

**Court Management Advisory Board  
2014 Report**

**Management Excellence for the  
21<sup>st</sup> Century Massachusetts Trial Court:  
Facing Challenges and Embracing Change**



Bristol County Superior Court – Taunton, Massachusetts

**Glenn Mangurian, Chair**  
**Sheila M. Calkins**  
**The Honorable John J. Curran, Jr. (ret.)**  
**Ruth Ellen Fitch**  
**The Honorable Gail Garinger (ret.)**  
**Lisa C. Goodheart**  
**John A. Grossman**  
**Scott Harshbarger**  
**Allen B. Kachalia**  
**Gerard T. Leone, Jr.**  
**Liam Lowney**  
**Denise R. Squillante**

**Chief Justice Paula M. Carey,**  
**Executive Secretary**

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## INTRODUCTION AND EXECUTIVE SUMMARY

The Court Management and Advisory Board (“CMAB”) is pleased to submit this report for the period from September 2013 through December 2014 to the Justices of the Massachusetts Supreme Judicial Court (“SJC”) and the members of the Massachusetts General Court’s Joint Committee on the Judiciary, Joint Committee on State Administration, and House and Senate Committees on Ways and Means. The CMAB also submits this report to the Chief Justice and the Court Administrator of the Massachusetts Trial Court.

As detailed below, the CMAB finds that the leadership of the Trial Court has embraced the need for reform and is actively engaged in an ongoing process of transformation throughout the state court system to accomplish that necessary reform. The Trial Court’s change agenda builds upon the findings and recommendations of the 2003 Monan Report (discussed below), responds to the impacts of the budget crisis of 2008-2012, and reflects implementation of the historic 2011 court reform legislation. Trial Court leaders have embarked on an aggressive and ongoing campaign to drive high performance and continuous improvement into the fabric and culture of the Trial Court. Several aspects of the current court management and administration are particularly noteworthy.

First, the Trial Court has adapted to the new leadership structure of a co-equal Chief Justice of the Trial Court and Trial Court Administrator. Despite the potential for this new structure to create operational complexity and organizational confusion, Chief Justice Paula M. Carey and Court Administrator Harry Spence have effectively made the arrangement work. This should not be taken for granted; indeed, to a significant degree, they may be succeeding in spite of the new structure rather than because of it, and there is no guarantee that their respective successors will be able to establish and maintain as successful a working partnership.

Second, there has been a near complete turn-over in the leadership of the Trial Court’s seven Departments (*i.e.*, the Boston Municipal Court, District Court, Housing Court, Juvenile Court, Land Court, Probate and Family Court, and Superior Court) in a very short time period since the 2011 court reform legislation was enacted. The newly appointed Departmental Chief Justices and Deputy Court Administrators provide energy and fresh perspectives at a time when the Trial Court is launching many initiatives, including a number of initiatives that require unprecedented coordination across Departments, Divisions and functions. Expanded training and mentoring efforts will be important to support these newly appointed court leaders, as they work to develop and sustain a high-performing culture of teamwork, transparency and accountability throughout the court system.

Third, the Trial Court is using its 2013 Strategic Plan to guide the court’s continuing management improvements, with a focus on six key areas: governance and

communication, facilities improvement, workforce development, technology enhancements, process improvements, and innovative practices. The Strategic Plan articulates the current mission and vision of the Trial Court, organized around the unifying theme of “One Mission: Justice with Dignity and Speed.”

The recent partial restoration and relative stability of the essential funding of the Trial Court is having a significant impact on court management and is important to further court management improvements. Current funding levels are allowing court leaders at all levels to focus on continuous improvement and pursue some innovations in a way that simply was not possible during the years of budget cuts and fiscal crisis. Increased funding will be needed to sustain these innovations. Today, focused attention to management “raises the bar” on execution excellence and follow-through within the Trial Court system.

As it looks to the future, the Trial Court now faces significant opportunities as well as challenges. Advances in technology allow new approaches to historically vexing problems. Emerging challenges demand evidence-based, data-driven and court user-focused management disciplines. The 21<sup>st</sup> century Trial Court requires increased cross-disciplinary teamwork, active learning and innovation, and expansive talent and leadership development. Together, the many offices, Departments and courthouses of the Trial Court have the potential to be a model for good government as they face challenges and embrace change.

To assist the Trial Court in solidifying the progress made to date and preparing for the management challenges that lie ahead, and for the reasons explained in the body of this report, the CMAB now makes the following four recommendations:

- (1) The Trial Court should focus leadership responsibility and overall accountability for **knowledge management and decision analytics**, and orient technology enhancements and work practices toward improvements in this area.
- (2) The Trial Court should focus leadership responsibility and overall accountability for **the experience of court users**, and orient innovative practices strategies toward improvement of the court user experience.
- (3) The Trial Court should focus leadership responsibility and overall accountability for **talent development**, and orient workforce development strategies toward cultivation of leadership talent.
- (4) The SJC should establish **a regular and recurring schedule of strategic and operational oversight meetings** with the Chief Justice of the Trial Court and the Court Administrator.

The CMAB is honored to advise the Justices of the Supreme Judicial Court and the Chief Justice and Court Administrator of the Trial Court on matters of court management, and is pleased to present this report on the Trial Court's progress in implementing the requirements of the 2011 court reform legislation and making comprehensive management improvements. We look forward to continuing to support the Trial Court in its ongoing efforts to improve the management of its operations, so as to best deliver high-quality justice with the efficiency, dignity, respect and professionalism that the public demands and deserves.

## **1. CONTEXT AND BACKGROUND**

### **1.1. The 2003 Monan Report provided a blueprint for comprehensive management improvement within the Trial Court.**

In August of 2002, the Justices of the SJC established the Monan Visiting Committee (commonly referred to as the “Monan Committee”), a blue-ribbon group of outside management experts chaired by Father J. Donald Monan, S.J., to assess the managerial practices and policies in the Massachusetts court system and to make recommendations to improve the administration of justice in the Commonwealth. The Monan Committee issued its highly influential report (the “Monan Report”) to the SJC in March of 2003. The Monan Report presented a sobering call to action. It described the administration and management of the Massachusetts court system as “uneven at best, and dysfunctional at worst,” and made urgent recommendations for change grounded on managerial best practices organized in terms of three key initiatives: new leadership norms and structures; a culture of high performance and accountability; and discipline in resource allocation and use. The Monan Report recognized that some issues could be solved by the Trial Court itself but others, such as organizational structure and authority, would require future Legislative action. (The Executive Summary of the Monan Report is included as **Appendix A** to this report.)

The SJC embraced the 2003 Monan Report and adopted its major recommendations as a blueprint for comprehensive management reform. The Chief Justice for Administration and Management (“CJAM”) of the Trial Court was charged with leading the effort to implement those recommendations across the Trial Court’s seven Departments. Since that landmark moment over 11 years ago, the Massachusetts Trial Court has been on a difficult but essential journey as it seeks to transform itself from an unevenly-performing, decentralized, often autonomous set of “islands of justice”, managed according to anecdote, intuition and habit, to a consistently high-performing system, managed according to modern best practice disciplines.

### **1.2. The Court Management Advisory Board is charged with bringing contemporary management disciplines to the state justice system.**

The Legislature created the CMAB in 2003 to advise and assist judicial leaders with respect to the administration and management of the Trial Court. Creation of the CMAB followed a recommendation of the Monan Report, which advised that the courts would benefit greatly from the advice and guidance of an independent group of professionals who could bring management expertise, knowledge and experience to bear on the challenges facing the court system. Pursuant to its enabling statute, G.L. c. 211, § 6A, as amended, the CMAB’s

mandate is to advise the “justices of the supreme judicial court, the chief justice of the trial court, and the court administrator on all matters of judicial reform.” The CMAB is composed of twelve members, two of whom serve *ex officio* and ten of whom are appointed based on specified categories of experience as set forth in the above-referenced enabling statute.

In the spring of 2004, the Justices of the SJC appointed the first members of the CMAB, who all served the maximum tenure of two three-year terms. The first CMAB, in the wake of the Monan Report, urged the Trial Court to focus its actions. In defining the initial steps to be taken, a collective decision was made to concentrate on those problems which could be solved by the Trial Court itself, leaving to the future the fundamental structural obstacles that blocked other reforms. This initial near-term focus addressed issues of performance measurement, accountability, and management of resources.

The second iteration of the CMAB was appointed by the SJC to an initial three-year term beginning June 1, 2010. As the expiration of that term approached, the SJC determined that it would be beneficial for the CMAB to have a staggered membership going forward, thereby avoiding a complete membership turnover as had occurred in 2010. To that end, in the summer of 2013, the Court appointed a number of new members to join those who would continue in service as the third iteration of the CMAB. A list of the current CMAB members and the CMAB’s activities for the September 2013 — December 2014 period is included in this report as **Appendix B**.

### **1.3. The Trial Court has effectively pursued many of the Monan Report’s recommendations.**

Implementation of the Monan Report recommendations initially focused on resource allocation and performance measurement and accountability. From 2003-2010, under the leadership of Chief Justice Margaret H. Marshall and the Associate Justices of the SJC and CJAM Robert A. Mulligan, and through the efforts of the Chief Justices and other judges of the seven Trial Court Departments, the elected and appointed Clerks, Clerk Magistrates, Recorder and Registers, and other Court personnel, a growing sense of professionalism and motivation started to change the culture of the Trial Court. A new focus on management excellence and improvement began to take hold. Since 2003, significant progress has been made on the Monan Report's recommendations in key areas, such as the introduction of time standards and performance metrics, staffing models, and enhanced technology.

#### **Time Standards and Performance Metrics**

The Trial Court began to implement a number of the measures advanced by the National Center for State Courts. Metrics introduced in 2006 focused on juror

utilization and timeliness of case flow management including case clearance rates, time to case disposition, age of active pending caseload and trial date certainty. The time standards metrics have enabled the Trial Court to identify in an objective manner where delays in the delivery of justice are occurring, as both civil and criminal cases progress and are resolved. The juror utilization metric has been used to reduce the annual number of jurors required to report for service by 100,000 in the past seven years. Attention to time standards and performance metrics is a significant and now well-established, positive cultural change for the Trial Court.

### **Staffing Models and Resource Allocation**

Staffing models based on case-weighted data were developed by all Departments of the Trial Court in 2005 and used to make critical resource decisions. Given more recent technology and practice changes, new data were collected and analyzed in 2014 to produce updated Resource Allocation Guides, which have replaced the previous staffing models as supports for objective, equitable resource decisions within and between Departments. Future hiring and resource allocations will use these updated guides.

