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## Lawyers Journal

### Court reform continues in full swing five years after Monan Report ushers in new era

By Tricia M. Oliver

Staying true to the path of improvement chartered by the 2003 Monan Report, the Administrative Office of the Trial Court has made much headway on improving trial court efficiency and resource management.

The Monan Report could be described as the genesis of a necessary sea change within the Massachusetts court system. Appointed by Supreme Judicial Court Chief Justice Margaret H. Marshall, a multidisciplinary committee, led by Boston College Chancellor J. Donald Monan, took on the large task of a six-month examination of trial court administration. The end product of this thorough analysis was a comprehensive report including various recommendations to serve as solutions to found operational deficiencies.

The report recommended the court system commit to a new leadership style, create a culture of high performance and accountability and establish discipline in resource allocation to address a system in which "the impact of high-quality judicial decision is undermined by high cost, slow action and poor service to the community."

"The core principles of judicial administration and accountability are ones to which all of us aspire and work hard to achieve," said Marshall. "During the past five years, the Massachusetts judiciary has focused its energy and initiatives on making sure that the delivery of justice matches the excellence of our high quality judicial decisions. I am delighted that we are well on our way to making Massachusetts a model of excellence in judicial administration. I am proud of the accomplishments to date of the chief justices, judges, clerks and staff who diligently pursue our shared vision and mission."

The Monan Report has served as the roadmap for various improvement efforts aimed at enhancing trial court operations. The innovations associated with improved staffing models, strict time standards, an advanced MassCourts system and the Metrics Project have ensured that "business as usual" is a mindset of the past for the Massachusetts Trial Court.

#### **A smart business model replaces business as usual**

After Chief Justice for Administration and Management Robert A. Mulligan was appointed to his current post in October 2003, he began to design and implement an empirical, case-weighted staffing model. "We took that up as a priority initiative," Mulligan told Lawyers Journal in 2005.

"The staffing model created a rational basis for allocation of resources," according to Francis J. Carney Jr., Ph.D. executive director of the Administrative Office of the Trial Court. The model was used to support the Trial Court's \$4.2 million budget request to pay for an additional 130 positions throughout the system. That budget request for 2007 was only partially funded by the Legislature; however, the model was relied on to identify the most critical staffing needs in order to systemically and equitably allocate the funded positions.

Aside from resources being more appropriately distributed, another focus of the reform efforts was developing more stringent time standards to improve the judiciary's accountability. By September 2004, each court had promulgated time standards in every Trial Court department. Taking the time standards one step further, the Hon. Barbara J. Rouse embarked on a Firm and Fair Trial Date initiative when she was appointed Superior Court chief justice nearly two years ago.

"The goals of the initiative—to reduce the need for continuance requests and to set reliable and firm trial dates—are being

successfully met. The court has reduced continuances by 22 percent statewide and, most remarkably, is trying 60 percent of cases on their first or second trial date, which is a dramatic improvement," said Rouse.

According to Jeffrey A. Catalano, chair of the MBA's Civil Litigation Section Council, this initiative is a step in the right direction. "There is a noticeable improvement," said Catalano, who also explains that "this is still a work in progress."

According to Catalano, the bench has expressed an interest in getting more feedback from litigants and trial attorneys on this worthwhile initiative. Catalano is working to help facilitate such feedback as he begins to orchestrate Firm and Fair Trial Date Town Halls. He explained that the forums will create another opportunity for the bar community to provide the judiciary with productive feedback. The first town hall will take place in late March 2008 in Suffolk County. The plan is to bring this forum to other counties around the Bay State in the coming year.

### **Measuring the impact**

Another ongoing improvement measure set forth by the court is the Web-based MassCourts system. The rollout of MassCourts, a single case management information system for all court departments, brings about more uniform data collection and adds consistency in tracking progress. (For an update on MassCourts, see the related article on page 7.)

The ongoing rollout of MassCourts has had a synergistic effect with the more recent debut of the Court Metrics Project. Through Mulligan's leadership, the Court Metrics Project was launched in 2006 to measure and evaluate case management and court performance.

MassCourts and the Metrics Projects have played off each other to better quantify improvement. The Metrics Project uses four of the CourTools metrics developed by the National Center for State Courts. These particular four focus on timeliness and expedition. According to Paul J. Burke, director of court operations for the Housing Court Department, and president of the National Association of Court Management, Massachusetts is unique in its application of the metrics across all seven Trial Court departments. According to Burke, Massachusetts is ahead of the curve in effectively using what he describes as the "best product ever developed by the NCSC" due to its practicality. In addition to self evaluation, the CourTools allow Massachusetts to compare its progress with national benchmarks.

Burke explained that because of the improved data collection and tracking, the courts now operate more like a business.

The first batch of metrics data was collected in 2006 and published in the spring of 2007.

In a November 2007 article summarizing that first year of the Metrics Project, Mulligan and Burke wrote, "We now strive to formulate policies and make management decisions based on objective data rather than on intuition or anecdotes."

### **Celebrating a milestone**

This spring, the court's progress in turning itself around for the better will be celebrated at a five-year anniversary event. Entitled "Striving for Excellence in Judicial Administration: a symposium on the Five Year Anniversary of the Report of the Visiting Committee on Management in the Courts," the event will include a panel of various business leaders who have been instrumental and successful at seeing a variety of organizations through broad change. Aside from the panel of change agents moderated by SJC Associate Justice Robert J. Cordy, the keynote address will be delivered by California Supreme Court Chief Justice Ronald George. He is described as "a real architect of judicial administration," by Francis S. Moran Jr., legal counsel to Marshall.

Moran is coordinating the event and has high hopes for its impact. He explained that the anniversary is an appropriate time to step back and examine the progress of change in the Massachusetts courts, but also to keep an eye to the future.

Such a celebration is more than warranted when Massachusetts' efforts are critiqued nationally.

"What's been done in Massachusetts is really remarkable," said Daniel J. Hall, vice president of Consulting Services for the National Center for State Courts, headquartered in Williamsburg, Va. According to Hall, Mulligan has implemented recommended changes with a "forward-thinking approach."

"In order for a judiciary to be independent, it has to be accountable. This plays out in a variety of ways across the country," said Hall. He holds the work being done in Massachusetts comparable to that in Utah, Arizona and Vermont, in that the Bay State is on the forefront of "really taking on reform issues."

Hall's sentiments are echoed by the closest advisors to Massachusetts court reform efforts, namely Monan and Michael B. Keating, chairman of the Court Management Advisory Board, a board mandated by the Legislature following the Monan Report. (See related article on page 14.)

In a Sept. 17, 2007, opinion piece published in The Boston Globe, Monan and Keating wrote that the reform efforts "signal that accountability, transparency and continuous improvement are becoming the norm with the court."

They add, "All too often, task forces and commissions, appointed to recommend improvements in government service to the public, deliver their reports only to watch them collect dust as they lie unimplemented on office shelves. Our experience over the past four years with the Massachusetts Trial Court has been a unique and gratifying exception."

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