



Court Management Advisory Board

Third Annual Report - 2007

Chief Justice Robert A. Mulligan
Executive Secretary

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Thomas O'Brien
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Cover Photo: Newly Constructed Plymouth Trial Court which opened in September 2007

**Third Annual Report
of the
Court Management Advisory Board - 2007**

A. Background

1. Creation of the Court Management Advisory Board

Following the recommendation of the Visiting Committee on Management in the Courts (popularly known as the "Monan Committee"), the Massachusetts Legislature in 2003 created the Court Management Advisory Board to advise and assist the Justices of the Supreme Judicial Court and the Chief Justice for Administration and Management (the "CJAM") on matters pertaining to judicial administration and management and all matters of judicial reform.¹ As mandated by statute, the CMAB is comprised of twelve members, appointed according to the categories of experience set forth in the enabling statute. In addition to the twelve members, the CJAM serves as Executive Secretary of the CMAB. In the summer of 2004, the Justices of the Supreme Judicial Court appointed the first members of the CMAB. To date, the only change in its composition occurred in January of 2007, when David Friedman joined the CMAB as the designee of a newly elected attorney general (replacing the designee of the outgoing attorney general.) Attached to this report are the biographies of the current CMAB members.

2. Reappointment of Board Members to Second Term

In May of 2007, the initial term of the CMAB members was set to expire. Hoping to maintain the momentum gathered over the past three years, and very pleased with the work of the Board, the Justices of the Supreme Judicial Court offered reappointment to all members of the CMAB. All accepted and will serve a second three-year term which will expire in 2010. By statute, CMAB members may serve a maximum of two terms.

¹ The Monan Committee conducted a six-month study of the Massachusetts courts and, in its March 2003 report to Chief Justice Margaret H. Marshall (commonly referred to as the "Monan Report") recommended the creation of a permanent advisory board which would include members from within the legal system and members from the private sector and government who could bring their experiences to bear on the managerial challenges facing the Judiciary.

B. Goals for 2007

As stated in last year's annual report, the CMAB's goals for 2007 were to continue to assist the Trial Court in its efforts to gather and refine data, and to analyze the data to measure empirically the Trial Court's progress towards articulated goals. Additionally, the Board planned to support the CJAM's efforts to pursue a pilot project on an additional metric on access and fairness. The CMAB committed to continue to provide expert assistance to the leadership of the court system on matters of court management and administration and to work with the CJAM towards the goal of obtaining greater flexibility in the allocation of existing resources.

C. The Activities

1. Formal Sessions

The members of the CMAB met bimonthly during 2007 in formal sessions which always have been attended by Chief Justice Mulligan, and members of the staffs of the Administrative Office of the Trial Court and the Supreme Judicial Court. In addition, several of the Chief Justices of the Trial Court also attended the meetings. Many of the formal meetings focused on specific topics relating to judicial administration and management, including quarterly updates on the Court Metrics Project, the Trial Court budget and budget process, and management training initiatives. In addition, special presentations on select topics were made by Justice James McHugh of the Massachusetts Appeals Court (update on MassCourts), Justice Cynthia Cohen of the Massachusetts Appeals Court (presentation on the work of the Committee on Self-Represented Litigants), and Chief Justice Charles Johnson and staff of the Boston Municipal Court (CourTools pilot survey on access and fairness.)

2. Town Meeting

On May 29, 2007, the CMAB sponsored a meeting, hosted by William Kennedy, Esq. of Nutter, McClennen & Fish, to hear the views of experienced practitioners who appear with some regularity in the trial courts. Chief Justice Marshall, Chief Justice Mulligan, several members of the CMAB and more than 150 attorneys attended this "town meeting," and exchanged thoughts and concerns on trial court practices and offered suggestions for improvements. Based on the success of this initial session and the positive feedback by all involved, the CMAB, along with

the Trial Court, the Massachusetts Bar Association and regional bar associations, plans a series of five bench-bar meetings called “An Open Dialogue on Court Practices” throughout the State in 2008. These meetings will bring together attorneys, judges and court personnel to get reactions, thoughts and ideas on the new court management initiatives, systems and practices.