### **Technology Investments**

The Trial Court has invested in the modernization of its technology, an area that has long required attention. The multi-year implementation of MassCourts, a single, web-based case management computer technology platform, provides systemic and uniform management data that can be used to analyze court operations. When the complex implementation is completed in 2015, it will have replaced 14 different legacy computer systems. MassCourts allows for the regular, electronic exchange of data with entities such as the Registry of Motor Vehicles, the Board of Bar Overseers, the Department of Criminal Justice, and the Committee for Public Counsel Services. While the implementation of MassCourts has been difficult and taken longer than originally anticipated, the system allows for new efficiencies and serves as the foundation for valuable data analysis regarding Trial Court performance.

#### **1.4. The statewide budget crisis of 2008-12 required decisive action by the Chief Justice of Administration and Management and the Departmental Chief Justices to respond to reduced appropriations.**

The national fiscal crisis required mid-year budget reductions by all state-funded entities starting in late 2008, and continuing through 2012. The Trial Court's budget appropriation declined from an initial level of \$605.1M in FY09 to \$553M in FY12. The CJAM and the Department Chief Justices responded by making necessary reductions focused on three areas: the Trial Court's workforce, court service hours and lease expenses. In addition, a committee was formed to

consider the complex and difficult subject of consolidation or relocation of courts.

### **Reduction in Workforce**

Over the course of the fiscal crisis, the Trial Court implemented a very difficult four-year hiring freeze, a five-day furlough, two modest retirement incentives, voluntary layoffs and a voluntary program to reduce hours. From July 2007 to August 2013, court staffing declined by 17 percent or about 1,300 positions, from 7,630 to 6,300.

These efforts were successful in avoiding involuntary layoffs of court staff during this challenging time. Significantly, however, the attrition resulting from these staffing measures resulted in uneven resource allocation that was not related to local workload levels. Many court Departments and Divisions fell well below staffing levels recommended by the nationally-endorsed, weighted caseload staffing model. A number of Clerk's Offices voluntarily arranged temporary transfers of staff, and administrative offices sent staff to assist local courts on a weekly basis. However, statutory limits on authority did not permit the CJAM or Department Chief Justices to rebalance staffing in light of uneven personnel assignment attrition, within and across the many courthouses and discrete working units of the Trial Court.

### **Reduced Court Service Hours**

In September 2011, 36 court operations across the Commonwealth reduced counter and telephone access to the offices of the Clerks, Clerk-Magistrates, Recorder and Registers, in order to address filing backlogs and processing delays. The scheduling of court sessions was not affected by the restricted office hours and full access remained available for emergency matters. The use of restricted hours to deal with staffing shortages in some court Departments and Divisions continued until September 2013, when all courts resumed a full schedule, as permitted by the FY14 budget appropriation.

### **Reduced Lease Expense**

From FY09 through FY11, court lease expenses were cut by more than \$7M through a combination of lease renegotiations, several court relocations and space reductions, including the relocation of the Land Court to Pemberton Square and the consolidation of administrative office space.

### **Consideration of Court Relocations**

A Court Relocation Committee, co-chaired by then-District Court Chief Justice Lynda M. Connolly and Housing Court Chief Justice Steven D. Pierce and composed of both members and external constituents of the Trial Court, was formed in early 2010. The committee reviewed data, studied operational and access issues, and sought public input. In mid-2011, the committee sent a report

to the Legislature, proposing the relocation of 12 court Divisions which would redeploy 300 staff and reduce annual expenses by \$3.4M, and also recommending a review of long-term building needs for the next ten years. Implementation of the recommendations was deferred, however, in light of the significant disruptions to local communities and other government agencies that the proposed relocations would have entailed. The Legislature specified parameters related to possible court relocations in the 2011 court reform legislation, and the number of courthouses was considered as part of capital planning for renovations.

### **Impact on Trial Court Employee Morale**

The widespread staff shortages, reductions in services and concerns about possible court relocations severely impacted the morale of Trial Court judges and staff. Their decreased ability to service the public, address case backlogs, and process cases in a timely way caused tremendous frustration among various court users, court employees and court leaders.

### **1.5. Structural constraints have limited the ability of the Chief Justice of Administration and Management and the Department Chief Justices to implement operational efficiencies and management improvements.**

It was clear by 2010 that further performance improvements were both acutely needed because of the Trial Court's budget reductions and still hindered by many of the structural obstacles described years earlier by the Monan Report. The 2010 CMAB identified the Probation Department as a special concern in this regard. As of 2010, the Probation Department had approximately 2,200 employees, representing about one-third of the entire Judiciary staff, yet it operated with remarkable autonomy and very little accountability to the CJAM. The exclusive authority to appoint, assign, dismiss and discipline those 2,200 employees had rested, since 2001, with the Commissioner of Probation, an arrangement that seriously constrained the CJAM's ability to manage the Trial Court's resources.

In March 2010, the CMAB issued a special report entitled "Legislative Action Required to Achieve Managerial Excellence in the Trial Courts." The report highlighted the need for legislative action to establish sensible and clear lines of authority within the judiciary and to eliminate limitations on full transferability of funds between Court Departments, as well as to professionalize court management, and to drive accountability throughout the court system. In addition, court leaders at all levels, with broad support from the legal community, sought budget relief, recognizing that the Trial Court's ability to achieve significant further management efficiencies was effectively hampered by the structural constraints outlined by the Monan Report and amplified by the CMAB special report of March 2010.

## **2. COURT REFORM EMBRACED AND LAUNCHED**

### **2.1. The condition of the court system in 2010 demanded further court reforms and necessitated legislative action.**

#### **SJC Actions to Address Hiring and Promotion Improprieties**

Shortly after the issuance of the CMAB's 2010 special report, media attention revealed hiring and promotion improprieties in the Probation Department. These media revelations required immediate action. The SJC accordingly took decisive actions, beginning in May 2010, to:

- (1) remove and replace the Commissioner of Probation with an experienced, reform-oriented professional;
- (2) commission an investigation and independent report on the Probation Department situation; and
- (3) form a task force, led by former Attorney General Scott Harshbarger, to make recommendations concerning court-wide hiring and promotion processes and procedures.

These SJC actions were necessary to ensure a full, independent investigation and evaluation of hiring and promotion deficiencies in the judicial branch, and to determine an appropriate plan for any necessary changes.

#### **Renewed Calls for Legislative Action**

The media revelations and the SJC's response reignited the public discussion around the need for court reform in order to achieve deeper management accountability throughout the Trial Court. More specifically, the deplorable and dispiriting revelations about hiring and promotion within the Probation Department left no doubt that legislative action was urgently needed to remove problematic constraints and increase the clear authority of Trial Court leadership over Trial Court operations. The public trust in the court system is dependent on a grounded belief that sound management principles are used in all aspects of the delivery of justice. Legislative action to enable the Trial Court to operate with more management authority had now become a clear imperative.

### **2.2. The 2011 Court Reform Legislation introduced new executive management leadership.**

The Legislature responded to the need for court reform through diligent discussions with the SJC, CJAM, Department Chief Justices and external constituencies. House Speaker Robert DeLeo and then SJC Chief Justice Roderick L. Ireland played key leadership roles in shepherding and shaping the key

elements of the package. The resulting 2011 court reform legislation embraced several of the recommendations originally included in the Monan Report and the 2010 CMAB Report. The legislation had several important provisions that created new management leadership roles, accountability and enhanced authority over Trial Court personnel and operations. In August 2011, Governor Patrick signed the court reform bill (Chapter 93 of the Acts of 2011) into law, and most elements of the reform legislation became effective in July 2012.

### **Court Administrator**

The keystone of the 2011 court reform legislation was the introduction of a critical new role in the court system, that of the Court Administrator. The previous CJAM role was eliminated, and the authority formerly vested in the CJAM was divided into two new parallel leadership positions — the Chief Justice of the Trial Court and the Court Administrator, both appointed by and accountable to the SJC. While the Chief Justice role is in many ways a traditional and familiar one, which is held by a sitting judge who serves as the top judicial policy leader of the Trial Court, the Court Administrator role, which must be held by a non-judge, reflects a new emphasis on professional expertise and leadership in matters of administration and management as essential to the Trial Court's operations.

The Court Administrator is responsible for oversight of the Trial Court's administrative functions, such as budget, hiring and technology deployment. The Chief Justice of the Trial Court remains the policy and judicial head of the Trial Court. The Chief Justice and the Court Administrator jointly oversee the Trial Court and both are appointed by and accountable to the SJC.

In this newly-created position, the Court Administrator works in collaboration with the Chief Justice to oversee the operation of seven Trial Court Departments with a budget of \$560 million, 379 judges and 6,400 court staff across 101 court facilities. The new structure confirms the importance of both administrative and judicial leadership and reflects recognition of the differing kinds of expertise that are essential to the delivery of justice for the Commonwealth into the 21<sup>st</sup> century. Simply stated, high quality management is necessary to maintain and enhance a high standard of justice.

### **Deputy Court Administrator**

The 2011 legislation also created the position of Deputy Court Administrator in each Trial Court Department, with dual reporting responsibility to the Departmental Chief Justice and the Court Administrator. Departmental Chief Justices and Deputy Court Administrators serve coterminous, five-year terms, and mutually determine their respective responsibilities for management of their Department with joint oversight by the Chief Justice of the Trial Court and the Court Administrator, under the general superintendence of the SJC.

### **Personnel Performance Accountability**

While much attention has been focused on the new roles of the Court Administrator and Deputy Court Administrator, an equally critical aspect of the 2011 court reform legislation was the provision of significantly enhanced authority, on the part of the Court Administrator, the Chief Justice of the Trial Court, the Departmental Chief Justices and Division court leaders, to address performance issues effectively, and to discipline and remove court employees who do not perform in ways consistent with the Trial Court's policies. Of particular note, among other changes, is the statutory language that enabled the Trial Court's to adopt a "not arbitrary or capricious" standard for the removal of managerial employees. This replaced "for cause" as a minimum standard for removal, and it provides an essential tool for purposes of driving performance accountability among court personnel.

### **2.3. The 2011 Task Force on Hiring in the Judicial Branch advanced changes in court-wide hiring and promotion.**

In November 2010, the SJC convened the Task Force on Hiring in the Judicial Branch, chaired by former Attorney General Scott Harshbarger to "undertake a comprehensive review of the hiring and promotion procedures in the Judicial Branch and to make recommendations designed to ensure a fair system with transparent procedures in which the qualifications of an applicant are the sole criterion in hiring and promotion." The Task Force met 29 times during a one-year period beginning in December 2010 and heard testimony from many people including numerous court employees. Many clearly expressed their view that the recently exposed hiring and promotion improprieties were an embarrassment to the Probation Department and to the many employees who take pride in what they do and work diligently every day to deliver justice.

