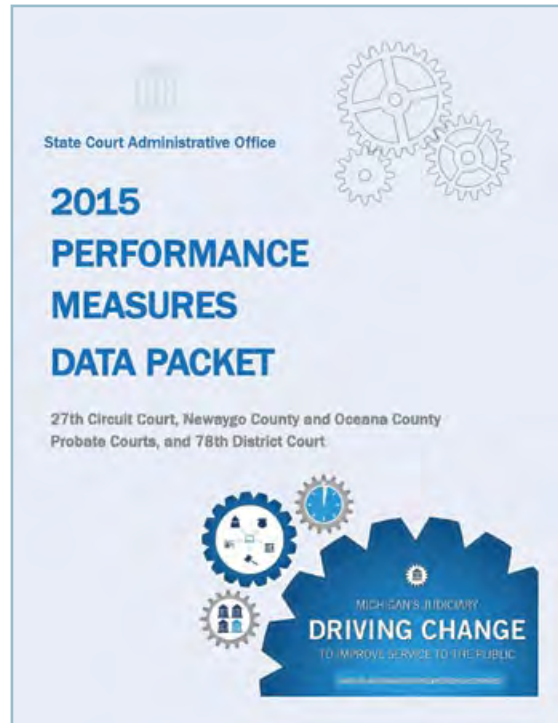
¹ More information about the Michigan Supreme Court’s “Driving Change” plan and results are available here: www.courts.mi.gov/drivingchange.



implementation plan and requiring SCAO to support the courts in this endeavor. That same year, SCAO, through the Trial Court Performance Measures Committee, developed its first implementation plan and required the courts to measure timeliness to disposition, clearance rates, and caseload pending over the time guidelines.

Adoption of First Measures and Court Visits

Once the first measures were adopted, there was a considerable amount of “concern” expressed by members of our trial courts. For example, some judges thought that the data might be used against them in an election. Others questioned the reliability of the data or worried that data would not be an accurate reflection of what happens in their courtrooms. In an effort to ensure that the performance measures data were being used as the management tool they were intended to be, representatives of SCAO began to meet with judges and court administrators to discuss their data and review the trends. This has become an *annual* process through which SCAO compiles, analyzes, and returns the data to the court in a summary that provides guidance on the areas that may need the court’s attention. Regional administrators and management analysts from SCAO then meet with the judges and court administrators in each court to review performance, highlight successes, and offer resources needed to spur improvement. *Every year*, SCAO representatives ensure that the court leaders understand the information and have tools to act on the information.



In 2015, SCAO representatives met with 351 judges and 296 court leaders during more than 120 court visits. After each visit, SCAO analysts follow-up on any unanswered questions, and trial court participants are given an opportunity to provide anonymous feedback through an online survey. This feedback is used to further refine the performance process, measures, and tools.

Of the 293 trial judge and administrative participants who completed the 2015 post-visit survey, 84 percent said that the court visit was a good use of their time, and 96 percent said that the SCAO representatives were helpful. The majority of participants agreed that the measures in the data packet were useful to their court. The following graph shows the percentage of participants who said the performance measures were useful to their court. These rates range from 62 percent for the public satisfaction survey results to 88 percent for the case-age rates.

