



Court Management Advisory Board Annual Report 2009 – 2010

MEMBERS:

Michael B. Keating, Esq., Chair

Chief Justice Robert A. Mulligan
Executive Secretary

Leo V. Boyle, Esq.
Linda K. Carlisle
Gene D. Dahmen, Esq.
Janet E. Fine
David S. Friedman, Esq. (until 12/09)
David G. Fubini
Robert P. Gittens, Esq.
Hon. Neil L. Lynch
Anne H. Margulies
Thomas O'Brien
Elizabeth Pattullo

*Cover Photo: The Fall River Justice Center which opened in June 2010.
Photo courtesy of the building's architect, Finegold Alexander & Associates.*

**Annual Report of the
Court Management Advisory Board
January 1, 2009 – June 1, 2010**

A. Introduction

Worsening fiscal conditions and state budget woes continued into 2009 and 2010, and the budget forecasts are dire for fiscal year 2011 and beyond. Against this backdrop and with decreasing resources, Massachusetts court leadership stayed the course in its commitment to data driven decision-making and its pursuit of management excellence for the Massachusetts court system. Much has been accomplished in the Massachusetts court system over the last several years and the Court Management Advisory Board commends Chief Justice for Administration and Management Robert A. Mulligan, the Departmental Chief Justices, and the Trial Court judges, clerks, and court and probation staff for their continuing dedication to the management reform initiatives, especially in these very difficult economic times. We also acknowledge Chief Justice Margaret H. Marshall's continued and vital support for all aspects of court management and administration.

B. Background

1. Creation and Composition of the Court Management Advisory Board

Following the recommendation of the Visiting Committee on Management in the Courts (commonly referred to as the "Monan Committee"), the Massachusetts Legislature in 2003 created the Court Management Advisory Board (the "CMAB" or the "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, ten of whom are appointed according to the categories of experience set forth in the

¹ The Monan Committee conducted a six-month study of the Massachusetts courts and in its March 2003 report to Chief Justice 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.

enabling statute.² In addition to the twelve members, the CJAM serves as Executive Secretary of the CMAB. In the spring of 2004, the Justices of the Supreme Judicial Court appointed the first members of the CMAB. In May of 2007, all members of the CMAB accepted a second three-year term which expired as of June 1, 2010.³ Attached to this report is a list of the CMAB members who served from 2004 – 2010.

2. Transition to new Board

The ten appointed members of the original Court Management Advisory Board completed their second and final three-year term on the Board as of June 1, 2010. The two members who serve *ex officio* remain on the Board. The successor board has been appointed by the Supreme Judicial Court, and members began their first three-year term as of June 1, 2010. A list of the current CMAB members is attached to this report.

3. Continuing Fiscal Crisis

The state-wide budget crisis worsened throughout fiscal years 2009 and 2010 and the Massachusetts judiciary did not escape the cuts. The FY 2010 appropriation of \$559.5M for the Trial Court represented a 7.5 percent reduction from the initial appropriation of \$605.1M for FY 2009. The Trial Court's FY 2011 appropriation was reduced further to \$534.8M. The Trial Court imposed a total hiring freeze in 2008 which remains in effect, and that, along with attrition, retirement incentive programs, and the elimination of per diem positions has resulted in diminished staffing levels in all Trial Court departments, with some divisions experiencing critical staff shortages.⁴ Staff from the Trial Court's administrative office have been deployed to courts around the state on a weekly basis to assist in those courts hardest hit by the shortages. The Trial Court's interdepartmental Fiscal Task Force, including CMAB member Linda Carlisle, has continued to explore and recommend cost-cutting measures. The Trial Court has vigorously pursued spending efficiencies to reduce expenses, such as centralized procurement of supplies

² Two members of the CMAB serve *ex officio* – the attorney general, or her designee, and the executive director of the Massachusetts Office of Victim Assistance. G. L. c. 211B, § 6A.

³ By statute, appointed members of the CMAB may serve a maximum of two three-year terms. G. L. c. 211B, § 6A.

⁴ Trial Court staffing declined by 765 employees from 7,629 on July 1, 2007, to 6,864 on July 1, 2010 – a 10 percent decline. The Trial Court assesses its staffing needs through use of its empirical, case-weighted staffing model.

and centralized ordering of law books for all courts. Automation of certain tasks has helped the courts function with these significant staff reductions. The CJAM also convened a Court Relocation Committee, which includes CMAB representative Elizabeth Pattullo, to explore cost-cutting through the relocation of court divisions.⁵ The Committee submitted its interim report to the CJAM in June of 2010.

It is critical that the reductions in funding for the court system do not impact the critical roles that the trial courts serve in our society. It has been a struggle – and it will continue to be a struggle – for the courts to provide their essential services in times of reduced resources.

C. Report Released: *Legislative Action Required to Achieve Managerial Excellence in the Trial Court*

Going into its final year of service to the Court, the CMAB identified and undertook to address some of the structural deficiencies in the Massachusetts court system identified in the Monan Report. While continuing to applaud the significant management reforms achieved by the Trial Court over the past six years, such as the implementation of time standards in all departments, the development of metrics to measure and track the timeliness and expeditiousness of cases, the use of staffing models to drive resource allocation and the implementation of MassCourts, the CMAB did not want its final term to end without addressing frontally the organizational challenges identified by the Monan Report and the impact that structural deficiencies have on the court system. These structural impediments prevent the court system from having a form of management and administration where there are clear lines of authority over employees within the court system and accountability for those persons who manage the court system. In March 2010, the CMAB released a report entitled, “*Legislative Action Required*

⁵ The Court Relocation Committee, co-chaired by District Court Chief Justice Lynda M. Connolly and Housing Court Chief Justice Steven D. Pierce, was convened by Chief Justice Mulligan in February 2010 and includes the following members: Anthony M. Doniger, Esq., Sugarman, Rogers, Barshak & Cohen / Boston (Access to Justice Commission Member); Douglas Martin, Esq., Law Offices of Douglas Martin / Malden (Mass. Bar Association Representative); Elizabeth Pattullo, Beacon Health Strategies (Court Management Advisory Board Member) John J. Regan, Esq., WilmerHale / Boston (President, Boston Bar Association); Edward P. Ryan, Jr., O’Connor and Ryan / Fitchburg (Former President, Mass. Bar Association).

to Achieve Managerial Excellence in the Trial Court” which describes in detail the flawed management structure of the Massachusetts judicial system and identifies the structural impediments to meaningful reform. The report calls upon the Massachusetts Legislature and the Governor to address these structural impediments through legislative initiatives. The report was delivered to the Governor, Legislative leadership and all members of the Massachusetts Legislature.

The report generated a good deal of media coverage and prompted much discussion. It contained one of the first public statements which identified problems within the Department of Probation which later became the subject of intense public scrutiny. The outgoing CMAB members intend to continue the discussion and advocate for the changes recommended in the report. We are pleased to attach hereto the report, *Legislative Action Required to Achieve Managerial Excellence in the Trial Court*.

D. Other Activities

1. Formal Sessions

The members of the CMAB met bimonthly during 2009 and 2010 in formal sessions which were 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, the Departmental Chief Justices of the Trial Court also attended several meetings. During these formal sessions, the CMAB members carefully reviewed and discussed the quarterly metrics reports and other major initiatives relating to judicial administration and management. In addition, the CMAB received regular updates on the Trial Court budget from the CJAM, and discussed strategies for dealing with the worsening fiscal situation.

2. Management Training - Roundtables

Management training continued throughout 2009 and into 2010 with five CMAB sponsored management roundtables attended by the CJAM, Departmental Chief Justices of the Trial Court and CMAB members. The management roundtables feature prominent business or governmental leaders with expertise in management reform and system transformation for an informal discussion on management style and best practices. These roundtables provide an

opportunity for Chief Justices to explore management issues with individuals who – like the Chief Justices – manage large organizations. The 2009 – 2010 roundtables featured the Honorable Christine M. Durham, Chief Justice of the Supreme Court of Utah; Joseph S. Nye, Jr., former Dean of the Harvard Kennedy School of Government; Dr. Donald Berwick, President and CEO, Institute for Healthcare Improvement; the Honorable Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina; and Jonathan Kraft, President and Chief Operating Officer of the Kraft Group and President of the New England Patriots. The roundtables were well-received by all who attended and considered valuable sources of management insight and expertise.

3. Open Dialogues – Release of Report

In June 2009, the Trial Court issued a report on the actions taken as a result of the “Open Dialogues on Court Practices” program. Open Dialogues was a series of five regional bench-bar meetings held throughout Massachusetts in 2008. Sponsored jointly by the CMAB, the Trial Court and the Massachusetts Bar Association, these sessions brought together more than 1,000 attorneys, judges and court personnel to get reactions, thoughts and ideas on court management practices, initiatives and systems. The Trial Court Departments developed action steps to follow up on issues raised by the sessions and these were compiled into a report, which was released in June 2009 and is attached hereto.

E. Progress on the Monan Recommendations – Data Driven Decision-Making

During 2009 and into 2010, the commitment to data driven decision-making in the management of the Massachusetts court system was demonstrated on several significant fronts: the Trial Court completed its fourth full year using four case flow CourTools performance metrics on timeliness and expedition, and continued to use and publish the data to measure and evaluate case management and court performance; MassCourts continued to roll out across Trial Court Departments; increased focus was directed to Juror Utilization, a metric measuring whether jurors are being utilized efficiently; proposed guidelines were recommended as the result of a pilot project which employed a sixth CourTools metric to assess case file integrity in all eight divisions of the Boston Municipal Court Department; staffing models continued to be

updated and utilized to assess and allocate staff support in courthouses during a year of fiscal crisis and diminishing resources; and surveys of more than 9,000 court users were conducted in all 106 Trial Court locations to measure the satisfaction of parties, witnesses and jurors with the court system. The CMAB is pleased by the Trial Court's continuing transformation to a court system that uses performance measurements and empirical data to inform decision-making and determine best practices. The CMAB attributes the progress in management reform not only to the strong leadership of Chief Justice Mulligan and the Departmental Chief Justices, but also to the dedication and hard work of the Trial Court judges, clerks and court and probation staff.

1. Fourth Full Year of Case Flow Court Metrics Completed

In 2009, the CJAM and the Chief Justices of the Trial Court completed the fourth full year using four case flow CourTools⁶ measurements focusing on timeliness and expedition in all seven court departments – namely, Clearance Rate; Time to Disposition; Age of Pending Caseload; and Trial Date Certainty. Setting ambitious target performance goals for each measurement, the CJAM, with the assistance of the Departmental Chief Justices, compiled and created quarterly statistical reports, presented them at the formal sessions of the CMAB, and published them on the Trial Court website.

After four full years of using CourTools measurements to manage timely case processing, these metrics have become widely embraced and understood throughout the Trial Court. A review of the data from 2009 highlights the progress made on the timely disposition of cases throughout the Massachusetts court system. In 2009, the Trial Court cleared cases at the rate of 98.3 percent, an increase from 97 percent in 2008; disposed of 90.4 percent of cases within time standards, an increase from 89.8 percent in 2008; and began 76.0 percent of all trials by the second trial date, which is less than the 78.0 percent achieved in 2008. The number of cases pending beyond time standards increased in 2009 to 83,436, from 69,135 in 2008, but the increase is explained by improved reporting of case status due to expanded Trial Court

⁶ 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.

automation. The court metrics statistical reports have become increasingly valuable case and court management tools for court leadership and provide an important foundation for their continuing management reform efforts. We are pleased to attach hereto the Court Metrics Report for Calendar Year 2009.

2. MassCourts Expanded

Leaders and staff of Trial Court Information Services and the departmental administrative offices continued to work collaboratively throughout 2009 and into 2010 to progress toward full implementation of MassCourts, the Trial Court's web-based, integrated case management system. Some of the highlights of the progress on MassCourts during 2009 – 10 include:

- Five of seven trial court departments now use MassCourts. In the spring of 2009, the Probate and Family Court Department completed its conversion to MassCourts in its fourteen divisions statewide. Planning and implementation efforts are underway to expand MassCourts to civil case processing in the District Court and Boston Municipal Court Departments in 2010 and to introduce MassCourts in the Juvenile Court Department in 2011.
- Through April 2010, MassCourts contained data on 7.9 million cases, 11 million identity records, and 6.1 million scanned documents for 616,000 Probate and Family Court cases. The system also includes information on 18.3 million calendar events with an average of 137,000 new events scheduled each month.
- Since early 2009, the introduction of a series of interfaces has increased efficiency and accuracy in sharing data. Each month an average of 15,000 electronic transactions go to the Committee for Public Counsel Services and 10,500 abstracts go to the Merit Rating Board/Registry of Motor Vehicles. In addition, MassCourts receives an average of 1,000 monthly updates from the Board of Bar Overseers.
- In late 2009, a new interface was piloted that now directs all requests for interpreters into MassCourts which routes them to the database used to schedule interpreters. Since FY 2009, interpretation services were used for close to 94,000 court events. The new interface will significantly increase the efficiency in processing these requests and improve the utilization of interpreters.