### **Task Force on Hiring Recommendations**

The Task Force issued a series of six reports, outlining its findings and recommendations for reforms in the hiring and promotional practices within the judicial branch. The reports identified seven best practices which the Task Force felt were at the core of an effective and fair hiring and promotion system for the courts:

- (1) **Well-defined mission statements**, to highlight the purpose and values of the hiring department or authority;
- (2) **Current and well-defined job descriptions**, to detail the role, requirements and essential measures for success of the position, including the competencies necessary to fulfill all aspects of the job;
- (3) **Multi-channel sourcing of candidates**, to increase and expand the pool of the highest qualified applicants;

- (4) **Objective review of candidate qualifications**, entailing an initial screening by someone other than the manager or hiring authority who will make the ultimate hiring decision. This would also include the recommendation that hiring managers not be informed of any recommendations until a candidate becomes a finalist and his or her references are being checked;
- (5) **Behaviorally-based or situational interviews**, to evaluate how candidates might handle specific situations;
- (6) **Candidate assessments or formal tests**, to provide an objective rating of a candidate's aptitude and capability for the position; and
- (7) **An applicant tracking system**, to track every step of the hiring process with an automated system.

The Task Force on Hiring recognized that the vast majority of court employees were hardworking and dedicated employees, but that the Trial Court's hiring and promotion practices and human resources capabilities did not well serve the system or the employees who come to work each day to support the Trial Court's mission. The Task Force called on the SJC to exercise its supervisory leadership role in overseeing implementation of the report's findings and recommendations. These changes, when implemented, will better serve to attract quality applicants and allow for strong employees to be recognized, where appropriate, through accepted promotion practices. (A summary of the progress to date in implementing the Task Force recommendations is included as **Appendix C** to this report.)

#### **2.4. Court leaders have aggressively implemented the 2011 legislation.**

The 2011 court reform legislation has been embraced and aggressively implemented by the Chief Justice of the Trial Court, the Court Administrator, the Departmental Chief Justices, and the Deputy Court Administrators and Division leaders. The following is an overview of the key implementation actions.

##### **New Leaders and New Structure**

As described above, the 2011 legislation created two new positions: the Court Administrator and the Chief Justice of the Trial Court. After a nationwide search, Lewis H. "Harry" Spence was appointed by the SJC in April 2012 to serve as the Trial Court's first Court Administrator. Court Administrator Spence brings a distinguished career of leadership and management excellence, as well as a track record of public sector success. He is an inclusive leader and collaborator. With the retirement of the Honorable Robert A. Mulligan after 33 years of judicial service including 10 years as the CJAM, the Honorable Paula M. Carey was appointed to serve as the Chief Justice of the Trial Court in May 2013. Chief Justice Carey is a visionary leader with a stellar record of judicial excellence, leadership and exceptional employee engagement. She was appointed an

Associate Justice of the Norfolk Probate and Family Court in 2001 and served for six years as the Chief Justice of the Probate and Family Court, prior to her appointment as Chief Justice of the Trial Court.

Chief Justice Carey and Court Administrator Spence view judicial policy and administration of the Trial Court as inextricably interwoven. They work closely to ensure that they speak with one voice to the Trial Court and to external stakeholders. Together, they meet monthly with the Department Chief Justices and Deputy Court Administrators, with the SJC, and with the heads of the Clerks' Associations. They jointly lead the Strategic Leadership Team and a number of other key committees and visit courthouses together as often as possible.

### **Strengthened Department Administration**

Court Administrator Spence has worked with the Departmental Chief Justices to enhance the role of Deputy Court Administrator in a way that works effectively for each Department. He meets with the Deputy Court Administrators on a monthly basis and asked them to meet weekly as a group to strengthen problem-solving and interdepartmental collaboration. Since 2013, the Deputy Court Administrators have participated with other court leaders in Michigan State University's locally presented Judicial Administration Certificate program. Chief Justice Carey and Court Administrator Spence meet monthly with the Department Chief Justices and Deputy Chief Administrators and conduct quarterly data review meetings.

### **Personnel Performance Reviews**

By the end of 2014, the Trial Court will for the first time complete performance reviews of all managerial employees of the Office of Court Management ("OCM"). All OCM department heads received training on the review process, which is intended to establish ongoing two-way communication between employees and managers. The primary goals of the process are to ensure that employees are aware of their major duties and responsibilities, understand the level of performance expected, receive timely feedback, and gain opportunities for education, training and development. The review process includes the development of a mutually agreed-upon action plan. Performance reviews will be introduced to employees in all other areas of responsibility in 2015.

### **Probation Department Professionalism**

The 2011 court reform legislation markedly improved the accountability of the Probation Department to the Trial Court leadership, as hiring in the Probation Department is now subject to approval by the Court Administrator. A Probation Advisory Board comprised of external representatives to oversee reforms in the Probation Department has also been established.

Commissioner Edward J. Dolan assumed leadership of the Probation Department in June 2013, after serving as Commissioner for the Department of Youth Services and obtaining prior leadership experience with the Parole Board. He has expanded the use of evidence-based practices and, in 2014, he completed the Probation Department's transition to a new risk/need assessment tool, ORAS, Ohio Risk Assessment, for its entire caseload. The assessment tool is used to help predict recidivism at multiple points in the criminal justice system. Specifically, assessment instruments are used at the pretrial stage and in connection with community supervision, institutional intake, and community re-entry. Commissioner Dolan has launched an extensive training effort for Probation staff and expects to initiate a strategic planning process in 2015. The Probation Department is also providing judges with detailed data to inform their decision-making.

The Probation Department is also involved in several other important initiatives. Probation plays an integral role in the HOPE/MORR (Hawaii Opportunity Probation with Enforcement/Massachusetts Offender Recidivism Reduction) recidivism reduction program underway in Salem and Worcester. The model is based on swift, certain, measured sanctions to reinforce court orders with high-risk offenders. At both locations, the program is using a rigorous research methodology to enable meaningful data collection on outcomes. In addition, Commissioner Dolan co-chairs a Pre-trial Services Task Force with District Court Chief Justice Paul Dawley and, together, they are focused on compiling data and identifying best practices.

#### **Executive Branch and Other Collaborations**

The Probation Department is integrating its Community Corrections operations to ensure maximum utilization of resources. There is ongoing dialogue and partnership with the Executive Office of Public Safety and Security, aimed at identifying opportunities for collaboration.

Partnerships with the Department of Public Health, the Department of Mental Health and the Bureau of Substance Abuse Services are currently enabling the Trial Court's statewide expansion of Specialty Courts. Specialty Court sessions operate throughout the various Divisions of the Departments to address criminal behavior resulting from underlying chronic substance abuse, mental illness, homelessness and issues especially affecting veterans. Ten new Specialty Court sessions are being added in FY15 to bring the total to 35. The Trial Court's goal is to double the number of Specialty Court sessions over three years. A best practices manual, drug court certification process and identification of a Center of Excellence research partner are all part of this expansion effort.

The ultimate results of the efforts by the Trial Court to assimilate the impacts of the new reforms, adapt to new ways of operating, and evolve to meet the

judicial needs of the Commonwealth will take time to assess. Yet, in less than three years, the 2011 court reform legislation already has had a significant positive and reenergizing impact on the Trial Court.

## **2.5. New hiring practices have been implemented across the Trial Court.**

The 2011 court reform legislation called for a transparent, merit-based hiring process for court officers and probation officers that included a written exam and screening process to assess minimum qualifications. Since the final Task Force on Hiring report was issued in December 2011, the Trial Court has made significant changes to build and use a merit-based hiring and promotion system across the court. These changes include:

- **Updated manual of Personnel Policies and Procedures:**  
The Trial Court has substantially revised its personnel manual in January 2013, reflecting both the recommendations of the Task Force on Hiring and the requirements of the court reform legislation;
- **Online job application:**  
The online application system enables centralized screening of applicants;
- **Automated applicant tracking system:**  
The use of this tracking system allows the process to be carefully reviewed by the OCM and ensures compliance with the new hiring policies;
- **Testing:**  
Two Requests for Proposals were issued to identify a vendor to develop exams for Court Officer and Probation Officer positions, and in March 2014, a nationally-known vendor in the criminal justice area was selected. Approximately 2,000 applicants took each exam offered in mid-2014;
- **Behavior-based interviews:**  
Successful completion of the exam was required for applicants to those positions. A behavioral-based interview format was introduced to assess applicants' performance in critical skill areas. Hundreds of applicants were interviewed in the fall of 2014; and
- **Metrics:**  
The use of metrics helps to evaluate hiring and promotion activities, and more closely ensure that hiring conforms to staffing models and budgets.

As the foregoing summary reflects, the 2011 court reform legislation accomplished some long-discussed and much-needed structural changes. The Trial Court is now quickly assimilating and building upon those changes, and substantial positive change is already evident. Court reform alone cannot define individual behavior

or change culture, and some aspect of the reforms will be easy to implement while others will take more time. Ultimately, full realization of the promise of court reform will require important adjustments in many individuals' behavior, and, for some, significant modifications of long-held assumptions and practices.

### **3. THE CURRENT MANAGEMENT AND ADMINISTRATION OF THE TRIAL COURT**

#### **3.1. Talented court leadership and partnership are critical to court reform workability and success.**

##### **Adapting to the New Trial Court Co-equal Leadership**

Many inside and outside the Trial Court were initially pessimistic about the revised management structure established by the 2011 court reform legislation, with two co-equal heads. The new structure does not by any means guarantee a successful working relationship. In many situations, the parallel positions could create operational complexity and organizational confusion. Some prefer the simplicity of a single top authority – a judge as the decision-maker on all questions. Others wonder who to go to for decisions that may lie within the scope of one leader’s responsibility but will directly impact the other’s jurisdiction. Even where the divisions of the decisional authority are clear, implications of many decisions should prompt collaboration between the Trial Court leaders. Some report that certain decisions are taking longer, while others report that many decisions are more balanced and reflect consideration of a broader perspective.

In practice, there is no universally ideal management structure, as whenever any given structure is set up to solve one set of problems, it inevitably causes some new ones to arise. The major restructuring of the management of any complex organization has unintended second-order repercussions, and typically entails some adjustment period. Nonetheless, the changes to the Trial Court’s management in the wake of the 2011 court reform legislation have been very well-effected, and the impacts have been substantial and quite positive. The implementation of key structural changes and the appointment of new leadership roles have coincided with the gradual recovery of the Trial Court from the negative effects of the earlier budget crisis, and that, too, has had a favorable effect on the courts.

##### **Making the New Structure Work**

Adding a civilian Court Administrator to Trial Court leadership is a significant change from long standing practice – a change that some may be slow to embrace. Chief Justice Carey and Court Administrator Spence make the structure work through mutual respect, a unified vision, shared values, trust and personal commitment to each other as well as the judicial system. They should be commended for creating not just a good working relationship but a model for partnership for the entire Trial Court — across Departments, Divisions and functions. Future Trial Court leaders will need to embody the same partnership traits for this parallel structure to work. Without mutual respect and partnership

the parallel structure may become dysfunctional. The CMAB will continue to monitor the workability of this structure and make recommendations to the SJC and the Legislature, if appropriate.