3. Gathering of CMAB and Monan Committee Members

On June 5, 2007, Chief Justice Margaret Marshall hosted a gathering of members of the CMAB and the Monan Committee at the John Adams Courthouse. This meeting marked the first time that the two groups had met to discuss the progress made by the Trial Court on the recommendations of the Monan Committee. Father Monan called the meeting “historic” and noted that the efforts “reflect a change in the culture in the court system.”

4. Site Visits

In addition to the formal sessions, several members of the CMAB made site visits during the summer of 2007 to various divisions of the Housing and Juvenile Court Departments. Such site visits continue to provide an important source of information to the members of the CMAB as they strive to understand the operations of the local courts and the challenges of management on a day-to-day basis. Among the courts visited were Boston Housing Court and Fall River Juvenile Court.

5. Article Co-Authored with Father Monan

Recognizing the need to comment publicly on the efforts towards transformative change underway in the Massachusetts trial courts, CMAB Chair Michael Keating co-authored with Monan Committee Chair J. Donald Monan, S.J. a joint article which appeared on the opinion page of *The Boston Globe* on September 15, 2007. The article, which is linked hereto at www.mass.gov/courts/cmab/monankeatingoped.pdf, recognized the court reform efforts and the leadership of Chief Justice Mulligan during a time of a challenging budget negotiation with the Massachusetts Legislature. Soon after it appeared, the Massachusetts Legislature voted to supplement the Trial Court’s budget, thereby restoring it to maintenance levels.

6. Planning for Monan Retrospective

With the five year anniversary of the issuance of the Monan Report approaching in 2008, several members of the CMAB served on a committee throughout the end of 2007 to plan an

event to commemorate that important milestone. A symposium entitled “Striving for Excellence in Judicial Administration,” planned for February 2008, will provide a forum to reflect back on the progress made to date, and to look ahead at the goals yet to be achieved.

7. Development of Leadership Training

In 2007, the CMAB and the CJAM explored the development of a leadership/management training program for Trial Court leadership, including the departmental chief justices. The CMAB presented to the CJAM a number of options, including resources and programs available for such trainings through local universities, as well as at national centers dedicated to judicial training and education. The CMAB will continue to support and assist the CJAM in this initiative in 2008 and looks forward to setting up an initial program.

D. 2007 – Continued Progress on Monan Recommendations

Calendar year 2007 saw more progress in the area of management reform in the Massachusetts court system on many significant fronts. The Trial Court completed another full year of the Court Metrics Project, utilizing the four CourTools on timeliness and expedition, issued quarterly reports and continued to use the data to measure and evaluate case management and court performance; the rollout of MassCourts continued across the Commonwealth; staffing models were updated and used to allocate staff support in our courthouses; and a new metric on access and fairness was piloted successfully in the Boston Municipal Court.

1. Court Metrics

- **Second Full Year of Court Metrics Project Completed**

In 2007, the CJAM and the Chief Justices of the Trial Court completed a second full year of the Court Metrics Project. As reported for 2006, the Trial Court adopted four CourTools² measurements focusing on timeliness and expedition for all seven court departments – namely Clearance Rate; Time to Disposition; Age of Pending Caseload; and Trial Date Certainty.

² In 2005, the National Center for State Courts developed CourTools, a set of ten trial court performance measures designed to measure court performance in five areas: access to justice; expedition and timeliness; equality, fairness and integrity; independence and accountability; and public trust and confidence.

Again, the Trial Court set target performance goals for each CourTools measurement, which the CJAM described as "ambitious and aspirational." The Trial Court departments, through their chief justices, gathered and submitted data quarterly on the four CourTools performance measures. The CJAM compiled and created quarterly statistical reports, reviewed the metrics data with the departmental chief justices, and presented them at the formal sessions of the CMAB, whose members were able to offer suggestions for improvements to the reporting system. These reports have become increasingly important case and court management tools for Trial Court leadership. Linked hereto at www.mass.gov/courts/cmab/2007metricsdata.pdf is a summary of the court metrics data for 2007.

- Data Collection Critical to the Setting of Goals and the Measuring of Progress

After two full years of using CourTools measurements to manage timely case processing, these metrics have become more widely embraced and understood throughout the Trial Court. The importance of this information to achieving the goals of improved timeliness and expeditiousness cannot be overstated. This data establishes baselines for court performance in several important areas, as well as the ability to measure progress toward articulated goals.