3. Increased Focus on Juror Utilization

Juror utilization is another area in which court leadership collected and analyzed data in 2009 and 2010 to assess progress and identify best practices in a key area. The effective use of jurors is critical to public confidence and efficient case management, and the Supreme Judicial Court and the Administrative Office of the Trial Court have made it a priority. To assess progress in this area, the Trial Court, drawing from the National Center for State Courts' CourTools, created a Juror Utilization metric, measuring the rate at which prospective jurors are utilized, that is impaneled, challenged or excused, as a percentage of the total number of prospective jurors qualified and available to serve. Close examination of the data reveals courts with consistently good utilization rates and identifies best practices that can be shared with all courts. The enhanced oversight and coordination resulted in 289,000 jurors serving jury duty in FY 2009 – a reduction of 32,500 jurors from FY 2008. Through June 2010, the statewide utilization rate for calendar year 2010 reached 43.9 percent, reflecting continued improvement from the rate of 33.8 percent in 2007.

4. Case File Integrity Project – Guidelines Proposed

In 2009, the Boston Municipal Court Case File Content Committee produced a report proposing guidelines for uniform docket entries and key documents in civil and criminal case files for all clerk magistrates' offices. This followed the Boston Municipal Court Department's 2008 Reliability and Integrity of Case Files Project which piloted a sixth CourTools performance measure. This project reviewed 1,600 randomly selected case files across the department for timeliness of retrieval, accuracy and reliability of case file contents, and completeness of case file information. The results of the project indicated good quality of the case files, but also the need to develop standard policies and procedures across all court divisions for similar case types. We are pleased to attach the report hereto.

5. Staffing Models

In 2009 and 2010, the Trial Court continued to update its empirical, case-weighted staffing model⁷ periodically to provide the most objective assessment of the staffing needs for

⁷ The staffing model was developed in 2005 by judges and staff from all seven Trial Court

each division of the Trial Court and to inform the allocation of resources across the court system in a systematic, fair and equitable way. Given the worsening fiscal crisis and the severely reduced staffing levels due to the hiring freeze, attrition and retirements, the staffing model became an even more critical framework for decision-making for Trial Court leadership as it assessed and identified the most critical staffing needs in the system in order to allocate the limited resources accordingly. As of July 1, 2010, the total staffing average across the Trial Court was 73.5 percent, with the staffing level in Land Court as low as 46.2 percent.

F. Conclusion

This is the fifth annual and final report of the original members of the Court Management Advisory Board appointed in 2004. There has been tremendous progress in the past six years, and certainly more work to be done. We would like to commend Chief Justice Margaret H. Marshall and Chief Justice Robert A. Mulligan (and their staff)⁸ for their vision and leadership during our tenure and for their commitment to the continued reforms even under the toughest economic times.

We leave with a sense of having accomplished many things, the most important of which has been working with the judiciary in developing and implementing sophisticated management tools to administer the court system. We note the special value that non-lawyer members of CMAB brought to this process, by bringing their vast experience in management to our court system. We wish our successors the satisfaction we have enjoyed in working with the Massachusetts court system and all of the excellent people who comprise it.

Respectfully submitted,

Michael B. Keating

Chair, Court Management Advisory Board

departments in conjunction with the National Center for State Courts.

⁸ We especially wish to thank Ronald Corbett, Executive Director of the Supreme Judicial Court, Francis Carney, Executive Director of the Trial Court, Carol Lev, Coordinator for Program and Policy Development for the SJC, and Mary Rafferty, Senior Staff Consultant AOTC, whose work was instrumental to the success of the CMAB.

Members of the Court Management Advisory Board

Served from June 2004 – June 2010, unless otherwise noted

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, an *ex officio* member of the Board, Ms. Fine serves the Executive Director of the Massachusetts Office of Victim Assistance.

David S. Friedman, formerly the First Assistant Attorney General, served as the designee of *ex officio* member Attorney General Martha Coakley, from January 2007 - December 2009.

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, Chairman, 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.

Honorable Neil L. Lynch is a retired Justice of the Supreme Judicial Court.

Anne H. Margulies served as the Assistant Secretary for Information Technology and Chief Information Officer for the Commonwealth until the summer of 2010. 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.

Members of the Court Management Advisory Board
(2010-2013)

Edward R. Bedrosian, Jr., Esq., is the First Assistant Attorney General for the Commonwealth of Massachusetts and serves as the designee of *ex officio* member Attorney General Martha Coakley.

Honorable John J. Curran, Jr. is a retired justice of the Leominster District Court.

William J. Dailey, Jr., Esq., is the Senior Partner at the Boston law firm, Sloane and Walsh, LLP, where he specializes in civil litigation.

Helen G. Drinan is the President of Simmons College in Boston.

Janet E. Fine is the Executive Director of the Massachusetts Office of Victim Assistance and serves as an *ex officio* member of the Board.

Ruth Ellen Fitch, Esq. is the President and Chief Executive Officer of the Dimock Community Health Center.

John A. Grossman serves as Undersecretary of Forensic Science and Technology for the Massachusetts Executive Office of Public Safety and Security.

Glenn Mangurian, is a business leader and management consultant.

Ralph C. Martin II, Esq. is the Managing Partner of the Boston office of Bingham McCutchen. He is the former District Attorney for Suffolk County, serving in that position from 1992 - 2002.

Marilynne R. Ryan, Esq. is an attorney at the Walpole law firm Ryan & Faenza where she specializes in family law.

Harry Spence, Esq. is a lecturer at Harvard Kennedy School. He was formerly the Commissioner of the Massachusetts Department of Social Services, serving in that capacity from 2001-2007.



Legislative Action Required to Achieve Managerial Excellence in the Trial Courts

Leo V. Boyle, Esq.

Linda Carlisle

Gene D. Dahmen, Esq.

Janet Fine

David S. Friedman, Esq.
(Member to 12.24.09)

David G. Fubini

Robert Gittens. Esq.

Michael B. Keating, Esq

Honorable Neil Lynch

Anne Marguiles

Thomas O'Brien

Elizabeth Pattullo

The Report of the Massachusetts Court
Management Advisory Board

March 2010



INTRODUCTION

The Court Management Advisory Board, as it approaches its final six months of service, applauds the significant management reforms achieved by the Trial Court in the past five years and would now like to make the case for reforms that can only be accomplished through a partnership among the three branches of government. The Judiciary is faced with deep and painful cuts in its budget, as is the case with all budgets across the Commonwealth. For this reason, among others, the Board believes that this is the ideal time to tackle structural reforms. Despite the best efforts of people within the Judiciary, structural changes are necessary for the Commonwealth's Courts to operate more efficiently and effectively. These changes can only be achieved with the help of the Legislature and Governor. The recommendations made in this Report are not novel - they have been advocated by many other groups over the past 40 years - but they are long overdue. Given the financial problems facing the Commonwealth, this is the right time for leaders to act on these proposals.

PROGRESS ACHIEVED AND PROGRESS IMPERILED ¹

In 2003, following issuance of the widely acclaimed though harshly critical Report of the Visiting Committee on Management of the State Courts (the "Monan Report"), the Legislature, following the recommendation of the Monan Report, created the Court Management Advisory Board ("CMAB"). The purpose of the CMAB is to advise the Justices of the Supreme Judicial Court ("SJC") and the Chief Justice for Administration and Management ("CJAM") in implementing the Visiting Committee's blueprint for effecting significant reform of the management structures, policies and practices of the Courts. SJC Chief Justice Margaret H. Marshall has made improved management of the Judiciary one of the central tenets of her service as Chief Justice and has pushed the CMAB to implement the reform agenda put forth by the Visiting Committee.

Focusing in large part on the Trial Court, the Visiting Committee identified three deficiencies as the principal contributors to a system "mired in managerial confusion" and unable to deliver justice in a timely, efficient and cost effective way:

- a leadership culture and structure that hobble management,

¹ The Massachusetts Judiciary is composed of the Supreme Judicial Court, the Appeals Court, and the Trial Court. Seven Departments make up the Trial Court: the Superior Court, the District Court, the Boston Municipal Court, the Juvenile Court, the Housing Court, the Land Court, and the Probate and Family Court. The Supreme Judicial Court is the only Court in Massachusetts with constitutional status. All other Courts have been established through legislation. See Mass. Const. Pt. 2 c. 1, § 1, art. III (vesting the Legislature with the authority to establish the courts). In 1978, the Legislature enacted a statute to reorganize the administration of the Court system, and to make substantive changes in the jurisdiction of certain Courts. 1978 Mass. Acts c. 478. The state Courts were again reorganized in 1992 with the passage of Chapter 379, an act aimed at "improving the administration and management of the judicial system of the Commonwealth." 1992 Mass. Acts c. 379. The current system and many of the positions described below are largely a product of that legislation.

- a lack of performance measurement and accountability, and
- an inability to manage costs and resources.

The Visiting Committee recommended three initiatives which should be aggressively pursued to address these deficiencies:

- 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.

Noting that the challenges to implementing necessary reform are daunting, the Visiting Committee observed repeatedly that only with the full cooperation and collaboration of all three branches of government could its recommendations, particularly those requiring structural change, be fully achieved.

In the almost six years since its inception, the CMAB, whose members were appointed by the Justices of the Supreme Judicial Court and include, by statute, representatives of the business, public sector, academic and legal communities, has been privileged to work closely with the CJAM, Hon. Robert A. Mulligan, and his team of talented Trial Department Chief Justices to address many of the deficiencies identified in the Monan Report. 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, including the issues of performance measurement, accountability, and management of resources, leaving to a future day the fundamental structural obstacles to ultimate reform.

As a result of the tireless leadership of Chief Justice Marshall, and the consistent efforts of Chief Justice Mulligan and the Trial Court Chief Justices, the CMAB, the CJAM's staff, and a host of dedicated Clerks, Registers and other Court personnel, transformative change in the efficiency and culture of the Trial Court has occurred during these years. As set out in more detail in Attachment 3, achievements include, among others:

- implementation of time standards in all Trial Court Departments,
- development of goals and metrics to improve and track the flow of cases from commencement to disposition (including the collection and public dissemination of data from each Court Department on a quarterly basis),
- adoption of staffing models by which personnel needs can be assessed and resources allocated,
- installation of MassCourts (the web-based case management system) throughout the Judiciary, except the Juvenile and Superior Court which are scheduled for implementation in 2010,
- design of surveys to measure user satisfaction in the Courts, and

- creation of a broadly representative fiscal task force to develop budget reduction strategies.

Notable also is the growing sense of professionalism, motivation and improved morale among personnel in the Courts as they work to meet clearly articulated goals and realize the benefits of accountability. The CMAB is proud to have been associated with these efforts, all of which are responsive to the directives of the Monan Report and many of which have been achieved in the face of dwindling resources.

Work will continue in all of the areas mentioned above, as well as in other areas where the Trial Court itself can effect improvements. It is imperative at this point, however, that the structural obstacles which are at the heart of real reform be addressed. These obstacles, discussed in depth in the next section, Critical Issues, stem largely from the absence of a comprehensive, professionalized administrative and leadership structure which would enable the Judiciary to fully and effectively manage itself. This is the most pressing issue identified by the Monan Report, and it is now a matter of even more urgency in light of the fiscal crisis facing the Commonwealth and the Courts. As the Visiting Committee observed, the problem was created by all three branches of government, and while the Judiciary must take the lead in its solution, the three branches “must now collaborate to redesign the Judiciary with clear reporting lines and roles” in order to “untangle the confusing structure that binds the Courts in mediocrity.” Although a seemingly Herculean task, it is one that now must be undertaken. No financial resources will be required, and the result at the end of the day will certainly be, as the Monan Report states, a less expensive and more effective Court system.

The CMAB unanimously recommends that work begin immediately on these structural issues. Specific recommendations are set forth at the end of this Report. Members of the CMAB, whose terms end in May 2010, believe that the Judiciary, having demonstrated in the last six years a sustained ability to effectuate transformative change despite significant constraints, should now have the opportunity to work in cooperation with the Legislative and Executive branches, as well as other stakeholders, to make full implementation of the Monan Report a reality.

CRITICAL ISSUES

A. Organizational Dysfunction

The first recommendation of the Monan Committee, and the recommendation identified as the most challenging to implement, is “*restructuring the Courts to clarify reporting lines and responsibilities within the system.*”

The current management structure of the Judiciary, the creature of a patchwork of Constitutional, statutory and budgetary provisions adopted at various times in the Commonwealth’s history, leaves the Judiciary with no centralized authority, no control over a large segment of its workforce, and a limited ability to manage its resources. No Executive Department of the Commonwealth, and no private sector organization, could

ever operate within such a labyrinthine structure where no one is clearly in charge and where important business is performed by personnel over whom the titular leadership can exercise little or no real authority or have little if any role in hiring, disciplining or terminating. Monan Report Exhibits 6 and 7 (Attachment 4) illustrate the limitations and confusion of the current structure.