### **New Energy and New Perspectives**

The Trial Court has seen not only the appointment of Chief Justice Carey and Court Administrator Spence to their current positions, but also a near complete turn-over in the leadership of the Trial Court Departments in the last few years. Six of seven Chief Justices of the several Trial Court Departments have been appointed since mid-2013, and four of the seven Deputy Court Administrators of the Trial Court Departments have five or fewer years in that role. During this same time, many judges and a large number of seasoned employees have retired, or will soon be retiring. Necessarily, they are being replaced with less experienced talent, resulting in a much less experienced system, overall. While there is always a cost to lost experience, the incoming judges and court staff bring fresh energy to their roles at a time when the Trial Court is launching many new initiatives, including a number of initiatives that require coordinated action across Departments, Divisions and functions. There is a spirit of optimism, innovation and continuous improvement that is supported by expanded training and mentoring efforts for recently appointed court leaders.

### **3.2. The Trial Court's 2013 Strategic Plan highlights shared purpose and provides a five-year roadmap.**

In June 2013, the SJC approved a Trial Court Strategic Plan. The Trial Court used a comprehensive and inclusive process in developing its first strategic plan in many years. The plan was developed through an inclusive "bottom-up" process involving many talented court employees. A 22-member process committee developed the actual plan, assisted by a consulting firm beginning in late 2012. They used an employee survey, court visits, stakeholder meetings, and a wide range of additional data in order to identify six key priority areas and a list of more than 100 tactics to be pursued.

#### **Strategic Plan Action Areas**

The roadmap established by the Trial Court's 2013 Strategic Plan is organized into six priority areas:

- Governance and Communication;
- Facilities Improvement;
- Workforce Development;
- Technology Enhancements;
- Process Improvements; and
- Innovative Practices.

A new Strategic Leadership Team of 25 leaders drawn from various Departments, functions and locations is accountable for overseeing progress on plan implementation, which is now proceeding on all fronts.

**One Mission: Justice with Dignity and Speed**

The Trial Court’s strategic planning process helped to highlight this important commonality of purpose and shared values across its seven Departments. All of the state trial courts operate with a unifying purpose – equal access to justice delivered expeditiously and with dignity for all court users. The theme “One Mission: Justice with Dignity and Speed” emerged as a unifying theme.

This theme is intended to help move the culture of the courts away from rigid, Department, Division and functional silos and toward a system bonded by a common purpose and mission. While local identity and differing subject matter jurisdictions will sometimes be important, these differences must not get in the way of collaboration, learning, mutual support and pride. Dignity and respect for court colleagues and court users provide a foundation that should drive behavior, and are to be developed and cultivated by line employees as well as leaders throughout the court system.

**3.3. Focused attention to management “raises the bar” on execution excellence and follow-through.**

All court managers must understand that “the bar has been raised” – the expectation of management excellence is now higher than before. The Court Administrator brings a wealth of management experience and corresponding expectation that “better” decisions will be made and there will be follow through on those decisions. Execution and follow-through will be “under a microscope” and increased accountability will be expected. Commitments to follow through will be expected to be fulfilled, as promises. The responsibility for unfulfilled commitments or falling short of expectations will easily flow uphill, to Clerks and Registers, Deputy Court Administrators, Directors of the Office of Court management (“OCM”), and ultimately the Court Administrator.

Clerks and Registers (with their supervisors) represent the “front line” of day-to-day management in the courts. The new emphasis on management excellence has empowered some of these managers to engage quickly with their employees to seek improvements to their operations. Others may be slower to respond to the higher management expectations.

In any event, OCM is on the receiving end of the requests “from the field” for operational support, each made by someone for whom the specifics of the situation are very important and deserving of action today. Juggling competing priorities is always a challenge for OCM, and any request for support must be

evaluated in light of limited resources. Currently, a cultural shift from a compliance-driven to a service-driven orientation is taking place within OCM, which reports to the Court Administrator and supports operations of the seven Trial Court Departments, the Probation Department and the Office of the Jury Commissioner in the areas of capital projects, facilities management, fiscal operations, human resources, security, support services, and information services. In the past, OCM's compliance orientation was sometimes counterproductive to the fulfillment of the Trial Court's mission, and alienating to Trial Court personnel who sought OCM's assistance. OCM is now working to be more responsive to requests, by following through on commitments and reporting on the status of requests. Measurements such as OCM response times and satisfaction with internal customers have sharpened the focus on service and also work to unify and strengthen the supporting culture.

It is natural for execution expectations to rise in light of the renewed emphasis on management follow-through. All personnel are learning that accountability requires follow-through and fulfillment of commitments. In the near term, a gap between expectations and actual experience will likely become more visible than before, when expectations might have been lower. This new discipline will be developed as a new management "muscle" that must continue to be flexed so as to prevent atrophy.

At the same time, it must be acknowledged that until substantial new resources are allocated to address the myriad problems associated with the Trial Court's physical facilities, the Trial Court's facilities leadership will continue to be challenged in meeting expectations, particularly with respect to courthouse accessibility, HVAC, and security issues. Many of the Trial Court's courthouses are outdated, inadequate and simply not suitable for the well-managed delivery of justice to the people of the Commonwealth today. The CMAB anticipates that this will be a subject of future consideration and recommendations.

#### **3.4. Management innovations and new disciplines are being implemented.**

##### **A New Executive Office**

The Executive Office of the Trial Court ("EOTC") was established jointly by Chief Carey and Court Administrator Spence to facilitate communication and enable joint leadership by the Chief Justice of the Trial Court and the Court Administrator. The EOTC encompasses staff that support judicial policy, judicial education, legal, research and planning, intergovernmental relations, Specialty Court administration, grants management, general administration and communications. It is a good example of the collaborative approach that allows for the close coordination of judicial policy and management policy.

## **Focused Improvement**

More generally, there has been a focus on improving professional management and introducing an ethic of continuous improvement throughout the Trial Court. Areas of expanded activities include:

- Operational Improvements
  - Process improvement
  - Case flow management
  - Metrics workgroup
- Talent Development
  - Performance reviews
  - New employment recruitment and testing
  - New employee orientation
  - Leadership training and coaching
  - Expanded mentorships
  - Mandatory three-day training for union employees
- Planning
  - Trial Court strategic planning
  - Capital planning
  - Facilities planning
  - Specialty Court planning
- Innovation
  - Innovation grant program
  - Expanded pilot project including juror and counter experience improvement
- Technology
  - MassCourts governance
  - Electronic criminal filing and civil e-filing
  - Video conferencing
  - Single, state-of-the-art public website for judiciary
  - Desktop scanning capacity

## **Data-Driven Performance Management**

Fact-based performance management continues to evolve. Expanded implementation of MassCourts allows for expanded electronic transactions with external partners and more detailed reporting of case flow management performance for court leaders. Departmental case flow metrics are publicly available. New working groups have been formed at Department and system levels to understand case flow performance and monitor improvement. With respect to non-judicial matters, data analysis is being used to transform the work of OCM in the areas of capital projects, facilities management, fiscal operations, human resources, security, support services, and information services.

The production of more detailed data will provide local court leaders with greater access to information about their own operations, to enable a shift in focus from understanding local performance to engaging with new tools, processes and best practices to improve their operations. Furthermore, data analysis tools will be used to understand trends and gain insight for policy development, perform evidence-based evaluation of new programs, implement operational changes and make more informed decisions. For example, the HOPE/MORR Project and the Pretrial Task Force are making extensive use of data to understand the effectiveness of current policies and, where appropriate, develop new practices.

The courts are challenged to keep up with technology advances and service expectations. However, advances in technology deployment and usage will be essential if the courts are to operate according to the “new normal” of partially restored, but still reduced, resource levels.

### **3.5. Court employees are ready to be engaged to operationalize the Trial Court’s mission and build high performing court service.**

The courts have many dedicated and talented employees who take pride in their work. Employees at all levels strive to make a difference and operationalize the Trial Court’s mission. CMAB members have observed this dedication in action. Consider the following real examples:

- The security officer who greets the anxious woman seeking a restraining order with a soothing smile and a “good morning”;
- The employee in the clerk’s office who is patient while a non-English speaking man tries to understand how to complete a form;
- The victims’ advocate who consoles a woman with bruises from domestic abuse with the same empathy after 20 years of service as she showed in her first week;
- The probation officer who cries when learning a probationer dies of an overdose; and
- The judge who listens with empathy as a homeless woman admits that she shoplifted a pair of shoes for her child.

These and other similar actions happen daily within our courts, outside the glare of cameras and lights. Media focus on poor performance by some, while sometimes necessary and appropriate, still casts an unfair shadow over the thousands of talented, dedicated employees who make our courts work day in and day out.

Court employee morale is now generally improving, after a number of challenging years of budget and staff level reductions. Results of employee

surveys associated with the strategic plan indicate a willingness and desire to change and embrace continuous improvement. CMAB member court visits confirm that a spirit of optimism, innovation and continuous improvement is present in many courthouses.

Any court's ability to provide satisfactory service depends on the employees who interact with the people who enter the courthouse and the systems in place to train and support those employees. As the needs of the court users evolve, the court employees must receive training in effective ways of servicing those needs. The work of every court employee is meaningful and important to the fulfillment of the court's mission. Employees who feel valued and respected by their management and peers will translate those values into the way they provide service to the court users with whom they interact.

Many court employees are proud of the work they do and see the justice system as a place where they can build a meaningful career. Increasingly, Trial Court supervisors and managers are engaging their direct reports in career discussions. Human resource managers are formulating career ladders, competency maps and training opportunities to support employee growth and advancement. Annual performance reviews help employees understand where they stand and identify areas for developmental focus.

### **3.6. A culture of teamwork, transparency and accountability is emerging.**

We live in an interconnected 21<sup>st</sup> century world, where information travels at the speed of electricity, work is increasingly done in teams, and the public expects transparency and accountability. These norms and expectations apply to the Commonwealth's court system, as elsewhere.

#### **Teaming as a Court Norm**

It may take a team to deliver justice, but teamwork cannot be legislated or forced. Rather, it depends upon the willing collaboration of dedicated professionals with different skills, serving different functions, who share a common mission and set of values. When members of the team collaborate, treat each other with respect, and mobilize around a common purpose, good things happen.

