

Chief Justice Margaret H. Marshall

Examples of notable accomplishments

On her appointment as Chief Justice, Chief Justice Margaret H. Marshall announced her determination to transform the Massachusetts Judiciary into a national model of excellence. She announced her commitment to fulfill the guarantee of the Massachusetts Constitution of the impartial administration of justice "promptly and without delay." (Art. XI). Working with the Associate Justices of the Supreme Judicial Court and the Chief Justice for Administration and Management to fulfill that promise, Chief Justice Marshall has been instrumental in leading transformative administrative reforms in the judicial branch.

Court Management

In 2002, the Justices appointed the Visiting Committee on the Management of the Courts, a blue-ribbon committee of management experts, business leaders, and lawyers, headed by Boston College Chancellor J. Donald Monan, who served as its Chair, to assess the management practices and policies of the trial courts and to recommend to the Justices improvements in the administration of justice.

In 2003, the Justices adopted the recommendations of the Visiting Committee, beginning a revolution in performance and accountability in court management. That same year, the Justices appointed Superior Court Judge Robert A Mulligan as Chief Justice for Administration and Management of the Trial Court with a mandate to implement the Justices' blueprint for court reform. He was reappointed by the Justices in 2008. Radical change grounded in managerial best practices has now been firmly established within the institutional structure of the Judiciary, transforming it from a system often mired in old ways of doing business to a modern organization based on strategies of continuous improvement, including:

- transparency and accountability in management through, among other things, the creation of clear goals and the quarterly public reporting of the courts' progress toward its managerial goals;
- the adoption of objective measures of performance, so that court management decisions can be driven by verifiable data rather than anecdote or tradition;
- development of standard time frames, based on case type and complexity, in all trial and appellate courts to move cases expeditiously to resolution;

- substantial reductions in the backlog of pending cases;
- establishment of a special committee to study problems and improve timely filing of transcripts;
- the adoption of rational staffing models for all trial courts, so that each individual court can be staffed with the personnel required to accomplish its particular workload;
- initiation of an access and fairness survey in the Massachusetts courts to monitor continuously and improve the courts' service to the public.

Chief Justice Marshall has worked closely with Chief Justice Mulligan to enhance information technology throughout the trial courts, including the implementation of *MassCourts*, the Trial Court's comprehensive, web-based case management system. She has overseen similar improvements in the appellate courts.

In 2003, in consultation with Chief Justice Mulligan, Chief Justice Marshall appointed Pamela J. Wood as Jury Commissioner with directions to effect a top-to-bottom reform of the system for locating, summoning, managing, and communicating with jurors. Among other things, the Office of the Jury Commissioner has installed state-of-the-art jury management software and the Juror Service Website, the first website in the country to allow online response to all aspects of a jury summons. It has aggressively managed the number of jurors summoned to serve each year: there were 32,500 fewer jurors appearing for service in fiscal year 2009, compared with fiscal year 2008, with no negative effects on the timely completion of trials.

Judicial excellence and accountability

Under her leadership Massachusetts implemented its first comprehensive program of judicial evaluation, in which every trial court judge in the Commonwealth is regularly evaluated by attorneys, court staff, and jurors on such attributes of judicial excellence as, knowledge of the law, fairness, speed and clarity of decisions, and judicial demeanor. To date, judicial evaluations of judges have been completed by well over 100,000 lawyers, some 27,000 judicial employees, and almost 15,000 jurors. She established a robust system of judicial enhancement to provide continuous education to judges on judicial best practices. Most recently, a Judicial Mentoring

Program has been established, in which judges who consistently have achieved excellent evaluations mentor their judicial colleagues.

Chief Justice Marshall established the Judge's Advisory Committee, in which judges from each Trial Court meet regularly with the Chief Justice and key members of her staff to discuss issues affecting the day-to-day work of judges.

Access to Justice

Working with the Justices and the Chief Justice for Administration and Management, Chief Justice Marshall has sought to improve the provision of fair and accessible justice to all the people of Massachusetts. 2002 saw the creation of the Supreme Judicial Court Steering Committee on Self-Represented Litigants, established to take concrete steps to address the challenges posed by the burgeoning population of litigants who appear in Massachusetts courts without the assistance of legal counsel. Publications of *Judicial Guidelines for Civil Hearings Involving Self-Represented Litigants* (2006), *Representing Yourself in a Civil Case: Things to Consider Before Going to Court* (2006), and *Serving the Self-Represented Litigant: A Guide By and For Court Staff* (2010) followed, as did the promulgation an order permitting limited assistance representation in all trial courts statewide. Limited assistance representation permits an attorney and a client to agree that an attorney will handle part, but not all of, a legal matter, thereby enabling litigants who would otherwise go without any legal assistance to obtain the benefit of a lawyer, often for the more complicated legal issues in a case.