For example, the Justices of the Supreme Judicial Court have “general superintendence” powers derived from the Constitution and authorized by Mass. Gen. Laws c. 211 §3. Although the statute states that the SJC has “general superintendence of the *administration* of all courts of inferior jurisdiction, including the power to appoint the Chief Justice for Administration and Management”², it goes on to say that this general superintendence “*shall not include the authority or power to exercise or supersede any of the powers duties and responsibilities of the chief justice for administration and management.... except under extraordinary circumstances....*” Meanwhile, Registers of Probate and Clerks of the Superior Court (who are elected) and all other Clerks (who are appointed by the Governor), function independently of not only the CJAM but also the First Justices in their own Courts. Additionally, the CJAM’s general superintendence power with respect to Clerks and Registers of Probate is limited by Mass. Gen. Laws c. 211B, § 10C, which expressly excepts Clerks and Registers of Probate from this power and states that the powers of the CJAM, the Departmental Chief Justices, or the First Justices of particular Courts

“...shall not include the authority or power to exercise, supersede, limit, prevent the exercise of or otherwise affect any of the powers, duties and responsibilities of the clerks or registers of probate in any general or special law, including laws authorizing or governing the selection and appointment of personnel, except where expressly authorized.”

In the case of First Justice of the Bristol Juvenile Court v. Clerk-Magistrate of the Bristol Juvenile Court, 438 Mass. 387 (2003), the SJC upheld the constitutionality of statutes which limit the authority of the CJAM and the Chief Justices and First Justices of various Trial Court Department over the selection of Assistant Clerks and Probation

² The SJC also has the power of “general superintendence of all courts of inferior jurisdiction to correct and prevent errors and abuses therein if no other remedy is expressly provided.” Mass. Gen. Laws c. 211, § 3. Additionally, the SJC’s general superintendence power includes oversight of the administration of all courts of inferior jurisdiction, limited as set out above. The Chief Justice for Administration and Management (CJAM) manages and administers the Trial Court of Massachusetts, which consists of seven Trial Court Departments. As such, the CJAM is the statutory employer of the approximately 7,000 employees of the Trial Court who work in 130 locations across Massachusetts. The Administrative Office of the Trial Court (AOTC) is made up of nine Departments, each managed by a Director who reports to the Chief of Staff. The AOTC is the office through which the CJAM both manages the Trial Court and provides services to it. This office works closely with the Trial Court Departments and Commissions and with the SJC and Appeals Court to enhance the administration of justice in the Commonwealth. The CJAM technically has direct supervisory authority over the Office of the Commissioner of Probation and the Office of the Jury Commissioner. This authority, however, has been diluted by outside sections in each state budget since FY 2001.

Officers. In doing so, the SJC stated that the Judge who presides over a session has the inherent authority to insure that Clerks, Assistant Clerks and Probation Officers perform their tasks in a professional manner and specifically referred to the power to "oversee activity within the realm of judicial administration that takes place in and out of the courtroom." The decision appears to emphasize the Judge's authority to exercise physical control over the courtroom, but it leaves untouched the statutory scheme which vests in the appointed Clerks and the Commissioner of Probation the power to appoint and dismiss Assistant Clerks and Probation Officers without judicial interference. Thus, under the statutes as construed by the SJC in this case, a substantial number of employees of the Court system are removed from the managerial authority of the Judiciary.

The Probation Department, while technically part of the Judiciary, operates with an astonishing degree of autonomy. Yet this Department has approximately 2,200 employees, about one-third of the entire Judiciary staff. Outside sections of the Commonwealth's budget each year since 2001 have removed any mention of the CJAM in the appointment, assignment, dismissal or discipline of a majority of Probation Department staff (specifically Probation Officers, Associate Probation Officers, Probation Officers-in-Charge, Assistant Chief Probation Officers, and Chief Probation Officers) and vested all powers in the Commissioner of Probation. Prior to Fiscal Year 2001, appointments were subject to the approval of the CJAM. This is the case despite statutory language which says, finally, that the CJAM is "responsible for the management of court personnel, facilities, administration, security, and court business and [has] the authority necessary to carry out these responsibilities." Mass. Gen. Laws c. 211B, §9. As the Monan Report points out:

"The lack of meaningful authority is evident throughout the courts. Each layer of management has little ability to direct the next and little accountability to the one above. Reporting lines are vague and do not reflect natural working units. Basic tools of authority are undermined or absent; consequences cannot be tied to performance; resources cannot be removed or redirected; even the selection of those in key positions is often outside of a manager's control."

Some of these structural impediments originate with the Massachusetts Constitution, and others are statutory, including legislation adopted as recently as the 1990s, which places significant limitations on the Judiciary's ability to manage itself. Commissions and groups such as the CMAB have called for reform in nine separate reports since 1976, but because amending statutes and the Constitution is difficult, very little reform in this area has occurred. The Judiciary has no natural advocacy groups and this, in part, makes creation of a broad constituency for change very challenging. The CMAB believes that it is of critical importance that these structural deficiencies be addressed, especially in light of the current (and worsening) fiscal crisis, and endorses and reiterates (with minor variations) the prescriptions of the Visiting Committee as follows:

- The Chief Justice of the SJC (or other designated leadership entity) should be given clear authority to make management decisions regarding all the Courts in the Commonwealth. (See Attachment B for examples of management models in other states where judicial councils rather than individuals have ultimate responsibility for policy making and implementation of policy is left to professional administrators).
- Lines of reporting and accountability throughout the system must be clarified.
- The Judiciary should build a corps of professional administrators including a chief operating officer who is responsible for fiscal affairs, human resources, information technology, leases and other non-judicial functions subject to judicial policies established by the Judiciary.
- The Chief Administrator (or Chief Justice for Administration and Management) should report and be clearly accountable to the Chief Justice of the SJC (or other designated leadership entity).

At the end of this Report, the CMAB proposes a set of specific actions based on these recommendations, which, if taken, would have the effect of finally modernizing the management of the Judiciary at this very crucial time.

B. Lack of Management and Control over Parts of the Judicial System

Although significant activities within the judicial system are performed by Clerks, Registers, and the Probation Department, to a great extent the Judiciary does not control the hiring of personnel in the Probation Department and Clerks' and Registers' offices. Language that by implication removes the CJAM from the hiring process for these operations is contained in outside sections of the state budget for the Probation Department and in statutes (Mass. Gen. Laws c.276, §83 for Probation and c.211, §10B and §10C for Clerks). These employees, working in courthouses throughout the Commonwealth, have no lines of accountability to the First Justices in their courthouses, who, by statute, are responsible for that courthouse.³ The Monan Report highlighted this problem:

“First Justices often armed only with moral suasion in their dealings with probation officers and clerks. Clerks who are appointed for life openly feud with judges they are supposed to support, and Chief Probation Officers feel torn between the Commissioner of Probation’s hierarchy and the First Justice they serve.”

³ In each of the Trial Court Departments, a First Justice, or in the case of the Superior Court, a Regional Administrative Judge, serves as the administrative head for that Trial Court Department in a courthouse or region.

Clerks and Registers may appoint whomever they choose to fill positions in their offices without consultation with either the First Justices or the CJAM. In fact, c.211B, which specifically spells out the Clerks' powers of appointment, specifically states that the Clerks have the *exclusive* authority to appoint Assistant Clerks without the review or approval of any other person. Only a blanket hiring freeze, such as that in effect now, places any limit on hiring freedom of Clerks, Registers and the Probation Department. This presents a major management issue for the Trial Court. The CMAB is quick to note, as did the Visiting Committee, that the majority of employees are hardworking and committed to doing a good job regardless of their reporting arrangements.

Past reports on the administration of the Courts, some dating back 40 years, have sought to tackle this issue (among many others) with complete lack of success.

Of special concern is the Probation Department which falls under the Judiciary, yet its budget and hiring processes are held out separately. The CMAB believes this is an anomaly which must be corrected. The current Commissioner of Probation was appointed in January 1998. Prior to 1992, the Commissioner had a six-year term, but that restriction was eliminated in 1993 (changes to Mass. Gen. Laws. c.276, §98 effective January 13, 1993) and today no limitation exists. Subsequently, a 2001 amendment to c. 276, §83, and strengthened in the budget process by the insertion of section 0339-1001 of every budget since 2001, gives the Commissioner of Probation the "*exclusive authority to appoint, dismiss, assign and discipline probation officers, associate probation officers, probation officers-in-charge, assistant chief probation officers and chief probation officers...*" Prior language called for the CJAM to approve such appointments. This budgetary provision leaves 2,200 staff – nearly one-third of Judiciary staff - outside the control of both the Chief Justice and CJAM as they attempt to manage under increasingly severe fiscal constraints.

An important management tool for the CJAM, particularly in times of reduced resources, is the ability to transfer funds between Court Departments to meet changing needs. Recognizing the value of transferability, the budget specifically states that the CJAM may transfer funds between Court Departments to more effectively administer justice in the Commonwealth. However, the CJAM is prohibited from transferring any funds which have been appropriated to Probation. The CMAB is aware of no other departmental head or manager in the Commonwealth who is explicitly restrained, via statute or budget, from touching one specific, large area under his or her purview. There is no rational justification for insulating Probation from the rest of the Judiciary in this important respect.

It is also interesting to note that while the Probation caseload has been basically flat for the past five fiscal years, the Department's staff has increased by 10 percent (from 2,005 to 2,200) and its budget has increased by 18 percent. As this Report was being written, the Legislature has added \$4.5 million dollars to Probation's FY 2010 budget while drastically cutting all other areas of the government because of declining state revenues. This preferential treatment for Probation raises questions as to whether the interests of the public and of good management are being served. Although on paper

the Commissioner reports to the CJAM, the CJAM has virtually no control over the Probation Department. There is no basis for making this particular area off limits.

C. Life Tenure

There are obstacles to good management even within courthouses. Often unspoken is the fact that a large number of key managers (approximately 100) in non-judicial positions in the Courts have no terms of office. They may have been appointed by the Governor's office, elected, or, as is the case with assistant Clerks, Registers and Probation Officers, hired outside of a reporting structure that would be generally accepted in most departments of state government. Nor do these personnel have a mandatory age of retirement as do Judges. While Judges must retire at age 70, and are subject to oversight by the Commission on Judicial Conduct and the Supreme Judicial Court, Clerks of all Trial Court Departments, except Superior Court Clerks and Registers of Probate who are elected, are appointed by the Governor and are outside the scope of authority of either the First Justices in their courthouses or the CJAM. The process for removing appointed and elected Clerks, Registers, Assistant Clerks and Assistant Registers for poor performance is extremely onerous, requiring that a case for removal be developed and made to a Committee on Professional Responsibility which then must examine the issues and decide whether or not to send the matter to the SJC for a determination.⁴ As such, the process is rarely tested and these positions (as noted by the Monan Report) are tantamount to a system of "lifetime tenure." Probate Court Registers and Clerks of the Superior Court must at least stand for election.

Again, while most people in these positions are outstanding public servants, the burdens of such a system are self-evident. Even the most well-intentioned, hard-working people find it difficult at best to function as a team - to operate efficiently and to work effectively, without a clear management reporting structure to formulate a vision, establish priorities and objectives, and to monitor performance against those goals.

The management structure of the Judiciary should be brought into conformity with all other areas of state government where there are clear reporting hierarchies. All non-judicial management staff members should serve at the pleasure of those to whom they report. Judicial leadership positions should carry 5-year terms, as is appropriate since Judges have tenure until the age of 70. (Similar terms would not be appropriate for non-judicial appointees who, theoretically, do not have the same tenure.)

THE IMPORTANCE OF REFORM NOW

Why are changes to the current management system so important now? The Trial Court has already reduced its budget by about \$50 million in the last two years -

⁴ Chapter 211 §4 describes the process for removal of Clerks and Registers (appointed and elected) and Code of Professional Responsibility for Clerks of the Courts, SJC Rules 3:12 and 3:13, as amended, 427 Mass. 1322 (1998) defines the process.

from \$600 million for FY 2008 to \$554 million for FY 2010 - and deeper cuts are being proposed for FY 2011. Yet the Chief Justice and the CJAM must implement these reductions without a clear management hierarchy and without clear authority over nearly half of the Judiciary employees. Both statutory and budgetary provisions expressly prohibit the Chiefs from moving funds between and among budget lines (full transferability) or from having oversight over nearly 40 percent of the Judiciary's 7,000 employees, most notably those in the Probation Department and the Clerks' and Registers' offices.

No one can be held accountable for the management of the system as a whole, yet somehow huge budget cuts must be identified and implemented. It is unrealistic to cut tens of millions of dollars from the Trial Court's operating budget while making it impossible for the Court to make cuts in a rational way or to reassign personnel as needed. Nevertheless, the Trial Court is doing the best it can. In the spring of 2009, the CJAM appointed a fiscal task force chaired by District Court Chief Justice Lynda Connolly and Housing Court Chief Justice Steven Pierce. The task force, comprised of Judges, Registers, Clerks and Probation staff, was asked to develop comprehensive recommendations for achieving a large portion of the \$50 million in budget cuts. One of the most important aspects of this committee was that representatives of all the components of the Trial Court came together to work towards one goal. While the problem of ultimate accountability could not be solved, the committee and its work represented a significant step towards building a cohesive Trial Court.