Court employees are increasingly aware that they need the engaged support of their colleagues, whether down the hall or down the road. Intra-facility and cross-Department partnerships are developing, in Greenfield, for example, and elsewhere. In some situations, Department and Division leaders and staff are sharing resources voluntarily with other units or locations. While some structural impediments still exist and need to be addressed, court personnel are

finding ways of voluntarily helping their colleagues in times of need. These collaborations are examples of the “one mission” message taking hold.

Indeed, there have been some positive expressions of increasing professional pride and satisfaction on the part of many Clerks and Registers who have actively embraced the Trial Court’s new hiring practices and other changes that affect their offices. Active listening and dialogue, and reciprocal open-mindedness and flexibility concerning new initiatives, will be important to foster and further strengthen the relationships between judges and other appointed and elected judicial officers in each of the courthouses across the Commonwealth.

A few courts, unfortunately, still operate as islands of isolated activity and demonstrate limited teamwork and sub-optimal functionality. These situations frequently have historical roots. But, increasingly, those “islands” are becoming outliers and run counter to the emerging culture of collaboration. The Trial Court culture is changing to the point where teamwork will be the norm and isolated parochial action will be the exception.

### **Senior Leadership Team**

Trial Court Administrator Spence and Chief Justice Carey have strengthened their partnership with the Association of Magistrates and Assistant Clerks. For example, Court Administrator Spence, Chief Justice Carey and Association Presidents Daniel Hogan, Michael Sullivan and Patrick McDermott have worked together to draft revised rules governing the procedures of the Committee on Professional Responsibility for Clerks of the Courts. These court leaders are working together in our areas to define and implement that management disciplines necessary for excellence in the 21<sup>st</sup> century courts.

Investments are being made in improving relationships across the board through shared experience, accountability and follow through. A senior leadership team has been formed and assigned accountabilities to implement the strategic plan. A management education partnership with Michigan State University offered a first-time cohort of Department and Division leaders the opportunity to develop relationships while advancing their management expertise. Based on the success of the program with the first cohort, a second cohort has been selected from an overflow pool of applicants. These are examples of teamwork and shared learning experiences that can be further expanded to others.

### **Learning and Shared Best Practices**

A culture of collaboration is the foundation for learning and sharing best practices, but there are some barriers that can get in the way. Many large organizations struggle with a “not invented here” barrier to learning from peer departments. There is a tendency of geographically dispersed units to reject practices from peer units in other places, even though sharing practices across

Divisions, counties or regions compresses the “learning curve” of continuous improvement. Also, many geographically dispersed organizations like the court system suffer from sub-optimal “headquarters to field” relationships. It is common for the “field” (e.g., employees in any local courthouse) to view “headquarters” (e.g., OCM staff, Chief Justices, the Court Administrator and the Deputy Court Administrators) as out of touch with the realities of daily life in the courthouse. These issues exist and must be addressed.

### **Transparency**

Greater transparency is evident through a simplified, information-rich new web site design that includes case statistics and court metrics. Newsletters, policy transmittals and coordinated media outreach are improving the Trial Court’s internal and external communications. The Chief Justice of the Trial Court, the Court Administrator, the Department Chief Justices and the Deputy Court Administrators regularly visit internal and external constituencies to listen, explain the Trial Court’s direction, and answer questions. A new spirit of teamwork is taking hold.

### **3.7. Funding stability allows court leaders at all levels to focus on continuous improvement and targeted innovations, even as they continue each day to manage the routine business of the courts.**

### **Critical Hiring**

The relative funding stability of the past two years, after the financial crisis and budget issues of 2008-2012, has allowed for selective critical hiring. Modest budget increases have allowed the Chief Justice of the Trial Court, the Court Administrator and Department leaders to refocus their attention to building an ethic of continuous improvement, which includes raising and expanding the courts’ cultural competency. Specific innovations include the introduction of Court Service Centers, the significant expansion of Specialty Courts, and the expansion of interpreter services. Additional innovations continue across the Commonwealth through the creative energy of an encouraged workforce. Increased levels of funding will be needed to sustain and increase the level of innovation and public service provided by the Trial Court.

### **Specialty Courts and the Center of Excellence**

Public health issues such as substance abuse and mental health are in the forefront and require coordinated action using community resources. While Division court leaders have taken the initiative to develop drug court sessions in various courts, the Chief Justice of the Trial Court, the Court Administrator, and Boston Municipal Court and District Court leaders are now acting purposefully and in concert to expand Specialty Courts across the state. Recognizing that an investment in Specialty Courts is an investment in reducing recidivism, the Trial Court Chief Justice and Court Administrator have formed a Center of Excellence

to capture and share best practices as well as analyze evidence-based data concerning Specialty Courts. The Trial Court has hired UMass Medical School to direct the Center of Excellence and assist in developing best practice sharing, facilitate up-to-date training and research availability, and provide evidence-based evaluation of results. The Center of Excellence is an innovation that will greatly enhance the efficacy of Specialty Courts by ensuring that evidence-based principles are followed in their operation, and by measuring improved outcomes.

### **Court Service Centers**

As available public funds for civil legal aid for the poor have been drastically reduced in recent years, even as legal needs have increased, more people are representing themselves in court on foreclosures and evictions, and in domestic violence, divorce and child custody cases, among many other urgent and important matters. Court Service Centers are helping to address the growing needs of self-represented litigants.

Led by an attorney manager, Court Service Centers provide assistance in understanding basic legal terms, the first steps of filing a legal proceeding, and how to fill out required court forms. The Centers also offer access to public computers and workstations, provide interpreter services, and connect people in need with city and state services.

Two new Court Service Centers, located at the Edward W. Brooke Courthouse in Boston and the Franklin County Courthouse in Greenfield, respectively, have opened to date. Each has already been very successfully operating, with a very high use rate from self-represented litigants. For example, the Brooke Court Service Center has helped over 3,900 people between its opening in June of 2014 and December 11, 2014. The centers are a key part of the Trial Court's efforts to increase the public understanding of and accessibility to the court system. The Trial Court plans to add four additional Court Service Centers across the Commonwealth in the current fiscal year, in support of the goal of having a center in each of the Commonwealth's 15 largest courthouses, (currently serving half the litigants in the Commonwealth) within the next three years.

### **Getting the Court's Routine, Everyday Work Done**

Of course, even as we focus on the recent restructuring of the Trial Court's management functions, the new court leadership, the five-year strategic plan, and the plethora of ambitious undertakings and new initiatives, the routine day-to-day work of the Trial Court's several Departments must not be forgotten. That ordinary work must be and still is done, rain or shine, during good times and bad. It is always there, and it is a never-ending challenge to get it done in a timely, careful and high-quality way. In each of the Trial Court Departments, the volume and the pace of the business can seem crushing, the work is difficult and often thankless, time is short, resources are constrained, and conditions are

stressful. At the same time, what is at stake is always, inherently, very important and sometimes even a matter of grave consequence. Even as we press for continuous management improvements based on new models of modern justice, we dare not take for granted the value of the tremendous work that already, and still, goes on in the Trial Court every day, as hundreds of judicial officers and thousands of administrative staff members simply do their jobs. It is essential that they be supported in doing so.

## **4. FOCUS ON THE FUTURE: OPPORTUNITIES AND CHALLENGES**

### **4.1. New challenges demand evidence-based, data-driven and user-focused management disciplines – a model for good government.**

The work of the Trial Court reflects essential issues of justice within our changing society and across the Commonwealth. Our courts have changed dramatically over the past ten-plus years, from an uneven patchwork with pockets of personality-driven excellence to an increasingly unified structure where system-wide high standards of judicial and management excellence are possible and expected. Quite simply, the public expects and is entitled to a more efficient, responsive and effective court system which is capable of anticipating and proactively addressing the challenges of today and tomorrow.

Department Chiefs and their Deputy Chief Administrators must understand performance across courthouses as part of a coordinated system, and be able to make informed decisions that affect the management of and delivery of justice. The Chief Justice of the Trial Court and the Court Administrator must do the same as they make decisions across Departments. Data is no longer scarce, but historical islands of information must be bridged to better understand operations. It is now understood that quality data are essential to quality management decisions and policy development. The Legislature will need to provide sufficient financial support for the systems and tools necessary to enhance evidence-based decision-making.

#### **MassCourts as a platform**

The Trial Court's comprehensive case management program, MassCourts, after a long transition period, is expected to be implemented completely across the Trial Court by June 2015. That will provide the platform for an enormous array of new technological efficiencies, such as electronic filing of criminal complaints by police departments (now being piloted in three courts) and e-filing for civil cases (beginning with a three-court pilot in January 2015). There are a number of other court technology projects underway across the state to improve service and help with policy development. For example, data and trend analysis should drive improvements in the court's pre-trial practices, sentencing efficacy and probation supervision. In order to fully take advantage of the explosion of data available from MassCourts and outside agencies, the Trial Court will need to invest in the development of new data analysis tools and expertise.

#### **Policy development, implementation and evaluation**

Judicial and management policy development needs to reflect trends and patterns available from MassCourt's "big data" and beyond. Policy implementation needs to measure outcomes to ensure that results achieved are what were intended. Data-driven decisions hold promise for the Judiciary to

develop effective, evidence-based approaches that reduce crime at a lower cost than methods relied upon in recent decades. The Judiciary has established a small Department of Research and Planning, which will play an increasingly critical role in extracting, deploying and analyzing data across the system.

### **Specialty Courts**

New justice models such as Specialty Courts need aggressive learning capture, justification based on evidence evaluation and sharing of best practices. As discussed above, the new Center of Excellence will enable the Trial Court to expand Specialty Courts statewide in a standardized, systematic way, by using evidence-based practices. The Center will focus on multiple areas, including research and evaluation, training, legal research and support, marketing and outreach. It will encourage innovative leadership and research, and will standardize best practices for adult and juvenile Specialty Court sessions. It will develop specialized training for Specialty Court staff and judges. As Specialty Courts expand throughout the state, the Center will assist with the Specialty Court certification process and data collection across the court system. A crucial component to assuring that new practices such as Specialty Courts can drive excellence will be a willingness to examine data and move away from or modify pilots that do not deliver results. Such a culture of experimentation and a willingness to embrace the need for continuous improvement will be critical to the Trial Court reaching its potential.

### **Key performance indicators**

The success of the Trial Court's Strategic Plan will encourage planning and continuous improvement efforts at all levels of the court system. As all Departments and Division leaders recognize their obligations to improve their operations, new key performance indicators ("KPIs") will be used to support local and system-wide management disciplines. The OCM leaders have already established and are reporting on their KPIs. Understanding the current performance situation is the first step. Next, Division court leaders need to understand how to improve their operations and have the tools to measure the outcomes of their efforts.