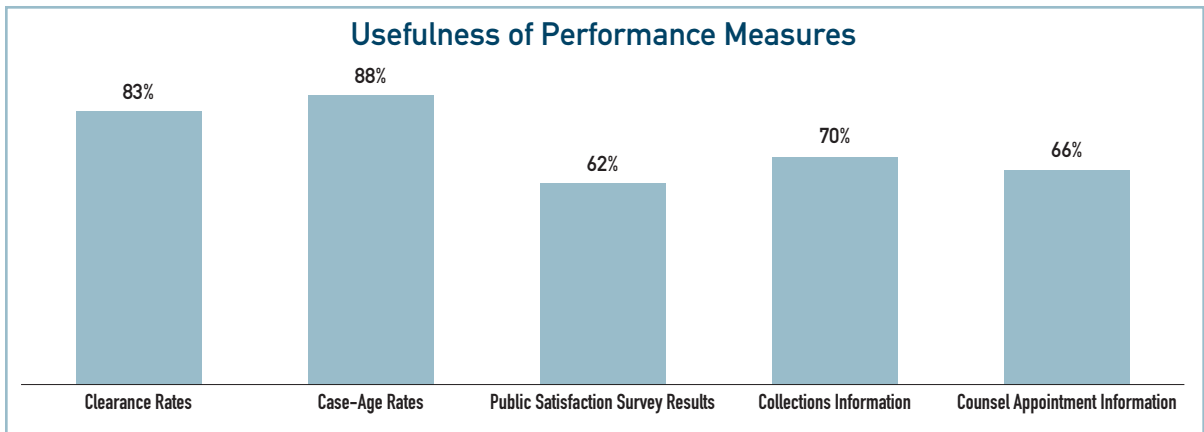
Additional Measures

In the years following the adoption of the first three measures—timeliness to disposition, clearance rates, and caseload pending over the time guidelines—Michigan adopted the following

These measures enhance the abilities of judges, administrators, and supervisors to know, understand, and appreciate what is going on in the court, to take corrective action where needed, and to give appropriate recognition to employees who are performing well.

additional measures in its trial courts: child support paid in the month due, public satisfaction, recidivism rates for drug and sobriety courts, collections program compliance, and ADA compliance.² The additional measures reassured court leaders, as well as the State Bar of Michigan, that SCAO and the Michigan Supreme Court are interested in *both* the timeliness of case resolution *and* the quality of customer service. But most important, these measures have had a direct impact on court operations. As Judge Sullivan noted, “These measures enhance the abilities of judges, administrators, and supervisors to know, understand, and appreciate what is going on in the court, to take corrective action where needed, and to give appropriate recognition to employees who are performing well.”

² For details on all of these measures and explanations as to why they matter, please visit www.courts.mi.gov/dashboard.



A Closer Look: The Trial Court Public Satisfaction Survey

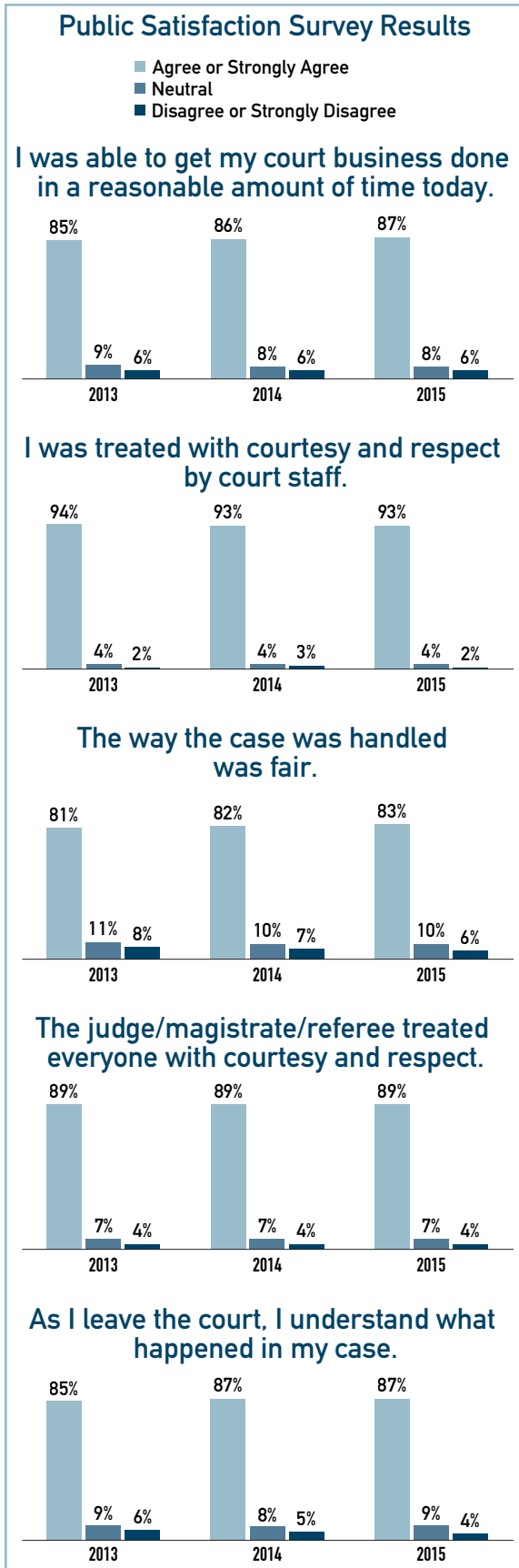
While each data-based measure has proven to have a specific utility in helping courts improve operations, the Trial Court Public Satisfaction Survey has provided an even wider range of benefits. Developed by the Trial Court Performance Measures Committee, this survey of court customers—including parties to cases, lawyers, witnesses, and jurors—gives the public the opportunity to weigh in on their experiences in local courts.