As at no other time in recent memory, it is critical that the best management practices and efficiencies be in place to deal with the Commonwealth's fiscal crisis. A unique opportunity now exists for the Legislative and Executive branches to work in partnership with the Judiciary to assure that the Courts no longer lag embarrassingly far behind in this regard.

The CMAB believes that it is imperative that these problems be addressed now. As mentioned earlier, the focus for the last six years has been on internal improvements which would not necessitate an appeal to the Legislature or Governor for changes in the statutes. It has been the shared belief that if the Judiciary could demonstrate (as it surely now has done) the will and the ability to make significant reforms itself, the cooperation of the other branches in addressing the structural issues could more likely be enlisted. There is much tangible evidence of the effects of the reforms of the past six years, as detailed in Attachment 3, much of which can also be found in the case flow management and other reports published on a regular basis by the Trial Court.

RECOMMENDATIONS AND ACTION STEPS

The CMAB has no illusions that these reforms will be easy - others have advocated them for more than 40 years - but members are certain that the changes are necessary for a more effective and cost-efficient Judiciary, something that the citizens of Massachusetts need and deserve. These reforms are consistent with the Monan Report, as well as the eight other reports that preceded it since 1976 (including those from the

Senate Ways and Means Committee, the Governor's office, Pioneer Institute and Massachusetts Bar Association's Harbridge House Report - all making similar or overlapping recommendations in the past 40 years).

Recent events and the Commonwealth's fiscal problems present a perfect opportunity to correct the structural problems of the Court system. A more rational management structure would enable discussion of and more expeditious decision making on critical issues facing the Judiciary including the potential for Court consolidation, appropriate location of the Probation Department (e.g., within the Judicial branch or in Public Safety), internal audit capabilities to prevent fraud and abuse in the collection of fees, and other cost saving measures.

The CMAB recommends that the following seven actions be taken expeditiously:

1. Clarify the lines of authority in the Judiciary by repealing the 1992 amendment to Mass. Gen. Laws c.211, § 3. Clearly define lines of authority for managing both policy and administration of the courts.
2. Examine [and amend as appropriate] other sections of c.211 and related state statutes with the goal of modernizing the Judiciary's management system and creating a coherent structure.
3. Eliminate limitations and restrictions on full transferability.
4. Professionalize the management of the Judiciary's \$554 million dollar 7,000 employee operation. Broaden the criteria so that the person heading administrative (as opposed to the policy) operations has professional management experience. This person could be either a professional administrator or a judge, but he or she needs to have management expertise in overseeing facilities, information technology, and resource allocation and budgeting, analysis and human resources in order to enable the Trial Court to operate efficiently.
5. Immediately bring under a system of accountability and regular, effective performance review all non-judicial positions which are currently, by statute, lifetime appointments with no mandatory retirement age. In addition, insure that all personnel working in the offices of such non-judicial lifetime appointees are subject to the management supervision, review, direction and control of the Chief Justice of the Trial Court Department within which they work. When feasible, in the interest of the orderly and effective management of the Court system, such non-judicial lifetime appointments should be prospectively eliminated. Moreover, all senior level non-judicial officials (as defined by the CJAM) within the Court system, such as the Commissioner of Probation, should serve in those positions at the "will and pleasure" of their

appointing authority as is the case with any other commissioner level or senior management positions in the Commonwealth.

6. Make Chiefs of the Trial Court Departments (Superior, District, Probate and Family, Boston Municipal, Land, Housing and Juvenile) responsible for their Departments and everyone who works in them, including actions required to meet their budgets, under the general supervision of the Administrative Office of the Trial Court (AOTC) and the SJC. Give the AOTC and Trial Court Chiefs the authority to transfer personnel as needed. (The CMAB acknowledges that major progress occurred in the summer of 2009 when the Legislature reduced the number of Court-related budget lines from 140 to 15 providing some additional flexibility to manage within broader parameters in the FY '10 budget.)
7. Make First Justices responsible for their courthouses and ALL employees working with them.

These are important goals. They require specific action steps. The CMAB has not addressed the issue of elected Registers in Probate Courts or Clerks in Superior Courts as their election is a Constitutional matter. This Report limits recommendations to areas of statutory and budget language that the Governor and Legislature may address without undertaking the process of changing the Commonwealth's Constitution.

Attachment 1 is a list of specific actions that should be taken. They are organized into items that are achievable, have realistic timeframes, and should help provide a road map for achieving these objectives.

Attachment 2 briefly describes a judicial council model, used by some states for managing their courts, which should be considered as a leadership option for Massachusetts. While the CMAB is not recommending this model without further study, it is interesting to note how other state judiciaries function. In South Carolina, for example, there is yet another model. There each Court Department has an advisory board comprised of selected judges of that Department. In Massachusetts, the Trial Court Chief Justices meet as a group with the CJAM but do not have all of the functions outlined by many judicial councils.

Attachment 3 describes many of the accomplishments of the Trial Court system since the Monan Report issued in 2003.

Attachment 4 is comprised of three exhibits from the Monan Committee Report that illustrate how the current organizational structure of the Courts does not support effective leadership or management (Exhibits 6 and 7) and proposes an alternative organizational structure, which has similarities to the structure proposed in the Harbridge House Report sponsored by the Massachusetts Bar Foundation and the Massachusetts Bar Association in 1991.

The terms of present CMAB members come to an end in mid-2010, and others will be appointed in their stead. The current CMAB respectfully submits that its successor Board be constituted to focus exclusively on implementing the above recommendations and be composed of persons who can not only advocate for but also be instrumental in bringing about these changes.

By adopting these crucial management reforms, the Commonwealth will finally achieve excellence not just in the quality of justice, but also in its administration, as has been advocated repeatedly by many independent groups for over 40 years. The citizens of the Commonwealth deserve nothing less.

Attachment 1

Court Management Reform Action Steps

1. In the FY 2011 Budget the Governor and Legislature should include the following changes:

- Outside Section 0339-1001 should be rewritten to revert to language contained *in the FY 2000 budget and prior*. That language stated:

“For the office of the commissioner of probation; provided, that said commissioner of probation, subject to the approval of the chief justice for administration and management, shall appoint any associate probation officer or probation officer-in-charge...”

Since FY 2001 this section has given the Probation Commissioner “exclusive authority to appoint, dismiss, assign and discipline Probation Officers, Associate Probation Officers, Probation Officers-in-Charge,...”

- Provide the Judiciary with the full responsibility for managing its budget and resources. Allow for transferability between and among all budget lines under its jurisdiction, including the trial courts, probation, office of community corrections and Administration.

2. As soon as possible, the CMAB will meet with the Governor’s Legal Office and the SJC Chief Justice to discuss development of proposed revisions both to Mass. Gen. Laws c.211 relating to the SJC and the AOTC, and, as appropriate, to other statutes governing the courts, for discussion and submission to the Legislature.

- Proposed revisions will clarify the lines of authority between and among the Supreme Judicial Court, Chief Justice for Administration and Management, Trial Courts, Clerks and Registers, Probation, and Office of Community Corrections, all of which are components of the Judiciary.
- Consideration will be given to structures such as judicial councils used in other states and whether a similar model should be recommended for Massachusetts. (A brief summary of some of these models appears as Attachment 2.)
- Professionalizing the management of the Court system, including broadening the criteria for the administrative head of the Courts so that it could be a judge, lawyer or professional administrator, will be another goal of the proposed revisions.

3. The CMAB in its final report will provide an update on these recommendations and specific actions that have been taken.

Attachment 2

State Judicial Council Models

Some states have Judicial Councils that assist in the administration of all the courts in the state. This may be a governance model worth exploring. Below is a brief summary of what these councils are and how they are structured. It is interesting to note that Massachusetts may have had a Judicial Council as described in Mass. General Laws Ch. 221 §34A, but it long ago was dissolved.

1. What are the functions of Judicial Councils?

A Judicial Council is responsible for improving the statewide administration of justice. Chaired by the Chief Justice of a state's Supreme Court, and in accordance with the state constitution, the Judicial Council:

- Establishes direction and set priorities for the continual improvement of the court system
- Promulgates uniform rules of court administration, practice, and procedure;
- Sponsors and takes positions on legislation that affects the state's judicial system;
- Allocates the judicial branch budget;
- Responds to legislative mandates; and
- Sets standards for performance, court facilities, support services, and judicial and non-judicial staff levels.

2. How are they structured?

A brief look at states with Judicial Councils shows that they range from seven members to a high of 27 members in California. The Council consists of the Chief Justice of the Supreme Court who chairs the Council. The other members often include: a Supreme Court Justice; a judge of the Court of Appeals; judges from the various trial courts; a state bar representative; and other non-legal professionals. Some states also include representatives from the governor's office and the state legislature. Terms for the judges and other representatives are set, typically at about three years. These states typically have adopted a State Court Administrator model and this person serves as secretary to the Council.

3. How is the Council staffed? How is the Court System administered?

Under this model, the courts have an administrative office of the courts, similar to the Administrative Office of the Trial Court (AOTC) in Massachusetts. The work of the Judicial Council is supported by its staff agency, the Administrative Office of the Courts (AOC). The leader of the AOC is called the Administrative Director of the Courts, or State Court Administrator, and is appointed by the Chief Justice and serves as the Secretary to the Council. The Administrator, or Director, is an individual with professional ability and experience in the field of public administration and an understanding of court procedures and services. The State Court Administrator is assisted by a Deputy Administrator, Superior, District, Probate, Juvenile, and other trial court administrators, and management personnel in the following areas: Human Resources, Public Information, Planning and Research, Finance, Information Technology, Information Services, Audit and General Counsel. The Administrative Office of the Courts

serves as staff to the Judicial Council, rules committees, boards of judges, standing and ad hoc committees, and supports clerks of court and trial court executives throughout the state.

Attachment 3

Trial Court Management Achievements Since 2003 Monan Report

The Trial Court has made a number of improvements that have improved the efficiency and effectiveness of the courts. These range from use of data to inform decision making, introduction of technology to improve access to records and facilitate coordination between the courts and other agencies (e.g. Registry of Motor Vehicles), and management discussions for the trial court chief justices. Below are some of the highlights.

1. Data Driven Decision-Making

The Trial Court is continuing its transformation to a court system that uses performance measurements and empirical data to inform decision-making and determine best practices. The CMAB attributes the progress in management reform not only to the strong leadership of Chief Justice Mulligan and the Departmental Chief Justices, and also to the dedication and hard work of the Trial Court judges, clerks and staff.

In 2008, the Trial Court completed its third full year using four case flow CourTools performance metrics on timeliness and expedition, and continued to use and publish the data to measure and evaluate case management and court performance; a fifth CourTools measure addressing access and fairness in the delivery of quality justice was implemented state-wide; MassCourts continued to roll out across the Commonwealth; a sixth CourTools metric assessing case file integrity was piloted successfully in all eight divisions of the Boston Municipal Court Department; and staffing models were updated and used to allocate staff support in courthouses during a year of fiscal crisis and diminishing resources.

2. Third Full Year of Case Flow Court Metrics Completed

The Trial Court has completed its third full year using four case flow CourTools measurements focusing on timeliness and expedition in all seven court departments - namely, Clearance Rate; Time to Disposition; Age of Pending Caseload; and Trial Date Certainty. Setting ambitious target performance goals for each measurement, the CJAM, with the assistance of the departmental chief justices, compiled and created quarterly statistical reports, presented them at the formal sessions of the CMAB, and published them on the Trial Court website.

- A review of the data highlights the steady progress made on the timely disposition of cases throughout the Massachusetts court system. In 2008, the Trial Court cleared cases at the rate of 97 percent; disposed of 89.4 percent of cases within time standards; reduced the number of cases pending beyond time standards by 6 percent; and began 76.3 percent of all trials by the second trial date. While falling short of some of the target goals, the data reveals continued improvement in the time to disposition of cases.

After over three years using CourTools measurements to manage timely case processing, these metrics have become more widely embraced and understood throughout the Trial Court. Court leadership maintains that these statistical reports have become increasingly important case and court management tools and provide an important foundation for their management reform efforts.

3. Access and Fairness Survey Implemented Across all Seven Court Departments

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

After a successful pilot in the Roxbury Division of the Boston Municipal Court Department in 2007, the project was implemented in 2008 across all Trial Court departments in all 106 courthouses throughout Massachusetts, yielding 9,044 completed court user surveys. The vast majority of statewide responders agreed or strongly agreed that: their overall experience at the courthouse was satisfactory - 80.5 percent; they were treated with courtesy and respect - 87.7 percent; and they felt safe in the courthouse - 91.4 percent. Reinforcing the court's emphasis on timely case management, 68.6 percent agreed or strongly agreed that they were able to complete their court business in a reasonable amount of time. The information gathered from these surveys has been reviewed and reported on by each Trial Court department. These reports will guide efforts for further improvements to the system.