**RECOMMENDATION 1: THE TRIAL COURT SHOULD FOCUS LEADERSHIP RESPONSIBILITY AND OVERALL ACCOUNTABILITY FOR KNOWLEDGE MANAGEMENT AND DECISION ANALYTICS, AND ORIENT TECHNOLOGY ENHANCEMENTS AND WORK PRACTICES TOWARD IMPROVEMENTS IN THIS AREA.**

### **Purpose:**

The Trial Court should concentrate significant management attention on policy development, best practice sharing and training related to all

aspects of evidence-based, data-driven decision-making. Leadership accountability with respect to knowledge management and decision analytics should be required in order to assure that new practices, such as the work of specialty courts, can drive excellence. Critical to this function will be a willingness to examine data and move away from or modify both pilot projects and established approaches that do not deliver desired results.

**Scope:**

The scope of the required work in this area should include data integrity, analysis tools, key performance indicators, management practices and transparency at all levels of the courts.

**Implementation:**

Leadership in this area might be integrated or coordinated with the Tactical Plan for Technology Enhancements, which is part of the Trial Court's overall Strategic Plan, and might draw upon the work of the Trial Court's current metrics workgroup. It will focus on understanding and adopting relevant practices from other governmental entities, as well as private sector experience in dealing with analytical decision-making and performance management. It should also entail close work with Department Chiefs to further advance a culture of experimentation and a willingness to embrace the need for continuous improvement. The leader should be directly accountable to the Chief Justice of the Trial Court and Court Administrator and also make periodic reports to the SJC on progress.

**4.2. The court user experience is integral to enhancing the public trust.**

The public view of judicial excellence is a combination of fair outcomes and a positive, respectful experience with the courts. Public trust in the court system is essential to the ability of our society to be governed by the rule of law. Each day, tens of thousands of citizens interact with the justice system, and the experiences that our citizens have with our state courts influence their trust. They also share the stories of their experiences with their fellow citizens, thereby affecting broader and indirect perceptions of public trust.

**Trial Court as a service organization**

The public expects to be treated with respect and dignity in our courts, and to have its business handled in an expeditious and orderly manner. Court users have widely different experiences, since they use the court system for different reasons, and approach with widely diverse perspectives. Each year, over 350,000 potential jurors are summoned and scheduled to appear. Hundreds, if not thousands, of lawyers visit the courts daily to file papers, attend conferences and participate in hearings and trials. Litigants, with attorneys or on their own, come to the courts to gather information, fill out forms, appear before judicial

officers and seek resolutions to disputes. Victims of crime and other witnesses come, some voluntarily and others because they are compelled, many seeking safety, justice, or an opportunity to be heard, often with respect to their most private and traumatic experiences. Criminal defendants, too, are court users. For many of these visitors, just the thought of going to court creates anxiety. Language barriers, as well as physical, emotional and mental challenges faced by some users, only add to the inherent stress and potential frustration, of the experience.

### **Expecting service excellence at each interaction**

Litigants and lawyers evaluate their experience with the judicial system by the outcomes they receive and the interactions they have along the way. The judicial outcome may be favorable, but the court user's experience with the judicial process could be negative, rendering the lasting impression poor. While court employees seek to offer good service, it is the experience of the court user and the manner on which they interpret the interactions that form the lasting impression. The people, processes and facilities they encounter on their journey foster feelings, prompt thinking and provoke action. Each step is an opportunity to create a positive or negative impression. Whether it is seeking information from the web site, talking on the telephone or interacting in person — the behaviors and actions of court employees create those impressions. For example, the security guards at courthouse entrances act like "Chiefs of First Impressions". Signage helps visitors find their way to the appropriate location. Counter interactions add to or reduce litigant anxiety. Lawyers also have interactions at the counter and with clerks, judicial case managers and their assistants, as well as with judges, but the lawyers' experience is more routine. In the courtroom, judicial temperament and demeanor influences perceptions of the process for both lawyers and litigants. These interactions can help to ensure consistency and speed or, conversely, contribute to growing frustration and resignation with the status quo. The sum of the interactions defines the experience and leaves an impression of the system as a whole.

### **Engaging court employees**

Court employees will need to become aware of how their actions and behaviors are experienced by court visitors. Most importantly, court employees need to understand how their work is meaningful and contributes to the mission of the court. How employees feel about their work and how they are treated by their supervisors will directly translate to how they treat the court user. Translating other experience into practice will require new training. The training should go beyond general customer service training. How to effectively service different constituents – some of whom are in high states of anxiety and personal crisis – is particularly important. Where appropriate, court employees will need to be monitored for accumulated stress and offered techniques and training on stress mitigation and service delivery.

### **Learning from best practices inside and outside the Trial Court**

While the Chief Justice of the Trial Court and the Court Administrator seek consistency in some respects across locations and Departments, they are aware that different courts have differing needs, and serve very different populations faced with different kinds of issues and challenges. For example, urban, rural and suburban courts typically respond to different balances of case types with different language translation needs. As the Chief Justice of the Trial Court and the Court Administrator look across Departments or across court locations, they must balance the value of uniform, standardized approaches with the benefits of appropriately differentiated responses to differing local needs. What is constant is the objective of providing a positive court user experience, one that offers justice with dignity and speed.

There is a wealth of experience and best practices about the customer experience from private sector practice, including that of organizations that have created a Chief Experience Officer (CXO) management role. One of the tenets of a positive customer experience is employee satisfaction and engagement. An employee who is motivated and believes that his/her work is meaningful is more likely to reflect that engagement in his/her behavior and actions with court users, just as a disengaged employee will likely have the opposite effect.

### **Measuring Access to Justice**

The court user experience is integral to enhancing the public trust and is a potential measure of access to justice. The Chief Justice of the Trial Court, the Court Administrator, the Department Chief Justices and the Division court leaders have taken several steps in recent years to help court users navigate the justice system, including the following:

- An integrated judicial web site has been redesigned for easier access to information and self-help;
- Court Service Centers have opened in two locations with plans for 13 more within three years;
- Electronic signage is being piloted at the Brooke courthouse to guide the public to the appropriate clerk's office and courtroom; and
- Two customer experience pilot programs are currently in process, to test new ideas for enhancing the court user experience: one pilot concerns the juror experience, from beginning to end, and another concerns the "counter experience" in the Probate and Family Court.

Before-and-after data need to be collected and evaluated to understand which actions have the greatest impact on creating a positive court user experience. The Legislature will need to provide appropriate financial support for the new systems and tools necessary to enhance the court user experience.

**RECOMMENDATION 2: THE TRIAL COURT SHOULD FOCUS LEADERSHIP RESPONSIBILITY AND OVERALL ACCOUNTABILITY FOR THE EXPERIENCE OF COURT USERS, AND ORIENT INNOVATIVE PRACTICE STRATEGIES TOWARD IMPROVEMENT OF THE COURT USER EXPERIENCE.**

**Purpose:**

The Trial Court should focus leadership responsibility on the manner in which the many and diverse members of the public who come into contact with our justice system on a daily basis personally experience their dealings with our courts. The goal is to better guide the Trial Court's efforts to improve the experience of court users having a wide range of perspectives, issues and concerns, and to measure the courts' performance in this regard over time. Designated court leaders should be charged with policy development, best practice sharing and training related to all aspects of service enhancement for court users.

**Scope:**

Work in this area should identify the multiple parameters of the court user experience, as well as the tools to understand and measure the court user experience.

**Implementation:**

Leadership in this area should be coordinated with the Tactical Plan for Innovative Practices, which is part of the Trial Court's overall Strategic Plan. The designated leader should work to understand, amplify and respond to the voices of court users, and effectively function in the Chief Experience Officer role. Work in this area must reflect the perspective of multiple different court users, including victims of crime and citizens in various states of personal crisis, among others. This work should entail development of a plan for how to address the court user experience within each Trial Court Department, including tactics for coordinating local activities and ensuring consistency of approach. There should be a clear management focal point for understanding and adopting relevant practices, drawn from lessons learned in other government, not for profit, and private sector settings in which excellent customer experience is an important value and has been measurably improved. The leader will need to work with court managers both in the central administration and in the field, and in courthouses across the Commonwealth, in order to effect meaningful and positive changes in the court user experience. The leader should be directly accountable to the Chief Justice of the Trial Court and Court Administrator and also make periodic reports to the SJC on progress.

#### **4.3. The next generation of court leaders needs to be developed and court employees must be engaged to ensure continued judicial excellence.**

As the Trial Court continues to evolve in the 21<sup>st</sup> century, a new generation of leaders is invested with the responsibility of stewardship in carrying forward the long tradition of judicial excellence. The court workforce needs to keep pace with the skills and competencies needed to operate. The Trial Court leaders need to invest in the human capital of the justice system and work to ensure that the court system is an attractive place to advance a career. The Legislature will need to provide appropriate financial support for the expanded training that is essential to develop the necessary skills for the court's workforce and to ensure that the next generation of leaders will be ready to assume their roles when necessary.

##### **Cultivate in the next generation of leaders**

If our courts are to thrive and consistently achieve and sustain true excellence in the 21<sup>st</sup> century, it is essential that the next generation of talented leaders must be attracted, retained and cultivated on an ongoing basis. Leadership development and succession planning should be an ongoing, active discussion at all levels from supervisor to Chief Justice of the Trial Court and the Court Administrator. The SJC has an important role to ensure that these discussions are identifying and developing the next generation of court leaders. Talented employees should be engaged at least annually in discussions of leadership ambition and potential.

##### **Promote career discussions**

Increasingly, in the modern workplace, supervisors and managers are engaging their direct reports in career discussions. Human resource managers are formulating career ladders, compensation levels, competency maps and training opportunities to support employee growth and advancement. Annual performance reviews help employees understand where they stand and areas for developmental focus. The Trial Court will complete the first annual performance appraisals for all management staff by the end of 2014 and will do the same for all unionized staff in 2015. This is an excellent opportunity to promote discussions about career opportunities and aspirations.

##### **Invest in training**

Until recently, budget constraints severely limited the degree to which local court leaders were able to invest in the hiring, training and development of their workforce. Budget stability now creates welcome new opportunities for training and career advancement. Trial Court leaders throughout the system, including Clerks, Clerk Magistrates, the Recorder and Registers, as well as judges and

administrative personnel, are strengthening the role of “front line” employees through education and training, through providing the necessary tools for modernization of our courts, through effective accountability and through the adoption of best practices. The Trial Court human resource and training infrastructure is expanding and modernizing. Training for the court staff has expanded dramatically and as of next year, three days of training annually will be required for unionized staff. To achieve that goal, the Trial Court will enter the world of online training, with mandated domestic violence training for all staff leading the way.

**Attract and support a diverse workforce**

Court leaders as well as the overall workforce within the court system should represent the diversity of those whom they serve. There is an opportunity to improve the diversity of court employees at all levels by being intentional and using outreach to the community. The courts should be seen as places where public service-oriented workers can build a rewarding career – welcoming places where workers are valued for their performance excellence, where employees can advance based on their ambition, potential and merit, and where exceptional public service is recognized.