In 2002, the Massachusetts Access to Justice Commission was established, composed of judges, members of the bar, and representatives from social service organizations and agencies, to assist the Judiciary in expanding the civil legal assistance available to all persons of low income. The Commission was chaired by Herbert P. Wilkins, former Chief Justice of the Supreme Judicial Court. In 2010, the Justices reconstituted the Access to Justice Commission, and appointed Associate Justice Ralph D. Gants, and Boston attorney David W. Rosenberg as co-chairs of the Commission. In 2010, the Justices approved a \$51 optional add-on to attorneys' annual licensing fees to be directed to programs to broaden access to justice in Massachusetts courts.

In 2009, jointly with Chief Justice Mulligan, the Justices appointed a Special Advisor and Deputy Advisor to the Trial Court for Access to Justice Initiatives to guide and coordinate

resources within the Trial Court to broaden access to civil justice for all litigants, including self-represented litigants, individuals of modest means, those of limited or no English proficiency, and individuals with mental or physical disabilities.

The Legal Profession

Chief Justice Marshall invited the American Bar Association to send a team of consultants to examine the structure, operation, and procedures of the lawyer disciplinary system in Massachusetts, and in response to its 2005 report and recommendations, significant changes were established in that system.

At the request of the Massachusetts Bar Association and the Boston Bar Association, in 2006, the Justices appointed an Advisory Committee on Massachusetts Evidence Law. The Advisory Committee developed the *Massachusetts Guide to Evidence*, approved by the Justices in 2009, which, as revised from time to time, has become the authoritative guide to current Massachusetts evidence law.

In 2008, in partnership with the Court Management Advisory Board, the Massachusetts Bar Association, and local and county bar associations, the Justices held Open Dialogues on Court Practices in Boston, Brockton, Lawrence, and Springfield among judges, lawyers, and court personnel, in which more than 1,000 attorneys provided valuable input to the Judiciary about court policies and procedures.

Public Education

Chief Justice Marshall has championed civic and law-related education in the newly renovated John Adams Courthouse; it is now a civic center for public education about the Massachusetts Constitution, constitutional democracy, and the rule of law. Some forty thousand visitors have attended education and law-related events since the program began. Under her leadership the Supreme Judicial Court website was revamped to serve as a user-friendly information portal for attorneys, self-represented litigants, students, and the general public. In 2005, in conjunction with Suffolk University Law School, the Justices approved the live webcast of Supreme Judicial Court oral arguments and webcast archive.

Chief Justice Marshall has addressed primary, secondary, and college students; medical

societies; civic organizations; trade associations; new citizens; bar associations; and social service agencies across the Commonwealth on the Massachusetts Constitution, federalism, and constitutional democracy.

National Leadership

From 2008-2009, Chief Justice Marshall served as President of the Conference of Chief Justices, a nonprofit organization dedicated to improving the administration of justice in the fifty states and five territories of the United States. During that same period, she served as Chair of the Board of Directors of the National Center for State Courts, a nonprofit organization providing leadership, research, technology, and education services to the state courts.

In 2002, Chief Justice Marshall was appointed by President Alfred P. Carlton, Jr. of the American Bar Association to the ABA Commission on the 21st Century Judiciary, a commission of distinguished jurists, scholars, and attorneys charged with studying, reporting, and making recommendations to ensure fairness, impartiality, and accountability in state judiciaries. The Commission's 2003 report, *Justice in Jeopardy*, is a landmark analysis of the threats to the independence of state courts posed by the politicization and attempted politicization of state judicial selection processes.

A sought after speaker, Chief Justice Marshall has been invited, as a distinguished jurist, to deliver major presentations on the role of independent courts in a democracy at universities and organizations around the country, including: the Kenison Lecture (Franklin Pierce Law School, 2001), the Brennan Lecture (New York University School of Law, 2003), the Hugo Black Lecture (Wesleyan University, 2005), the Tanner Lecture (University of Utah, 2006), the Lowell Lecture (Harvard University, 2006), the Ginsburg Lecture (New York City Bar Association, 2007; panel), the Supreme Court Lecture (University of Indiana School of Law, 2008), and the Cary Lecture (Lexington, Massachusetts, 2009).

She has published scholarly articles on judicial independence and the role of state courts in the United States and abroad, including: *New York University Law Review* (2004), the *Supreme Judicial Court Historical Society* [date], *Daedalus* (2006; with Chief Justice Ronald George, of the California Supreme Court), the *South African Journal on Human Rights* (2006), the *Yale Law Journal Pocket Part* (2008), and *Human Rights* (2009).