4. MassCourts Expanded

Calendar year 2008 represented another year of active progress for MassCourts, the Trial Court's web-based, integrated case management system, as it continued to expand across the court system. Leaders and staff of Trial Court Information Services and the departmental administrative offices continued to work collaboratively to progress toward full implementation which will ultimately replace 14 individual systems. Implementation progress prompted the State Auditor to issue a positive report in July 2008. State Auditor Joe DeNucci reported that MassCourts was progressing in a "systematic and efficient manner" and commended the Trial Court "for the progress it has made to date in implementing this very important project." DeNucci's report was based on a 14-month audit of the MassCourts project.

Some of the highlights of the progress on MassCourts implementation in all seven court divisions include:

- Successful of MassCourts in five trial court departments, with implementation scheduled for the Juvenile and Superior Court in 2010.
- Number of Records in System Increases Dramatically. As of December 31, 2008, more than 5.3 million cases were in the system, an increase of more than 1.2 million from the year before. An average of 32,000 new cases per month was entered into the system in 2008.
- Data Exchanges Planned. Trial Court Information Services worked with the Trial Court departments and a number of external partners, including the Registry of Motor Vehicles, the Department of Children and Families and the Registry of Vital Records and Statistics, to coordinate the implementation of a variety of additional electronic exchanges of information of common interest from MassCourts. Daily data transfers of case disposition information to the Registry of Motor Vehicles by the Boston Municipal Court and the District Court Departments went online in

January 2009 facilitating electronic reporting of approximately 500 case outcomes daily. This new interface will join the existing interfaces to Criminal History, State Police, the Board of Bar Overseers and the Committee for Public Council Services already in place.

5. Case File Integrity Project Piloted

In 2008, under the leadership of Chief Justice Charles Johnson, the Boston Municipal Court Department piloted a sixth CourTools performance measure by implementing the Reliability and Integrity of Case Files Project. The project, spearheaded by a committee of experienced Boston Municipal Court Department personnel, reviewed 1,600 randomly selected case files across the department for timeliness of retrieval, accuracy and reliability of case file contents, and completeness of case file information. The results of the project indicated good quality of the case files, but also the need to develop standard policies and procedures across all court divisions for similar case types.

6. Staffing Model

- During calendar year 2008, the Trial Court updated its empirical, case-weighted staffing model 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. Given the worsening fiscal crisis, the staffing model is an even more critical framework for decision-making for Trial Court leadership as it assessed and identified the most critical staffing needs in the system in order to allocate the limited resources accordingly.

On February 27, 2008, the CMAB sponsored a major symposium titled “Striving for Excellence in Judicial Administration” to commemorate the five year anniversary of the issuance of the Monan Report. More than 300 judges and court staff, lawyers, and business leaders came together to reflect back on the progress made to date on the recommendations of the Monan Report, and to look ahead at additional areas for improvement. Attendees heard from California Supreme Court Chief Justice Ronald M. George who delivered the keynote address, as well as a distinguished panel of management experts and CMAB.

7. Open Dialogues and Management Discussions

- **Open Dialogues**

Recognizing the importance of input and feedback from the bar to enable continuous improvements in court practices, the CMAB, along with the Trial Court, the Massachusetts Bar Association and regional bar associations held a series of five bench-bar meetings called “Open Dialogues on Court Practices” throughout Massachusetts in 2008. The sessions, conducted in Brockton, Lawrence, Boston, Springfield and Worcester, brought together 1,000 attorneys, judges and court personnel to get reactions, thoughts and ideas on court management initiatives, systems and practices. The series was based on the overwhelming success of a CMAB sponsored “town meeting” in May of 2007, hosted by William Kennedy, Esq. of Nutter, McClennen & Fish LLP, to provide a forum for experienced practitioners who appear with some regularity in the trial courts to provide opinions on trial court practices and offer suggestions for

improvements. As a result of the Open Dialogues, each of the Trial Court departments developed action steps to follow up on issues raised by the sessions.

- **Management Training**

The CMAB and CJAM have hosted a series of management roundtables for departmental chief justices and CMAB members, featuring prominent business or governmental leaders with expertise in management reform and system transformation. Paul Levy, President and CEO of Beth Israel Deaconess Medical Center, the Honorable Christine M. Durham, Chief Justice of the Supreme Court of Utah and Joseph S. Nye, Jr., former Dean of the Harvard Kennedy School of Government.

The Trial Court's website at www.mass.gov/courts also highlights some of the management reforms and has links to many detailed reports about the above topics. Management reform efforts were also featured in two additional publications in 2008: "Massachusetts courts slash backlogs" in the *National Law Journal Online*, and "The courts better themselves" in *The Boston Globe*.

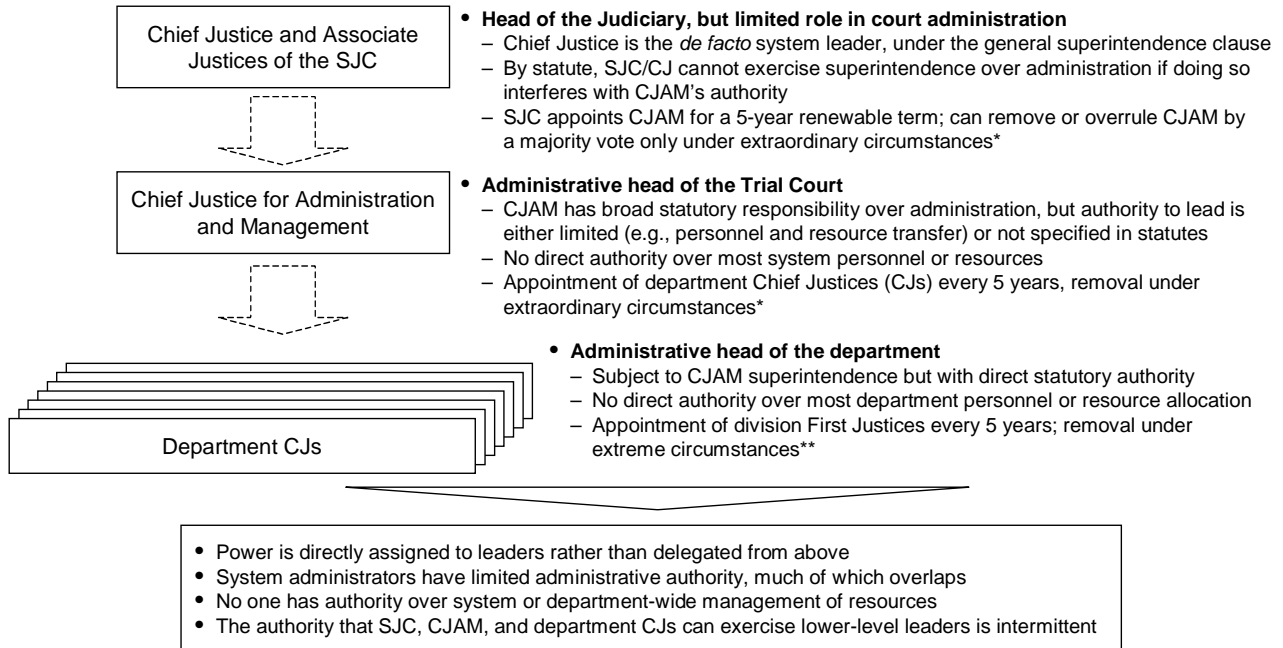
Attachment 4

Monan Report Exhibits Reflect Organizational Structure

- **Exhibit 6: The Current Structure Does Not Support Effective Leadership**
- **Exhibit 7: Current Structure: External Pressures and Unclear Relationships Make Division Management Difficult**
- **Exhibit 8: Proposed Structure: The Judiciary Requires Clear Lines of Authority and Defined Consequences for Differential Performance.**

THE CURRENT STRUCTURE DOES NOT SUPPORT EFFECTIVE LEADERSHIP

SIMPLIFICATION



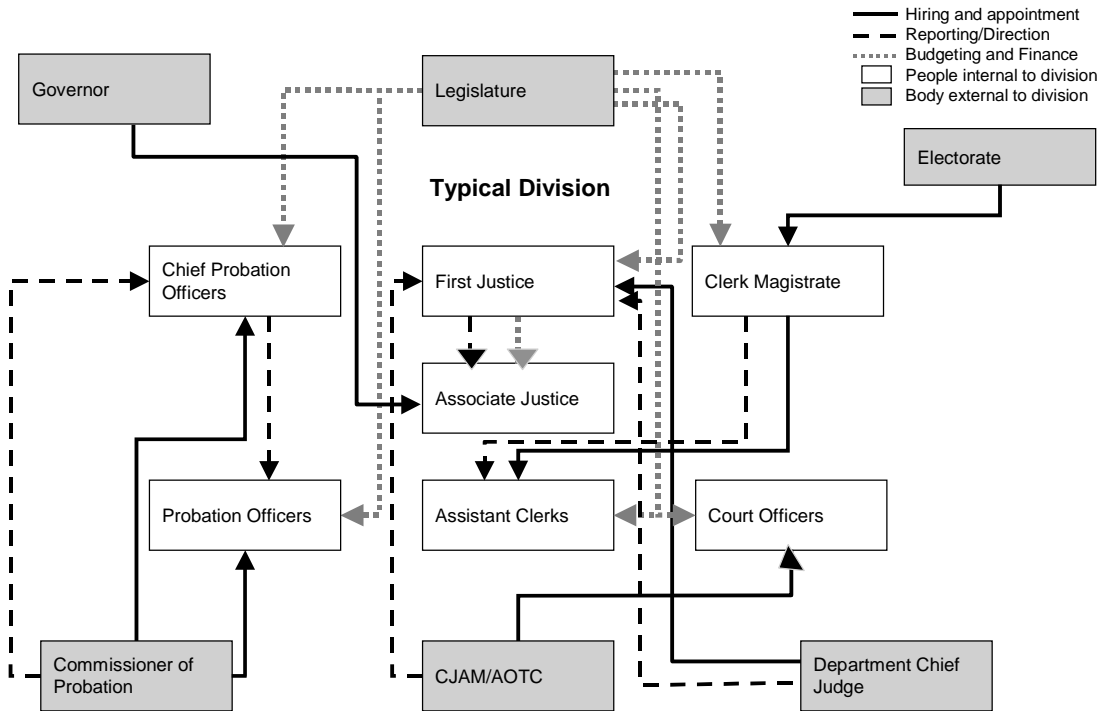
* The statutes define extraordinary circumstances as "severe, adverse impact on the administration of justice" in the case of CJAM's tenure, and as "best interests of proper administration of justice" in the case of department CJs and division First Justices. In practice, extraordinary circumstances have not been specified

** CJAM approves First Justice appointments in some departments (e.g., District Court), but not others (e.g., Juvenile Court). CJAM consent is required to remove a First Justice

Source: Massachusetts General Laws; interviews

EXTERNAL PRESSURES AND UNCLEAR INTERNAL RELATIONSHIPS MAKE DIVISION MANAGEMENT DIFFICULT

SIMPLIFIED

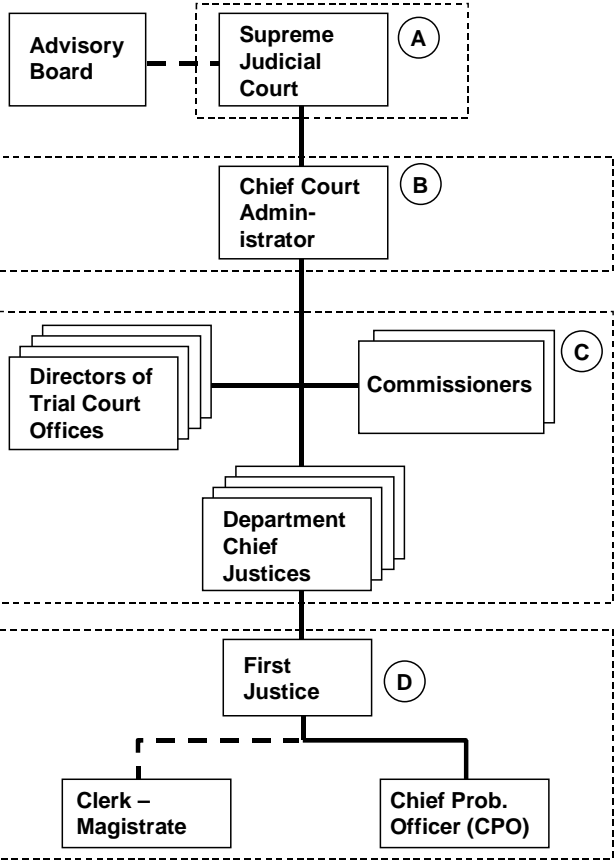


Note: While Superior Court Clerks of Courts and Registrars of Probate are elected, Land Recorder and Clerk-Magistrates in other departments are appointed by the Governor