**RECOMMENDATION 3: THE TRIAL COURT SHOULD FOCUS LEADERSHIP RESPONSIBILITY AND OVERALL ACCOUNTABILITY FOR TALENT DEVELOPMENT, AND ORIENT WORKFORCE DEVELOPMENT STRATEGIES TOWARD CULTIVATION OF LEADERSHIP TALENT.**

**Purpose:**

The building of the Trial Court’s leadership capacity and human capital is of critical importance to the quality, strength, flexibility and resilience of our justice system. An important overall objective is to have court employees understand the types of careers available to them and how they can advance along a chosen career path, and to support employees in developing their potential in order to best serve the court system. The review and enhancement of leadership development opportunities, career paths and training programs are all essential components of this work.

**Scope:**

This work should include coaching, training, role assignments, job rotations, succession planning, recruiting and performance reviews. It should also entail the monitoring and critical analysis of progress on diversity initiatives in hiring and promotion.

**Implementation:**

Leadership in this area should be coordinated with the Tactical Plan for Workforce Development in the Trial Court’s Strategic Plan. The CMAB

anticipates that this area will need to be a subject of special focus for several years. Talent development should eventually be institutionalized as a part of general management responsibilities. The leader should be directly accountable to the Chief Justice of the Trial Court and Court Administrator and also make periodic reports to the SJC on progress.

**4.4. The SJC must actively oversee the Trial Court management initiatives to ensure that the public trust is maintained and enhanced.**

**General Oversight**

The SJC is responsible for the general superintendence of the judiciary and of the bar, makes or approves rules for the operations of all the courts, and in certain instances, provides advisory opinions, upon request, to the Governor and the Legislature on various legal issues. As an essential part of its own role in our system of justice, the SJC provides oversight to ensure that the policies and operations of the seven Trial Court Departments are carried out in a way that will best ensure and promote access to justice and engender the public trust.

**Partnership, Support, and Strategic Oversight**

The appointments of the Chief Justice of the Trial Court and the Court Administrator are among the key tools by which the SJC exercises its oversight and general superintendence over the Trial Court. The cultivation of productive working relationships with and between these two court leaders is another important aspect of the oversight provided by the SJC. While Chief Justice Carey and Court Administrator Spence are very talented, they (and future leaders) can and do benefit from the perspective and partnership of the SJC. The SJC's oversight role is one of partnership with and support of the Trial Court leaders. In addition, however, the SJC has the proactive role and responsibility to act in essence as a Board of Directors, to oversee and evaluate the implementation of the Trial Court's mission and strategic plan.

**RECOMMENDATION 4: THE SJC SHOULD ESTABLISH A REGULAR AND RECURRING SCHEDULE OF STRATEGIC AND OPERATIONAL OVERSIGHT MEETINGS WITH THE CHIEF JUSTICE OF THE TRIAL COURT AND THE COURT ADMINISTRATOR.**

**Purpose:**

The SJC must ensure that the strategic plans, policies and operations of the seven Trial Court Departments are carried out in a way that will best ensure and promote access to justice and engender and maintain the public trust. The SJC should ensure that relevant management experience from other government agencies and the private sector is institutionalized, as appropriate. The SJC must advocate for increased financial support for the

Trial Court's substantiated needs, both for the maintenance of its essential operations and for important innovations that will enhance the delivery of justice to the people of the Commonwealth.

**Scope:**

The SJC's involvement should aim to:

- Establish a set of key performance indicators to be reviewed quarterly, and an annual strategic plan review;
- Conduct a formal evaluation of the two trial court leaders every two years;
- Ensure effective organizational and leadership planning and development;
- Listen and respond to the "voice of the court user" as amplified by the Trial Court;
- Review, evaluate and support specific access to justice programs;
- Solicit ideas, comments and perspectives from the Trial Court;
- Ensure adequate resources are available to and managed effectively by the Trial Court;
- Monitor implementation of the Trial Court's programs and services; and
- Enhance the Trial Court's public image.

**Implementation:**

The Chief Justice for the Trial Court and the Court Administrator should meet with the SJC periodically to discuss strategy, program progress and policy issues. These meetings should have a standing agenda and be moderated by the Chief Justice of the SJC. Intervening monthly meetings can have a more fluid agenda and be used to discuss more pressing issues and seek guidance on emerging policy matters.

## 5. CONCLUSION AND SUMMARY OF RECOMMENDATIONS

The Massachusetts Trial Court is on the move and headed in the right direction. The Trial Court is building on the legacy of the 2003 Monan Report, addressing the consequences of the fiscal crisis of 2008-2012, and implementing and adapting to the structural changes made by the 2011 legislation. While the new structure introduces a new level of organizational complexity, Chief Justice Carey and Court Administrator Spence make the new co-equal leadership arrangement work through mutual respect, a unified vision, shared values, trust and personal commitment to each other as well as the judicial system.

The work of the Trial Court reflects essential issues of justice and must confront new challenges within our changing society and across the Commonwealth. Trial Court leaders across the Commonwealth are increasingly aware of these new challenges, such as the need to fulfill the public's evolving expectation of excellent service, and the growing need to cultivate the next generation of court leaders. These challenges demand evidence-based, data-driven and court user-focused management disciplines. For all of these reasons, and as detailed in Sections 4.1 through 4.4 above, the CMAB recommends the following four actions:

**RECOMMENDATION 1:**

**THE TRIAL COURT SHOULD FOCUS LEADERSHIP RESPONSIBILITY AND OVERALL ACCOUNTABILITY FOR KNOWLEDGE MANAGEMENT AND DECISION ANALYTICS, AND ORIENT TECHNOLOGY ENHANCEMENTS AND WORK PRACTICES TOWARD IMPROVEMENTS IN THIS AREA.**

**RECOMMENDATION 2:**

**THE TRIAL COURT SHOULD FOCUS LEADERSHIP RESPONSIBILITY AND OVERALL ACCOUNTABILITY FOR THE EXPERIENCE OF COURT USERS, AND ORIENT INNOVATIVE PRACTICE STRATEGIES TOWARD IMPROVEMENT OF THE COURT USER EXPERIENCE.**

**RECOMMENDATION 3:**

**THE TRIAL COURT SHOULD FOCUS LEADERSHIP RESPONSIBILITY AND OVERALL ACCOUNTABILITY FOR TALENT DEVELOPMENT, AND ORIENT WORKFORCE DEVELOPMENT STRATEGIES TOWARD CULTIVATION OF LEADERSHIP TALENT.**

**RECOMMENDATION 4:**

**THE SJC SHOULD ESTABLISH A REGULAR AND RECURRING SCHEDULE OF STRATEGIC AND OPERATIONAL OVERSIGHT MEETINGS WITH THE CHIEF JUSTICE OF THE TRIAL COURT AND THE COURT ADMINISTRATOR.**

The CMAB has great respect for the ongoing efforts of the Trial Court to improve the management of its operations, and we are optimistic and confident about what that work can yield. The CMAB offers the four recommendations set forth above in recognition of, and to further support and strengthen, this essential work. This report should serve as a catalyst for conversations inside and outside the Trial Court. We look forward to continuing to advise the SJC and the Trial Court on matters pertaining to court management as important progress continues to be made, and we plan to follow up on the recommendations contained in this report, to offer such support as we can and to assess the court's responses. We know that the quality of the justice experienced by those who come into contact with our judicial system depends in significant part on the professionalism, discipline, vision, and commitment to continuous improvement with which the Trial Court is managed.

## APPENDIX A

### MONAN REPORT EXECUTIVE SUMMARY (MARCH 2003)

*(The following text is excerpted from the March 2003  
Report of the Visiting Committee on Management on the Courts)*

Today, the Courts of Massachusetts are mired in managerial confusion. The impact of high-quality judicial decisions is undermined by high cost, slow action, and poor service to the community. The administration and management of the Judiciary is uneven at best, and oftentimes dysfunctional. Morale is near the breaking point, and there is little concern for customer service. Employees cry out for leadership. The public wants reasonably priced, quick, and courteous justice, but often receives the opposite.

The Visiting Committee on Management in the Courts was appointed by Chief Justice Margaret Marshall last August to provide an independent perspective on the state of management in the Massachusetts Courts and recommendations for improvement. The Committee found that, despite pockets of genuine excellence, the management of the Judiciary is preventing the people of Massachusetts from receiving the justice they deserve. These failings have a significant impact on citizens of Massachusetts. Some citizens get better justice than others. Businesses avoid states with slow, unsteady courts, families suffer because of slow case resolution, and inefficiency wastes taxpayer money.

With pro bono staff assistance from McKinsey & Company, the Visiting Committee has spent the last six months visiting courthouses across the Commonwealth, interviewing hundreds of judges, court personnel, and leaders of the bar and the community. The Committee identified three root causes of the deficiencies described above: a leadership culture and structure that hobble management, a lack of performance measurement and accountability, and an inability to manage costs and resources. The Committee's report spells out three initiatives to address these causes: commit to a new leadership style and a revised organizational structure, create a culture of high performance and accountability, and establish discipline in resource allocation and use.

Each of these initiatives comprises a number of recommendations and implementation challenges. Restructuring the Courts to clarify reporting lines and responsibilities within the system is the first recommendation. The Judiciary must clarify who is in charge of the Courts. Benchmarks and performance goals for employees, courthouses, and managers can then be established under the leadership identified. The Committee further proposes that the existing budget process be redesigned, and that resources be allocated according to demonstrated needs. The Judiciary should eliminate overlap among administrative structures and geographic locations. Finally, the Courts should

increase management experience in the administration of the Judiciary, and leverage outside turnaround talent to accelerate the transformation process.

Though the Judiciary itself must lead these initiatives, transformation of the culture, organizational structure, and ultimately the performance of the Courts cannot succeed without the active cooperation and assistance of the other branches of government. All three branches of the Government have created this situation and all three must now participate in addressing its repair.

No mere summary can do justice to the complexity of the Courts' current situation or the sweeping nature of the Committee's recommendations. This report attempts, in graphic exhibits as well as in text, a thorough analysis of the Courts' current operations and statutory structure as the basis for its recommendations. This brief summary is intended to encourage thoughtful reading of the full report. If the Court system is to be transformed, it will require in-depth, thorough examination, and a commitment from all concerned to see the transformation through.