A comparison of the two years of data highlights the resolution of data quality issues that surfaced when metrics were introduced in 2006. The clearance rate of 116 percent in 2006 reflected a major data cleanup effort in two court departments. Similarly, the reduction in aged cases in 2007, though steady, was not as dramatic as the 50 percent reduction in 2006. In 2007, the Trial Court exceeded its goal of a 10 percent increase in cases resolved within time standards, moving from a cumulative baseline result of 71 percent in 2006 to an annual outcome of 86 percent in 2007. Consistent with the suggestion of the CMAB, the Trial Court is planning to develop and implement an approach to audit metrics data in 2008.

- Fifth CourTools Measure Introduced: Access and Fairness Survey Piloted

Additionally in 2007, the Trial Court introduced a fifth CourTools measurement which expanded its focus beyond timeliness and expedition to evaluate and measure the components of access and fairness in the delivery of justice in Massachusetts courts. This measurement utilizes a nationally recognized survey instrument to elicit feedback from court users on their experiences in accessing the courthouse and conducting their business while there. The Access

and Fairness Survey Project was piloted quite successfully in the Roxbury Division of the Boston Municipal Court Department³ and was implemented across the eight divisions of the Boston Municipal Court (“BMC”) in 2007. The survey will be rolled out across all Trial Court departments in 2008. The Access and Fairness Survey Project will provide additional data to Trial Court leadership to improve access to and delivery of justice in Massachusetts.⁴ We are pleased to provide the full report on the 2007 Access and Fairness Survey Project at www.mass.gov/courts/cmab/accessandfairnessreport.pdf.

- Court Metrics Project Featured

In 2007, the Massachusetts Court Metrics project was highlighted in *Examining the Work of State Courts*, a publication of the National Center for State Courts. In an article titled, “Good Data Makes for Good Management: The Massachusetts Court Metrics Project,” which is linked to this report at www.mass.gov/courts/cmab/gooddataarticle.pdf, Chief Justice Mulligan and Paul Burke, Director of Court Operations for the Housing Court Department, presented their experiences with the statewide performance measures. Additionally, in anticipation of the fifth anniversary of the release of the Monan Report, *Lawyers Journal*, a publication of the Massachusetts Bar Association, devoted its January 2008 edition to the court management reform efforts underway in Massachusetts. This special edition highlighted several of the management initiatives undertaken, including the Court Metrics Project. Linked to this report at www.mass.gov/courts/cmab/lawyersjournalarticles.pdf are two articles from this special edition; the entire edition can be found on the Trial Court’s website at www.mass.gov/courts.

2. MassCourts

Calendar year 2007 was a year of steady progress for MassCourts, the Trial Court's electronic

³ After several months of planning, a dedicated staff from the Roxbury Division conducted an on-site survey of court users during a two-day period in August of 2007. The survey was crafted to measure how that court user felt about the accessibility of the courthouse and whether that user felt that he or she was treated fairly and respectfully while there. Their efforts resulted in 248 completed surveys.

⁴ The BMC has formed a Management Task Force, including a member of the CMAB, to review the survey results and existing practices within each BMC division and make recommendations to address issues identified in the survey.

case management system. Leaders and staff of Trial Court Information Services and the departmental Administrative Offices continued to work collaboratively to progress toward full rollout of the statewide, comprehensive, integrated court information system which will ultimately replace 14 systems. Some of the highlights of the progress on MassCourts during 2007 include:

- The Rollout of MassCourts in the Housing Court Department

By the end of calendar year 2007, a full version of MassCourts had been rolled out in all five divisions of the Housing Court Department. This was the first multi-location implementation of MassCourts full and the first to include financial transactions.

- Planning Well Underway in the Probate and Family Court Department

Trial Court Information Services and Probate and Family Court Department employees worked together throughout 2007 in preparation for the rollout of full MassCourts in 2008. The Juvenile Court and Superior Court Departments will follow.

- Preparing the District Court and Boston Municipal Court Departments

By early 2007, the implementation of a “lite” version of MassCourts was completed in 63 divisions of the District Court and the Boston Municipal Court. Trial Court Information Services continued to work with these departments to prepare for conversion to the full version of MassCourts, which will begin in 2008.