Source: Interviews; AOTC and SJC materials

THE JUDICIARY REQUIRES CLEAR LINES OF AUTHORITY AND DEFINED CONSEQUENCES FOR DIFFERENTIAL PERFORMANCE

PROPOSED STRUCTURE



- A. Supreme Judicial Court**
- Under the leadership of the Chief Justice, sets and promulgates the mission and goals of the Judiciary
 - Hires and removes the Chief Court Administrator based on evaluations of administrative performance
- B. Chief Court Administrator**
- Term is at will and based on administrative performance
 - Authority delegated from SJC; primary responsibility is to administer Judiciary based on missions and goals set by the SJC
 - Hires and removes directors, commissioners, and department Chief Justices based on evaluations of administrative performance
- C. Directors of Trial Court offices, Commissioners, and department Chief Justices**
- Term is based on evaluations of administrative performance
 - Authority delegated from Chief Court Administrator
 - Each is responsible for the operations and performance of their respective offices/departments
 - Department Chief Justices appoint and remove First Justices based on individual and unit performance evaluations
- D. Division management teams**
- First Justice appointed at will by department Chief Justice, based on administrative skills
 - Clerk-Magistrate appointed by Governor based on managerial aptitude and knowledge of the law and of court procedures
 - CPO appointed by First Justice based on managerial aptitude
 - Managers are evaluated individually as well as on a unit basis

Massachusetts Trial Court

Open Dialogues on Court Practices

**A Statewide Opportunity for Dialogue Among
Judges, Lawyers and Court Personnel on
Court Practices and Procedures**

2008

**Brockton
Lawrence
Boston
Springfield
Worcester**

In partnership with

**Court Management Advisory Board
Massachusetts Bar Association
Local and County Bar Associations**

The Massachusetts Trial Court

Administrative Office of the Trial Court

Honorable Robert A. Mulligan
Chief Justice for Administration & Management

Trial Court Departments

Honorable Paula M. Carey
Chief Justice – Probate and Family Court

Honorable Lynda M. Connolly
Chief Justice – District Court

Honorable Michael F. Edgerton
Honorable Martha P. Grace (retired February 2009)
Chief Justice – Juvenile Court

Honorable Charles R. Johnson
Chief Justice – Boston Municipal Court

Honorable Steven D. Pierce
Chief Justice – Housing Court

Honorable Barbara J. Rouse
Chief Justice – Superior Court

Honorable Karyn F. Scheier
Chief Justice – Land Court

Open Dialogues on Court Practices

Introduction

The Massachusetts Trial Court conducted a series of *Open Dialogues on Court Practices* in 2008 to seek input from attorneys on the impact of recent court management reforms. Five regional meetings were held at courthouses across the state, with sessions conducted in Brockton, Lawrence, Boston, Springfield and Worcester. The *Open Dialogues on Court Practices* were co-sponsored by the Court Management Advisory Board (CMAB), the Massachusetts Bar Association and local bar associations.

Over the course of the five sessions more than 1,000 attorneys provided valuable input to trial court judges, Chief Justice for Administration & Management Robert Mulligan and the Chief Justices of the seven Trial Court departments. Breakout sessions were conducted by the individual Trial Court departments affording lawyers, judges and court staff the opportunity for dialogue on how to obtain greater efficiency and effectiveness for lawyers and the courts.

This outreach effort was complemented by the Trial Court's utilization of an Access and Fairness survey originally developed as a performance metric by the National Center for State Courts. The survey was piloted in the Boston Municipal Court in 2007 and expanded statewide in 2008, which generated input from more than 9,000 court users at each of the state's 106 courthouses.

In recent years, the courts introduced performance-based metrics to inform decision making and achieve accountability in areas including staffing, timely case management and effective use of jurors. Posting of quarterly data and annual reports has provided transparency to the court's goals and progress in these efforts. Ongoing dialogue and review of the impact of management changes represents adoption of a management best practice that provides critical qualitative input.

Such dialogue and input is also valuable to the CMAB, which was formed in 2003 by the Legislature after the Visiting Committee on Management in the Courts (the "Monan Committee") issued a report critical of court management practices. Board members from the legal, business and public sectors meet regularly with the leaders of the Trial Court to assess court reforms and discuss management of the courts.

The CMAB and the Chief Justices recognize and appreciate the importance of seeking feedback from the general public and the bar to enable continuous improvement in court practices. The five regional *Open Dialogues* were held across all court departments which increased the visibility and expectations associated with these discussions. They build upon the effective bench/bar meetings held at the local level by individual courts.

As a result of the input and discussions at the *Open Dialogues*, each of the Trial Court departments identified the following areas and issues for further consideration and implementation. The success of the sessions will result in the planning of additional Trial Court-wide dialogues in future years.

Follow Up Actions by Trial Court Departments

Boston Municipal Court Department

- **“Green Light” Trial Check and “Trial Priority Period” Resource Deployment**

After discussions with the bar, the court department is determining the feasibility of its divisions to more closely monitor trial dates, based on the availability of staff and judicial resources. For example, if court dockets exceed the availability of judges on a particular day, the court will reschedule cases to days when judges are more available to hear trials. The court will develop a standby list of prearranged cases that could be called to trial on short notice when scheduled cases settle or fail to appear for trial.

If feasible, each division will be given a “Trial Priority Period” once each month, whereby extra judicial resources will be reserved over a three day period to address outstanding trial cases in each division. The Trial Priority Period will be fixed in advance at the beginning of the year and not subject to cancellation, absent exigent circumstances. If judicial resources permit, a judge from the department may be designated as a departmental circuit judge and rotate throughout the department to assist with dispositions of such cases during the Trial Priority Period of each division. This judge will not be diverted from these sessions under normal circumstances. A judge with experience in case management would be selected to fill this important position.

- **Case File Reliability and Integrity**

Duty Attorneys reported problems with missing paperwork on defendants and incomplete court files. The court department had begun to address this issue in 2008 by establishing the Case File Reliability and Integrity Committee chaired by Judge Eleanor Sinnott which reviewed approximately 1,600 criminal and civil case files throughout the department. Through this progressive initiative, the committee was able to obtain empirical and objective measures of courts’ performance, including the results of a new metric specific to case file reliability and integrity.

The measurement provided information on (a) how long it takes to locate a file, (b) whether the file’s contents and case information match up, and (c) the organization and completeness of the file. The review reflected department-wide figures exceeding 80 percent in all measurements. The committee was then able to establish performance standards and goals for the future. As a follow-up, in early 2009, the court department established the Case File Content Committee. The committee is currently proposing uniform guidelines and standards for the content of civil and criminal files in all divisions of the court department. The court department is also in the process of modifying its website to include more useful information and additional forms for online accessibility, including probation and criminal forms.

- **Expanded Pre-Trial Conferences**

The bar expressed high satisfaction with the court department's (central division) Pre-Trial Conference Program in collaboration with the Boston Bar Association. After consultation with the Boston Bar Association, the voluntary program may be expanded to other divisions of the court department, if resources permit. This unique and collaborative program encourages the resolution of cases prior to trial, conserves judicial resources, and promotes satisfactory outcomes for parties.

- **Sealing Records**

The bar reported problems associated with sealing defendants' records, including attorneys having to go to several divisions of the court department and/or to other trial court departments to file the same motion (to seal a record) when multiple criminal records are involved. After careful review and consideration, the Boston Municipal Court Department has initiated a pilot program for a consolidated procedure for sealing criminal records when warranted.

District Court Department

The Open Dialogue discussions with the bar informed the following plans being implemented by the District Court:

- **Case Management Conference Initiatives**

The Court has implemented a pilot in the Worcester District Court to allow for the waiver of a scheduled Case Management Conference in civil litigation, if all parties are represented by counsel and they file a joint stipulation regarding discovery. This pilot will be reviewed in six months to determine if it should be extended.

Telephonic Conference Case Management

The Court has implemented a pilot in Western Massachusetts to conduct Case Management Conferences via telephone.

- **Pilot Program for 209A Petitioners**

The Court has launched a pilot in Worcester and is planning a pilot for Brockton to promote enhanced understanding of the relief available to petitioners seeking 209A orders in the District Court and the Probate and Family Court. At both the District Court Clerk's Office and the Probate and Family Court Register's Office "Safeplan" Advocates will meet with persons seeking 209A relief to help them assess which court is most appropriate to address their needs, especially given the District Court's inability to order visitation. The petitioner will make the final decision on where to file.

- **Enhanced District Court Internet Site**

The District Court has formed a Website Committee of judges and clerks to enhance its internet site. The District Court internet site address has been simplified to make it user friendly. A "Frequently Asked Questions" section for CMVI cases has been added and other "Frequently Asked Questions" are being prepared to address common questions. A link to directions to District Courthouses has been added. The Court also is formatting the Small Claims form for availability online.

- **Enhanced Interpreter Services**

To increase the availability of interpreters, the 62 District Courts have begun to conduct very brief hearings requiring interpreters via speaker phone. This saves money and insures that the interpreter staff is available to address more complex matters. Also, a pilot project in the Holyoke District Court in cooperation with the Office of Court Interpreters Services and Mt. Holyoke College will use college foreign language majors to interpret for non-courtroom events under the supervision of a staff interpreter. The Court hopes to expand this pilot statewide.

- **Enhanced Video Conferencing**

Discussions are underway with Sheriffs' offices to provide video conferencing equipment to courts at no cost to the Trial Court. The Bar and the courts are interested in initially using this technology to address speedy trial requests.

Housing Court Department

- **Scheduling Issues**

Attorneys discussed a variety of options related to scheduling. The Court will explore ways to improve scheduling, such as dividing the summary process list to separate days and allowing parties to mark up motions for hearing.

- **Uniform Practices**

In a couple of the sessions, attorneys discussed different practices between court divisions. The Court has reconvened its Uniform Practices Committee to study all practices, procedures and forms in the Divisions to achieve greater consistency and uniformity.

- **Time Standards**

In response to issues raised, the Court will review the existing time standards established four years ago with a view to possible modification.

- **MassCourts**

The Court will continue to address MassCourts issues identified by the bar. On a monthly basis the Local User Experts from each division meet to share issues raised by court staff and court users and identify ways to modify and improve MassCourts to meet the needs of the bar and the court.

Juvenile Court Department

The Juvenile Court discussed the following issues with the bar.

- **Tracking of Delinquency and Youthful Offender at the Outset**

The Court will explore with the first justices and clerks' offices the possibility and practicality of setting, at the arraignment, all subsequent court dates required by the Rules of Criminal Procedure. This will enhance compliance with time standards for these cases.

- **Successive Trial Days**

Once the two current judicial vacancies are filled, the Court will explore the possibility of having trials heard on successive days for care and protection cases, where practical.

- **Bench/Bar Meetings**

Many of the Juvenile Court divisions will continue to hold monthly bench-bar meetings to address case management and customer service issues.

- **Division Management Meetings**

Court Divisions will hold meetings periodically with the judges, clerk's office and probation office. The first justice, the clerk-magistrate and the chief probation officer will meet weekly/monthly. These meetings will address areas of administration, case management and customer service.

Land Court Department

- **Consistency of Practice**

Lawyers reported some inconsistencies in policies at the Land Court offices at Registries of Deeds throughout the Commonwealth. These offices are not under the auspices of the Trial Court but the Land Court does set policy for them on matters relating to registered land. In response to some specific concerns expressed by the bar, the Land Court's Chief Title Examiner issued several directives to the registries which will provide consistency of practice, and lawyers will know what to expect from district to district.

- **Teleconferences**

Lawyers expressed appreciation for the Land Court's regular use of telephone conferencing, and requested more of it. The Court has statewide jurisdiction and the expense and inconvenience of travel to Boston is often problematic for the bar. The Court has liberally used the telephone for status conferences and scheduling matters. Based on the feedback, especially from the western part of the state, the Court will see if lawyers would like to handle more substantive matters over the phone. This is not always appropriate, since Land Court cases often involve plans and surveys and other chinks. In appropriate cases, the Court will offer lawyers the chance to conduct a motion hearing by telephone. While the Court does not currently have available video conference capability, it will look into that as well.

- **Case Processing Changes**

The Court has adopted some changes in processing servicemember /foreclosure cases. As a follow up to the Open Dialogues, court staff contacted representatives from title insurance companies to see if the bar's suggestions could be implemented without causing concerns about the title. After receiving those assurances, the Court is in the process of implementing the requested changes.

- **Online Access**

The most consistent request from the bar was for online access to MassCourts dockets. The Court continues to work toward that goal. A pilot project is now underway to enable a group of attorneys to electronically access detailed case information on tax lien foreclosures.

Probate and Family Court Department

- **Scheduling**

The court received mixed commentary on how cases are scheduled. A report from a Scheduling Task Force is expected shortly. Anticipated recommendations include staggered scheduling of some sessions; a protocol for telephone case conferences, when appropriate; increased focus on next event scheduling; streamlining of the process for dispute intervention so that parties and lawyers are not required to check in twice. Any reform will be generally implemented state wide so that lawyers and parties will have consistency for scheduling procedures from division to division.