## APPENDIX B

### LIST OF CURRENT CMAB MEMBERS AND CMAB ACTIVITIES DURING THE SEPTEMBER 2013 – DECEMBER 2014 PERIOD

#### CMAB Members as of December 2014

**Glenn Mangurian, Chair**

Consultant, FrontierWorks LLC

**Sheila M. Calkins (ex officio)**

Deputy Attorney General, Office of the Attorney General, designee of Attorney General Martha Coakley<sup>1</sup>

**The Honorable John J. Curran, Jr. (ret.)**

Retired First Justice of the Leominster District Court

**Ruth Ellen Fitch**

Former President and Chief Executive Officer of The Dimock Center, and retired Partner, Palmer & Dodge

**The Honorable Gail Garinger (ret.)**

The Child Advocate, Office of The Child Advocate, and former First Justice of the Middlesex County Juvenile Court

**Lisa C. Goodheart**

Partner, Sugarman, Rogers, Barshak & Cohen, P.C.

**John A. Grossman**

Partner and General Counsel, Third Sector Capital Partners

**Scott Harshbarger**

Senior Counsel, Proskauer, and former Massachusetts Attorney General

**Allen B. Kachalia**

M.D., J.D., Associate Chief Quality Officer, Brigham & Women's Hospital, Boston

**Gerard T. Leone, Jr.**

Partner, Nixon Peabody LLP, and former District Attorney for Middlesex County

**Liam Lowney (ex officio)**

Executive Director, Massachusetts Office for Victim Assistance

**Denise R. Squillante**

Denise R. Squillante P.C.

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<sup>1</sup> **Edward T. Bedrosian, Jr.**, former First Assistant to the Attorney General, served as Attorney General Martha Coakley's designee to the CMAB for part of the September 2013 – December 2014 period.

**CMAB Activities by Individual CMAB Members and/or the Full CMAB during the September 2013 – December 2014 Period**

**Visits and Discussions**

- Boston Municipal: Central and West Roxbury
- District Court visits: Greenfield, Lawrence, Quincy and Plymouth
- Probate and Family Court visits: Norfolk, Taunton and Worcester
- Housing Court visits: Springfield
- Specialty Court visits: Drug Court – Lawrence and Plymouth; Mental Health Court – Plymouth
- Law School student presentations and discussions: Boston College Law School and Harvard Law School

**Constituent Group Meetings**

- Boston Bar Association
- Massachusetts Bar Association
- Massachusetts Trial Lawyers Association
- Massachusetts District Attorneys Association
- Victim & Witness Assistance Board

**Court Leader Meetings**

- Chief Justice of the SJC
- CMAB liaison SJC Associate Justice
- Chief Justice of Trial Court
- Court Administrator
- Chief Justices of the Trial Court Departments
- Deputy Court Administrators of certain Trial Court Departments
- Jury Commissioner
- Probation Commissioner
- General Counsel of the Trial Court
- Leaders of the Association of Magistrates and Assistant Clerks
- Registers of Probate of certain courts
- Elected Clerks of certain courts
- Numerous First Justices, Judges and Clerk Magistrates

**Topics Addressed at Monthly Meetings of the Full CMAB during the September 2013-December 2014 Period**

- Court budget request
- Courthouse consolidation
- Court unification
- Education, training and leadership development

- Customer (court-user) experience
- Human Resource policies
- Process improvement
- Specialty Courts; Centers of Excellence

## Appendix C: Task Force on Hiring - Progress on Recommendations

Best Practices Recommended	Implementation Update
<p><b>1. Best Practice -- Well-defined mission statements of the hiring department or authority</b> <i>to enable the department or authority to recruit and hire high quality candidates whose backgrounds align with the organization's stated goals.</i></p>	<p>The revised Trial Court Personnel Policies and Procedures Manual, effective as of January 7, 2013, (the "PPPM") includes:</p> <ul style="list-style-type: none"> <li>• Mission statements for the Trial Court and the Human Resources Department ("HRD"), and</li> <li>• Requires that job postings include mission statements for the hiring department.</li> </ul>
<p><b>2. Best Practice -- Current job descriptions</b> <i>that detail the role, requirements and essential measures for success of the position and which include the competencies necessary to fulfill all aspects of the job.</i></p>	<p>The PPPM requires that job postings include:</p> <ul style="list-style-type: none"> <li>• Updated job descriptions</li> <li>• Mission statement for the relevant department</li> <li>• Major duties and responsibilities for the position</li> <li>• Competencies required of any successful candidate</li> </ul>
<p><b>3. Best Practice -- Multi-channel sourcing of candidates</b> <i>to increase and expand the pool of the highest qualified applicants. This would include increasing the use of social media networks.</i></p>	<p>The PPPM requires that outreach for new hires includes multi-channel sourcing of candidates.</p> <ul style="list-style-type: none"> <li>• Trial Court now has a LinkedIn account which is used for recruitment</li> <li>• Positions are posted on the Executive branch job board, which then gets picked up on many recruitment sites through tags</li> <li>• Postings get sent out to a master list of 600 plus organizations</li> <li>• Specific recruitment plans are developed for certain positions (e.g. Director of Security and Director of Facilities)</li> </ul>
<p><b>4. Best Practice -- Objective review of candidate qualifications</b> <i>so that initial screening is performed by someone other than hiring authority who will make the ultimate hiring decision. This would also include the recommendation that hiring managers not be informed of any recommendations until a candidate becomes a finalist and his or her references are being checked.</i></p>	<p>The PPPM revises the recruiting process:</p> <ul style="list-style-type: none"> <li>• HRD performs all initial screening of applicants for minimum qualifications</li> <li>• Recommendations are forwarded to HRD, and are not provided to a hiring authority until a candidate is deemed a finalist</li> <li>• Recommendations not based on personal knowledge of a candidate's work performance are given no weight</li> <li>• All letters of recommendation are considered a public record</li> </ul> <p>HRD forwards list of screened candidates and diversity data to hiring authorities, which sometimes request additional lists of applicants. HR monitors the interview pool to ensure that the pool is diverse and includes qualified candidates.</p>

<p><b>5. Best Practice -- Behaviorally based interviews</b> <i>to evaluate how candidates might handle specific situations.</i></p>	<p>The PPPM requires that candidates be assessed utilizing structured interviews, which include behaviorally based questions</p> <ul style="list-style-type: none"> <li>• HRD has performed extensive training of all hiring authorities on conducting behavioral based interviews</li> <li>• HRD provides guides for use in behavioral based interviews</li> </ul>
<p><b>6. Best Practice -- Candidate assessments or formal tests</b> <i>to provide an objective rating of a candidate's aptitude and capability for the position.</i></p>	<p>The PPPM requires:</p> <ul style="list-style-type: none"> <li>• Written test be used to assess candidates for court officer and probation officer positions, and</li> <li>• Other assessments may be used as part of the selection process where appropriate</li> </ul> <p>The Trial Court conducted the first written exam for probation officer positions in June 2014 and for court officer positions in July 2014. Assessments have been introduced in the Security Department and are being contemplated for other positions. Promotion exams for Probation and the Security Department are scheduled for March 2015.</p>
<p><b>7. Best Practice -- Applicant tracking system</b> <i>to use an automated system to track every step of the hiring process.</i></p>	<ul style="list-style-type: none"> <li>• The PPPM charges HRD with tracking all candidates from application through final candidate selection.</li> <li>• In January 2013, HRD began utilizing an automated tracking system for all job postings</li> <li>• The system tracks candidates from the point of on-line applications, through screening, and until the point that the qualified candidates are turned over to the local hiring authority for interviews.</li> <li>• The ultimate hiring decision is entered into the system</li> </ul>

<b>Other Actions Recommended</b>	<b>Implementation Update</b>
<p><b>Institute Annual Performance Evaluations</b> <i>for all Trial Court employees, and appropriate training for the managers who perform the evaluations, and that step increases be tied to the results of the evaluations.</i></p>	<ul style="list-style-type: none"> <li>• A performance review program is in the process of being implemented.</li> <li>• By December 2014, all management level personnel will have received a performance review.</li> <li>• Training is underway for managers on utilizing this formal evaluation program so that performance reviews of union employees can commence in 2015.</li> <li>• It is anticipated that reviews for all NAGE employees (Probation and Security) will be completed by the end of 2015.</li> </ul>

<p><b>Increase Training for staff, including a period of standardized training for all new employees.</b></p>	<ul style="list-style-type: none"> <li>• A two-day new employee orientation plus a 1/2 day HR training (on policies, compensation and benefits) is now required for all new hires.</li> <li>• Training opportunities have been greatly expanded for staff.</li> <li>• Beginning with FY 2016, all union employees are required to have 3 days in-service training per fiscal year. This will mean expanded training primarily for clerical staff as Probation and Security staff already meet that training requirement</li> </ul>
<p><b>Reconsider "For Cause" Standard in light of the court reform legislation that allows for a change to the lower "arbitrary and capricious" standard, and extend the probationary period from six months to one year, and require a rigorous performance review before moving the employee to a permanent status.</b></p>	<ul style="list-style-type: none"> <li>• The PPPM applies a new "arbitrary and capricious" standard for all management employees, and maintains the higher "for cause" standard for all union employees.</li> </ul>
<p><b>Limit Acting Appointments by clearly articulating in a revised policy manual the circumstances when such an appointment may be utilized</b></p>	<ul style="list-style-type: none"> <li>• The practice, which was utilized during the hiring freeze, has been discontinued, except to fill a position temporarily for an employee who is on a temporary leave.</li> </ul>
<p><b>Clarify the use of Internal Postings by having the policy manual articulate the circumstances when such an appointment can be used.</b></p>	<ul style="list-style-type: none"> <li>• The PPPM sets forth a process that must be followed in order to post a position internally, including requesting the internal posting, identifying the manner of posting, and receiving HRD's approval prior to posting.</li> <li>• Certain positions, per the Court Administrator, must be posted externally</li> <li>• The Court Administrator is tracking and monitoring the use of internal postings via quarterly metrics from HRD.</li> </ul>
<p><b>Provide Career Progression Opportunities to provide incentives for high performance</b></p>	<ul style="list-style-type: none"> <li>• There is a built in career ladder for certain clerical and case manager positions.</li> </ul>
<p><b>Reformulate the Human Resources Department to perform the following tasks:</b></p> <ul style="list-style-type: none"> <li>• Assist in developing updated mission statements and competencies for all appointing authorities;</li> <li>• Rewrite the personnel manual;</li> <li>• Facilitate recruitment of new employees via social media;</li> <li>• Create a recruiting division charged with</li> </ul>	<ul style="list-style-type: none"> <li>• The HRD has created a hiring team, a recruiting team, and a HRCMS team in order to efficiently and effectively perform the above.</li> </ul>

<p><i>finding ways to attract qualified applicants;</i></p> <ul style="list-style-type: none"><li><i>• Require that all applications be forwarded to HRD for screening;</i></li><li><i>• Design performance evaluation for all trial court employees; and</i></li><li><i>• Train managers on conducting performance evaluations.</i></li></ul>	
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