After preliminary pilots proved successful, for a period of one week in 2013 every trial court in the state distributed a paper survey to every person who came into the court. The paper surveys were sent to SCAO for compilation and analysis. In the first year the courts collected over 21,000 surveys; in 2014, more than 26,000; and in 2015, more than 25,000. All courts have now conducted the survey three times, and nearly 75,000 Michigan court users have been polled.

2015 Public Satisfaction Survey Isabella County Trial Courts

		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Not Applicable
		5	4	3	2	1	NA
(Shade ONE circle for each statement.) •							
1) I was able to get my court business done in a reasonable amount of time today.		0	0	0	0	0	0
2) I was treated with courtesy and respect by court staff.		0	0	0	0	0	0
If you ATTENDED A HEARING OR TRIAL TODAY, please answer the following questions.							
3) The way the case was handled was fair.		0	0	0	0	0	0
4) The judge/magistrate/referee treated everyone with courtesy and respect.		0	0	0	0	0	0
If you are a PARTY to the case, please answer the following							
5) The outcome in my case was favorable to me.		0	0	0	0	0	0
6) As I leave the court, I understand what happened in my case.		0	0	0	0	0	0
7) What type of case brought you to the courthouse today? (Shade ALL that apply.)							
<input type="checkbox"/> Child protective <input type="checkbox"/> Civil matter <input type="checkbox"/> Criminal/probation <input type="checkbox"/> Divorce/custody/support <input type="checkbox"/> Drug/sobriety court <input type="checkbox"/> Estate/trust <input type="checkbox"/> File papers <input type="checkbox"/> Get information <input type="checkbox"/> Guardianship/conservatorship <input type="checkbox"/> Juvenile delinquency <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Make a payment <input type="checkbox"/> PPO <input type="checkbox"/> Small claims <input type="checkbox"/> Traffic/Ticket <input type="checkbox"/> Other (please specify) _____		The court is committed to being fair and not discriminating on the basis of race, color, sex, or national origin. Completing the information below is optional; however, your response will help us determine if we are successful.					
		9) What is your gender?					
		<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other					
		10) How do you identify yourself? (Shade ALL that apply.)					
		<input type="checkbox"/> American Indian/Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Multiracial/biracial <input type="checkbox"/> Black/African American <input type="checkbox"/> Hispanic/Latino <input type="checkbox"/> White/Caucasian <input type="checkbox"/> Other (please specify) _____					
8) Who are you? (Shade ALL that apply.)							
<input type="checkbox"/> Party (Plaintiff/Defendant) <input type="checkbox"/> Agency Worker <input type="checkbox"/> Attorney/prosecutor <input type="checkbox"/> Family/friend of party to case <input type="checkbox"/> Juror <input type="checkbox"/> Witness <input type="checkbox"/> Other (please specify) _____							
11) Additional comments or suggestions about today's visit (use back if necessary):							
<hr/> <hr/>							

Like initial efforts at performance measures, many court leaders were concerned with what the surveys would reveal. As indicated by the following graphs, however, it is clear that Michigan courts are performing consistently at a very high level of public satisfaction. The vast majority of court users say our courts were accessible, timely, and fair, and that they were treated with courtesy and respect.