- **Self Represented Litigants**

A number of Open Dialogues raised the issue of self represented litigants and the high volume of them in the Probate and Family Court. Some lawyers were concerned that the number of self represented litigants slowed down the Court process both in and outside the courtroom. Some wanted separate sessions for lawyers, which cannot happen for policy reasons in that both those who are represented and those who are not should get the same justice and attention.

The Court has identified the following initiatives to address the challenge of self represented litigants. They are intended to either increase the number of people who are represented by counsel or to provide those who go it alone with the resources to enable them to more clearly prepare their paperwork and present their case in Court, which will increase the efficiency of court sessions and decrease waiting time for all.

Statewide Expansion of the Limited Assistance Representation Pilot Projects

Limited assistance representation pilots in three Probate and Family courts to allow a lawyer and client to agree that the lawyer will assist with part of a legal matter, while the client will self-represent on other aspects of the case, have achieved positive results and national recognition. Supreme Judicial Court approval of the expansion of Limited Assistance Representation to other court departments will increase the number of parties who are represented at least some of the time. This project also will help increase the likelihood that pleadings will be prepared properly and are more easily understandable for the court.

Simplified Forms on Website. An ongoing effort is underway to put all forms on the court's website in fillable form with instruction. Most frequently used forms now are on the site and are used regularly as evidenced by the number of hits recorded. When new initiatives such as the new medical certificate and guardianship petition are implemented, an increase in activity is evident.

Form for Counsel Fees pendent lite. A sample form for counsel fees pendent lite developed by the Administrative Office of the Probate and Family Court and Legal Services organizations is on the court's website. Concern was raised that the forms are not used often. The Court conducted a survey which indicated that many in the registry and judicial unit, including judges, did not know the forms existed. The forms and their availability now have been widely disseminated allowing more motions to be filed and more litigants to obtain counsel.

Pilots with the Law Libraries in Norfolk, Worcester and Plymouth Counties. The Court is collaborating with the Manager of the Law Libraries and the county head Law Librarians to leverage resources. Monthly information sessions will begin in Norfolk County due to the number of users there. These sessions for litigants will review court process generally and in specific areas such as divorce, paternity and guardianship. The initial session is planned for March at Canton High School with additional sessions each month thereafter. Publicity for the sessions is being done in the Court itself, as well as local papers. Sessions also will be conducted at the Law Library in Norfolk County to allow a demonstration of resources such as internet access. Sessions will be run by volunteers from probation, the judicial unit (judge, judicial case manager), law librarians and registry personnel (pro se coordinator). The hope in conducting sessions in the community will be to increase the visibility of the Court.

Community Outreach at Roxbury Community College. In conjunction with the college, the Court plans to run two education sessions in the spring for the public on the Child Support Guidelines.

- **Interpreters**

In an effort to avoid having lawyers and litigants wait for Interpreters, the Court is scheduling cases with Interpreters at 11:00 a.m. and 2:00 p.m.

- **Guardians Ad Litem**

The bar raised the issue of the cost of private pay guardians ad litem. Costs of a GAL for parties can get out of control, if not controlled by the Court. Judges have been informed that they must carefully control the cost of GALs, state pay and private pay, by limiting the number of hours for GALs or by capping the amount to be paid. Additionally, Judges have been asked to consider narrowing the nature of the appointment to address only the issue the Court needs evaluated or investigated, where possible.

Superior Court Department

- **Increased Use of Video Conferencing**

The Court continues to work with the Massachusetts Medical Society to video conference medical malpractice tribunals. The Court has reviewed the bundling of cases from more than one county involving the same specialist in order to convene the tribunals in a more efficient manner. The Court has increased the use of videoconferencing for hearings in civil prisoner cases and plans are being made for expanding bail reviews via video in Essex and Worcester counties.

- **Business Litigation Session**

The Superior Court issued Administrative Directive 09-1 relative to the Superior Court Business Litigation Sessions. The Administrative Directive clarified issues of venue and procedures for having cases transferred to the BLS from other counties.

- **Early Intervention Program**

In conjunction with the Massachusetts Bar Association, the Court is piloting an early intervention program in three counties – Essex, Suffolk and Middlesex. The objective of this pilot program is to have the court meet with attorneys early in the life of a case to streamline discovery, manage the case efficiently, and encourage early settlement. The Court has sought more input from the MBA Task Force with respect to the program.

- **A-Track Time Standards**

The court's Criminal Committee is actively considering various amendments to Standing Order 2-86, including which cases should be on the A track and whether the track deadlines should be extended.

Acknowledgements

The statewide participation of bar associations and attorneys with the chief justices, judges, local court leaders and court staff ensured successful *Open Dialogues* sessions. Thanks and appreciation are extended to all participants, to the official moderators and recorders, and to the court facilities and security staffs who provided support at the courthouses. The Massachusetts Bar Association, the statewide co-sponsor, receives special recognition for significant outreach and coordination.

Moderators

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Hon. Anne Kenney Chaplin, Irene Bagdoian, Esq.
Hon. John P. Corbett, Carol Rosensweig, Esq.
Hon. Leon J. Lombardi, John Michael Donnelly, Esq.
Hon. Catherine P. Sabaitis, Denise Squillante, Esq.
Hon. Jeffrey A. Locke, F. Jay Lynch, Esq.

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OPEN DIALOGUE ON COURT PRACTICES

A STATEWIDE OPPORTUNITY FOR DIALOGUE
AMONG JUDGES, LAWYERS AND COURT PERSONNEL
ON COURT PRACTICES AND PROCEDURES

Thursday, May 29 | 4:30–6:30 p.m.

George N. Covett Courthouse (Brockton Trial Court)
215 Main St., Brockton

*The first in a series of forums taking place
around the Commonwealth*

Your thoughts and ideas on court management changes are important. Trial Court leaders and members of the Court Management Advisory Board seek your participation to inform them on how these court practices affect your lives and how the courts and the bar can work together to continue management improvements.

Chief Justice for Administration and Management Robert A. Mulligan, Trial Court Chief Justices, local Judges, CMAB members and bar leaders will participate. Breakout sessions co-moderated by local Judges and attorneys will be held for each court department.

To register, call (617) 338-0530.

Co-sponsored by the

MASSACHUSETTS TRIAL COURT, COURT MANAGEMENT ADVISORY
BOARD, MASSACHUSETTS BAR ASSOCIATION AND THE BARNSTABLE,
BRISTOL AND PLYMOUTH COUNTY BAR ASSOCIATIONS.

UPCOMING
"OPEN DIALOGUES ON COURT PRACTICES"

Tuesday, June 17 | Fenton Judicial Center, Lawrence

Wednesday, Sept. 17 | Edward W. Brooke Courthouse, Boston

Thursday, Oct. 2 | Hall of Justice, Springfield

Thursday, Oct. 16 | Worcester Trial Court



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Enhancing the Delivery of Quality Justice

Court Metrics Report - Calendar Year 2009



ADMINISTRATIVE OFFICE OF THE TRIAL COURT

Honorable Robert A. Mulligan
Chief Justice for Administration & Management

Administrative Office of the Trial Court

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Chief Justice, Boston Municipal Court Department

Honorable Steven D. Pierce
Chief Justice, Housing Court Department

Honorable Barbara J. Rouse
Chief Justice, Superior Court Department

Honorable Karyn F. Scheier
Chief Justice, Land Court Department

In 2009, faced with escalating fiscal challenges and workforce reductions, the Massachusetts Trial Court reinforced its emphasis on performance measurement as a critical foundation of the court's commitment to quality, substantive justice. This fourth annual report on court performance underscores our ongoing commitment to accountability and transparency.

The departmental chief justices, judges, clerks and many Trial Court employees have demonstrated energetic leadership and commitment in using measurements to improve the way daily business is managed. The Court Management Advisory Board also continues to provide valuable guidance to the chief justices on issues of management and accountability. The cooperation of the Trial Court's partners in the justice system, particularly members of the bar, also ensures the effectiveness of this effort.

The CourTools metrics developed by the National Center for State Courts provide a simple, effective framework that enables us to focus on critical performance areas. For the fourth full year we used the four metrics that target the timely and expeditious delivery of justice. They reflect a reduction of aged cases over four years and the percentage of cases disposed or resolved within time standards has improved to 90.4 percent.

Since an effective and efficient jury system is essential to the functioning of the justice system, this year the Trial Court reports on juror utilization rates which improved to 38.9% in 2009. Access and fairness are also key components in the delivery of quality justice. The Trial Court completed the Access and Fairness survey in every court location by the end of calendar year 2008. The appointment of a Special Advisor on Access to Justice Initiatives and the completion of a survey on access to justice needs will continue important work to address these issues.

As the Commonwealth's fiscal challenges result in continued staffing reductions in courthouses across the state, these performance measures will enable us to quantify the impact of diminishing resources on the delivery of justice. They also will enable data-driven management efforts to adopt new practices, as we identify ways to deliver quality justice to the citizens of Massachusetts in a difficult fiscal climate.



Robert A. Mulligan
Chief Justice for Administration & Management

Enhancing the Delivery of Quality Justice

Court Metrics Report - Calendar Year 2009

Executive Summary

The use of court metrics represents a dynamic initiative for enhancing the delivery of quality justice by enabling more effective operation of the Massachusetts Trial Court. This initiative is consistent with the emerging national emphasis on developing and applying objective measures of performance in courts and other governmental entities as the critical step toward improving management. In the fourth year of implementation the Trial Court continued its focus on timeliness and expedition, and increased focus on juror utilization. To address these issues, the Trial Court:

- *utilizes time standards for all court departments;*
- *applies common metrics to monitor the timeliness of case disposition and juror utilization;*
- *establishes specific goals for these metrics across all court departments; and,*
- *produces regular reports on progress.*

The fourth year of focus on court performance measurement continued to address the delivery of quality justice throughout the Massachusetts Court system. Using CourTools, a set of performance measures promulgated by the National Center for State Courts, the Trial Court achieved the following in 2009:

- *cleared cases at the rate of 98.3%;*
- *disposed of 90.4% of cases within established time standards;*
- *identified 83,436 cases pending beyond time standards;*
- *began 76.0% of all trials by the second trial date;*
- *utilized 38.9% of all jurors; and,*
- *appointed a Special Advisor for Access to Justice Initiatives and conducted a survey of Access to Justice needs.*

Trial Court Performance Measures: Calendar Year 2009

Case Management

Clearance Rate

The number of outgoing cases as a percentage of the number of incoming cases.

Time to Disposition

The percentage of cases disposed or resolved within established time frames.

Age of Pending Cases

The number of active pending cases that are beyond the disposition date set by the time standards.

Trial Date Certainty

The number of times cases disposed by trial were scheduled for trial.

Juror Utilization

The percentage of prospective jurors who are impanelled, challenged, or excused.

Access and Fairness

Ratings of court users on the court's accessibility and its treatment of customers in terms of fairness, equality and respect.

The Trial Court improved the clearance rate from 97.0% in 2008 to 98.3% in 2009, but did not meet the established goal of 105%. The Trial Court also improved the proportion of cases resolved within time standards, from 89.8% to 90.4% in 2009. The number of cases pending beyond time standards increased for the first time since the beginning of this initiative. Some of this increase is due to improved reporting of case status due to expanded Trial Court automation.

The methodology for assessing trial date certainty changed in 2007 to create more consistency with national reporting models. As to those cases disposed by trial, 76.0% were tried by the second trial date, which is less than the 78.0% achieved in 2008.

The Trial Court began tracking juror utilization in 2007 and established a system-wide goal of 40% for 2009. Rates have continued to improve each year and in 2009 reached 38.9%.

Access and fairness are key components in the delivery of quality justice. The Trial Court completed implementation of the Access and Fairness survey at all court locations in 2008 with participation of over 9,000 court users. The results of the survey were published in early 2009.

A Special Advisor on Access to Justice initiatives was appointed in June 2009 and an Access to Justice survey was completed with participation of over 2,000 Trial Court employees.

The performance-based approach adopted by the Massachusetts Trial Court represents a radical departure from traditional court practice and reflects an ongoing transformation of court culture. The success of these efforts is due to the extraordinary commitment of all members of the court community – judges, clerks, other Trial Court staff, and members of the bar. The Court Management Advisory Board continues to provide valued guidance and support of these efforts. The Trial Court will continue to expand its commitment to data-driven decision making and performance measurement in 2010 and the years ahead.

Enhancing the Delivery of Quality Justice

Court Metrics Report - Calendar Year 2009

Introduction. In the Massachusetts Trial Court, the enterprise of creating standards, adopting metrics, setting goals, and measuring outcomes has been an integrated and comprehensive effort. It was initially directed toward improving the timely and expeditious delivery of justice and, has since expanded to other areas which also enhance the quality of justice. This process is introducing transparency and accountability into the management of all Trial Court operations. Court metrics provide a framework for analyzing and managing court operations and serve as a foundation for continued improvement in the delivery of justice.