- Number of Records in System Increase Dramatically

The number of records entered into the MassCourts system (such as case records, calendar events, identity and alias records) has increased dramatically in the last year. As of December 31, 2007, more than four million cases were in the system, an increase of more than one million from the year before.

- Planning in Progress for Additional Data Exchanges

A committee with representatives from Trial Court Information Services, the Probate and Family Court and Juvenile Court Departments, the Department of Social Services, the Registry of Vital Records and Statistics and the Committee for Public Counsel Services worked together during 2007 to plan for the electronic exchange of information of common interest. As a result

of that planning, the group anticipates that at least one pilot exchange will be in place by the end of September, 2008.

3. Staffing Model

During calendar year 2007, the Trial Court updated its staffing model⁵ periodically to provide the most accurate assessment of the staffing needs for each division of the Trial Court and to inform the allocation of resources across the court system in a systematic, fair and equitable way. As in past years, the Trial Court was able to rely on this empirical, case-weighted staffing model to identify the most critical staffing needs, and to allocate those positions accordingly.

E. Conclusion

The Court Management Advisory Board is pleased with the progress to date on the recommendations outlined in the Monan Report and the foundation laid for further reforms. The momentum, however, must not slow. The members of the CMAB will continue to support the Trial Court's very important efforts on data collection and analysis and monitor its progress in achieving its articulated goals. Additionally, the CMAB will continue to encourage and support the undertaking of new initiatives by the CJAM and his management team of departmental chief justices in 2008, particularly in the area of jury utilization and in the adoption of additional CourTools performance measurements. The dynamic attitude and persistent focus of the CJAM and his leadership team to promote improvement through performance measures in new areas continues to drive operation of the Trial Court toward the management excellence envisioned by the Monan Committee.

Respectfully submitted,

Michael B. Keating

Chair, Court Management Advisory Board

⁵ The staffing model was developed in 2005 by judges and staff from all seven Trial Court departments in conjunction with the National Center for State Courts.

Court Management Advisory Board Members

Leo V. Boyle is a partner at Meehan, Boyle, Black & Fitzgerald in Boston and is a former president of the American Trial Lawyers Association and the Massachusetts Bar Association.

Linda K. Carlisle is presently a management consultant to public sector and non-profit clients. She was Commissioner of the Department of Social Services from 1993 to 1999.

Gene D. Dahmen is a partner with Verrill Dana LLP in Boston. A former president of the Boston Bar Association and a Fellow of the American Bar Foundation, Ms. Dahmen's practice is primarily in family law and mediation.

Janet E. Fine is the Executive Director of the Massachusetts Office of Victim Assistance.

David S. Friedman, First Assistant Attorney General of Massachusetts, serves as the designee to the Board of Attorney General Martha Coakley.

David G. Fubini is a Director of the Boston office of McKinsey & Company, a management consulting firm, which provided significant pro bono assistance to the Visiting Committee on Management in the Courts.

Robert P. Gittens is Vice President for Public Affairs at Northeastern University. Mr. Gittens previously served as Secretary of the Executive Office of Health and Human Services.

Michael B. Keating, a past president of the Boston Bar Association and the Crime and Justice Foundation, is a partner at Foley Hoag LLP in Boston and is chairman of the Litigation Department. He previously served as chair of the Boston Bar Association's Task Force on Sentencing and is a former member of the U.S. District Court's Panel of Criminal Defense Counsel.

Honorable Neil L. Lynch, a retired Justice of the Supreme Judicial Court, is Settlement Counsel for the First Circuit of the United States Court of Appeals.

Anne H. Margulies is the Assistant Secretary for Information Technology and Chief Information Officer for the Commonwealth. Previously, she was the Executive Director of OpenCourseWare at the Massachusetts Institute of Technology.

Thomas O'Brien is the former Dean of the Eugene M. Isenberg School of Management at the University of Massachusetts in Amherst and previously was the Financial Vice President for Harvard University.

Elizabeth Pattullo is President and Chief Executive Officer of Beacon Health Strategies. Previously she served as the Director of the Massachusetts Department of Youth Services.