Looking at the data over three years, nearly 90 percent were able to get their court business done in a reasonable amount of time, and 93 percent were treated with courtesy and respect by court staff. Of those who attended a hearing or trial, 83 percent said that the case was handled fairly, and 89 percent indicated that the judge, magistrate, or referee treated everyone with courtesy and respect. Of the parties to a case, 87 percent understood what happened in their case.



Moreover, looking more closely at whether cases were handled fairly, only 6 percent of respondents had concerns about the fairness of the process. Clearly, most individuals who come before the court recognize the difference between a favorable outcome and a fair proceeding. “The public sentiment regarding the fairness of the proceedings, despite their case’s outcome, is truly remarkable,” notes Chief Justice Young. “And asking the public what it thinks about the services we provide reminds every court that they must be accountable to the people they serve—every day.”

The data from the public satisfaction survey have been a useful tool for both identifying where customer service needs to improve and educating the public and our local funding units about the quality of the services provided by their trial courts. “I think it has really

helped us secure a willing ear that in the past we have not had,” explains Judge Sullivan, regarding the impact of performance measures data on court relations with their funding units.

Public Transparency

The data from performance measures are not just useful to courts seeking to improve service to the public. The data also promote transparency, and public access to this information is critical to making sure courts take action to ensure the highest level of service. To ensure the public has access to information about its trial courts and to assist the trial courts in making the information available, SCAO established individual webpages for each trial court where performance measurement data at the statewide and local court level are posted.

Lessons Learned and the Future of Performance Measures in Michigan

Michigan’s earnest commitment to performance measurement is relatively new but yielding positive results. Our goal is to continue to improve court performance, in partnership with trial courts, and to implement at least one new measure each year. To this end, four more court performance measures were piloted in 2015, and the goal is to adopt and fully implement one or more of these measures in 2016. This process of testing new measures ensures a steady stream of input from judges, administrators, and staff so that new measures have proven their utility before full implementation. Clearly, lesson #1 is that the success of performance measures is inexorably linked to buy-in from local courts.

Through effective communication and consistent focus, the Michigan Supreme Court believes that performance measures have become fully integrated in court operations statewide.

The resulting performance data help local court leadership recognize staff for successes, prioritize areas for improvement, develop action plans, and measure results. This constant cycle will lead to a state of high-performing courts with continuously improving service to the public. Proving to courts that these data would not be used against them, and showing that it could be of actual help to their efforts at change, reform, and improvement, was lesson #2.

The resulting performance data help local court leadership recognize staff for successes, prioritize areas for improvement, develop action plans, and measure results.

Lesson #3 proved to the public, Michigan’s legislature, and the Michigan judiciary itself that great change and streamlining could occur in court processes, without negatively affecting service to the public. Over the last five years, the Michigan Supreme Court implemented new technological processes, reduced the number of chief judges by combining governance among trial courts, and demanded greater coordination and cooperation, all while trimming 27 judgeships—more than any other state. Despite all of this change, we can *prove* that public satisfaction remains high.

Chief Justice Young concludes: “Clearly, this is a win-win scenario. Taxpayers win because public resources are saved. Court users win because performance measures are helping Michigan courts become more efficient and customer-focused. And local trial courts win because performance measures help them to prove the efficacy, importance, and acceptance of their work in their local communities. That’s how we plan to achieve our goal of making Michigan’s judiciary a national model of efficiency and service to the public.”