This is the fourth annual report on court metrics. This report describes the background leading up to the implementation of the court metrics, as well as the goals established for calendar year 2009, and presents four years of data on key measures of Trial Court performance with respect to the timeliness and expedition of case disposition. The report also presents summary data on an additional performance metric – juror utilization. The first four years of metrics are transforming Trial Court culture and improving the delivery of quality justice for the citizens of the commonwealth.

Background. A comprehensive blueprint for achieving managerial change in the Trial Court was set forth by the Visiting Committee on Management in the Courts in March 2003. Convened by Supreme Judicial Court Chief Justice Margaret H. Marshall to “provide an independent perspective on management in the state’s courts and recommendations for improvement,” the Visiting Committee, while praising the quality of justice delivered, identified the need to “create a culture of high performance and accountability” in the Trial Court – particularly regarding the more timely and expeditious disposition of cases.

Consistent with the Visiting Committee recommendation that a “high-profile and respected advisory board” be created to advise on the management of the courts, the Legislature established the Court Management Advisory Board (CMAB) in 2003.

Members of the trial bar are important partners in ensuring the delivery of quality justice. In her annual address to the legal community on October 21, 2009, Supreme Judicial Court Chief Justice Margaret Marshall praised the partnership and communication

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Supreme Judicial Court*

*Anne H. Margulies
Executive Office of Administration
and Finance*

*Thomas O'Brien, Ph.D.
University of Massachusetts*

*Elizabeth Pattullo
Beacon Health Strategies*

Members as of December 31, 2009

between judges and lawyers in their efforts to improve the delivery of justice in the Massachusetts court system: *“With your help I know that our courts will emerge from these challenging times more vital, vibrant, and effective in the delivery of more perfect justice.”*

Addressing Timeliness and Expedition

Recognizing that timeliness is an integral component of high quality justice, the Trial Court has made substantial progress in achieving the general goal of improved timeliness and expedition. The Trial Court has:

- established time standards for all court departments;
- adopted common metrics for measuring improvement in the timely disposition of cases;
- set common goals specific to each of these metrics across all court departments; and
- reported regularly and publicly on progress toward reaching these goals.

This effort addresses a main recommendation of the Visiting Committee and remains a priority of the CMAB.

Establishing Time Standards. Confronting the challenge to deliver justice in a more timely manner, the Trial Court established time standards in all departments, for both criminal and civil cases, by November 2004. Under the time standards, cases were classified according to their complexity, and time frames were set from filing to disposition with specific time metrics for key decision points in the course of a case. The time standards were necessary for setting the parameters for the timely disposition of cases.

The adoption of time standards reflects a core consensus that timeliness is essential to the delivery of quality justice.

The adoption of time standards reflects a core consensus that timeliness is essential to the delivery of quality justice. Time standards provide benchmarks to measure and manage the movement of cases, both civil and criminal, through the litigation process. Ultimately, the goal is to realize a more expeditious and cost-effective resolution of cases, while maintaining the existing high standard for quality substantive justice. This fourth annual metrics report contains information on four full years of experience working with established time standards across all departments.

CourTools Performance Measures

To measure the extent to which the flow of cases was consistent with the time standards, the Administrative Office of the Trial Court looked to the work of the National Center for State Courts (NCSC) in the development of performance metrics for Massachusetts. In 2005 the NCSC developed *CourTools*, a streamlined set of ten trial court performance measures. Four of the *CourTools* measures developed by NCSC focus on timeliness and expedition: *clearance rate*, *time to disposition*, *age of pending cases*, and *trial date certainty*. In 2006, the Trial Court adopted these four *CourTools* measures as a common set of metrics for all seven court departments.

In 2007, the Boston Municipal Court Department introduced another *CourTools* metric – the Access and Fairness Survey – which measures the ratings by court users on accessibility, fairness, equality, and respect. The Access and Fairness Survey was implemented in all other Trial Court Departments during calendar year 2008.

In 2008, another *CourTools* measures was implemented in the Boston Municipal Court: Reliability and Integrity of Case Files.

Information on these metrics is available in the Court Metrics Report for Calendar Year 2008. In 2009 the Court Metrics Report includes data on the Trial Court's efforts on another *CourTools* metric – juror utilization.

This fourth annual report on the court metrics mainly focuses on the five measures that address timeliness and expedition of case processing and juror utilization.

CourTools:

- *Access and Fairness*
- *Clearance Rates*
- *Time to Disposition*
- *Age of Pending Cases*
- *Trial Date Certainty*
- *Reliability and Integrity of Case Files*
- *Collection of Monetary Penalties*
- *Effective Use of Jurors*
- *Court Employee Satisfaction*
- *Cost Per Case*

For more information from the

Common Set of Goals Developed

In addition to adopting common metrics, the Trial Court developed ambitious goals for the timely disposition of cases with a specific goal for each metric. The time standards provide the benchmarks for timely disposition; the *CourTools* metrics provide the measures for assessing consistency with the time standards; and the goals provide the targets for improving timeliness and expedition in case management. For 2009 the goals used for the metrics were:

- maintain a clearance rate of 105%;
- improve by 10% the proportion of cases disposed within time standards;
- reduce the number of cases pending beyond the disposition date set by time standards by 33%; and,
- begin the trial of 90% of the cases resolved by trial by the second trial date setting (75% in the Superior Court).

Case Management Metrics

Clearance Rate

Definition

The number of outgoing cases as a percentage of the number of incoming cases.

Purpose

Clearance rate measures whether the court is keeping up with its incoming caseload. If cases are not disposed of in a timely manner, a backlog of cases awaiting disposition will grow. This performance measure is a single number that can be compared within the court for any and all case types, on a monthly or yearly basis, or between one court and another. Knowledge of clearance rates by case type can help a court pinpoint emerging problems and indicate where improvements can be made.

Goal

The clearance rate goal for all departments is 105%. In order to address any backlog of cases in court departments it is necessary that the clearance rate be over 100%, i.e. - the number of cases disposed has to exceed the number of new cases filed. For calendar year 2009 an aggressive target of a clearance rate of 105% was set for all court departments in order to seek to address any backlog of pending cases.

Time to Disposition

Definition

The percentage of cases disposed or resolved within established time frames.

Purpose

This measure, used in conjunction with Clearance Rates (Measure 1) and Age of Active Pending Caseload (Measure 3), is a fundamental management tool that assesses the length of time it takes a court to process cases. It measures a court's ability to meet prescribed time standards.

Goal

The goal for improving time to disposition is to increase the percentage of cases disposed within established time standards by ten percentage points - e.g., if 75% of cases are currently being disposed within the parameters set by the time standards, the goal is to increase that percentage to 85%.

Age of Pending Cases

Definition

The number of pending cases that are beyond the disposition date set by the time standards.

Purpose

Knowing the age of the active cases pending before the court is most useful for addressing three related questions: Does a backlog exist? Which cases are a problem? Given past and present performance, what is expected in the future?

Goal

The goal is to reduce the number of pending cases that are beyond the disposition date set by time standards by 33%.

Trial Date Certainty

Definition

The number of times cases disposed by trial are scheduled for trial.

Purpose

A court's ability to hold trials on the first date they are scheduled to be heard (trial date certainty) is closely associated with timely case disposition. This measure provides a tool to evaluate the effectiveness of calendaring and continuance practices. For this measure, "trials" includes jury trials, bench trials (also known as nonjury trials), and adjudicatory hearings in juvenile cases.

Goal

For metric 4, the annual goal will be to have 90% of the cases that are disposed by trial actually go to trial by the second trial date setting for all departments except for the Superior Court. For the Superior Court, the annual goal will be to have 75% of the cases that are disposed by trial actually go to trial by the second trial date setting.

Reports Issued Regularly

An important component in measuring performance is the continued publication of regular reports.

Quarterly reports provide systematic information across all court departments on a uniform set of performance measures for the first time in the history of the Trial Court. The quarterly reports are analyzed by the Chief Justice for Administration & Management in conjunction with the Chief Justices of each court department, and the policy implications are discussed. Chief Justices drill down from the summary data to derive more specific information on their departmental court operations to help inform management decisions. These quarterly reports also are regularly reviewed by the CMAB whose members supported the use of metrics and made thoughtful suggestions for improving the reporting system.

The annual report of the metrics data extends the Trial Court's accountability and transparency to a broader audience. The report is distributed through printed media and via the Trial Court's web-site.

The Key Role of MassCourts

The focused effort for greater timeliness through time standards and performance measurement coincided with the Trial Court's major project for integrated statewide automation. MassCourts is the web-based electronic case management system that will permit all components of the Trial Court to work effectively and efficiently with each other and with individuals and organizations outside of the Trial Court to achieve justice in a timely and cost-effective manner and to enhance the Trial Court's sound management.

When fully implemented, MassCourts will yield reports that are essential for effective management of the Trial Court. Today, substantial components of MassCourts are in place statewide in five and seven court departments; employees in high-volume courts instantaneously share important criminal identity information; and a foundation for operating efficiencies and cost reductions has been put in place. Calendar year 2009 witnessed substantial progress for MassCourts as the Trial Court completed implementation in Probate and Family Court.

Accomplishments by the court departments with respect to court metrics are all the more significant because they occurred in

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conjunction with the MassCourts implementation. This required additional work on many fronts, including simultaneous training efforts, changing business practices, further modifications to legacy computer systems, reporting on cases that spanned old and new systems, and, in some courts, extensive data cleanup efforts. But these two simultaneous developments have also introduced an exciting synergy that propelled MassCourts and metrics forward in tandem.

Case Management Metrics

When looking at the court metrics, a holistic approach is essential.

Court metrics data on timeliness and expeditious case management for 2009 are detailed below and compared with results from previous years. The court metrics do not encompass every case before the courts, since some court departments continue to work with legacy computer systems that are unable to produce data for every case type. In addition, some high volume case types have statutorily imposed time standards and are not included. Despite the constraints on data collection and reporting, the first four years of court metrics information provide valuable insight into the operations of the seven Trial Court departments. The Trial Court continues to improve the quality of information available in its automated information systems and, as the MassCourts information system is extended, the quality of information available on performance results will continue to improve.

It is important to note the inter-relationship among the metrics. As court departments work to reduce the inventory of aged cases and the number of new cases filed continues to increase, the clearance rate will be impacted. Therefore, when looking at the court metrics data, a holistic approach is essential.

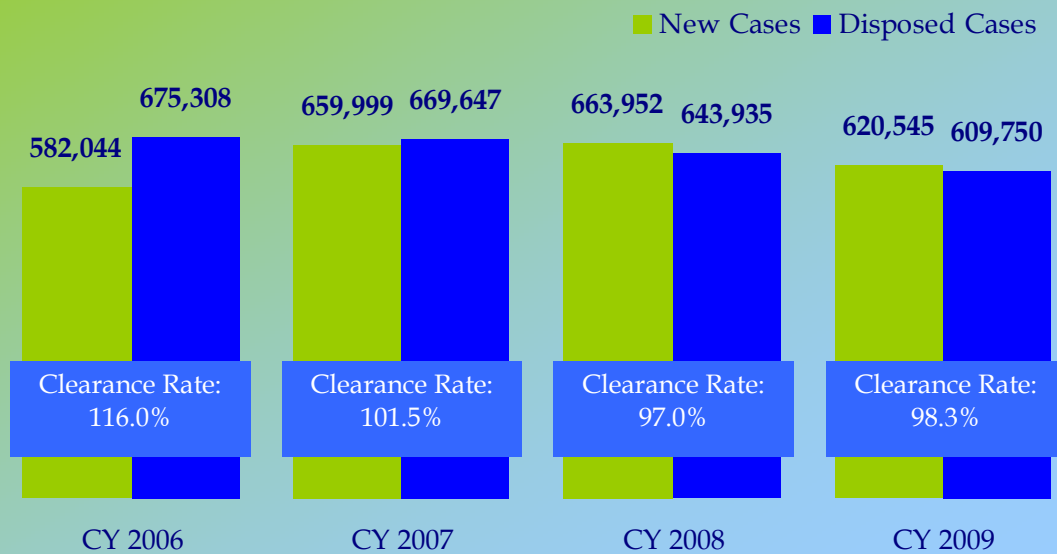
Clearance Rate. The clearance rate measures the number of cases disposed as a percentage of the number of incoming cases. In order to reduce the number of pending cases, the Trial Court adopted a clearance rate goal of 105%.

The actual clearance rate achieved by the Trial Court in calendar year 2009 was 98.3%, which indicates that the Trial Court disposed of fewer cases than the number of new cases filed.

With respect to the number of new cases filed and cases disposed, some of the year-over-year changes can be attributed to modifications in reporting systems. The earlier clearance rates benefited from the

clean up activity that many court departments undertook in the automated systems. The benefit of further cleanup to the metrics no longer exists. The large number of new filings, along with the large volume of pending cases, presents a challenge to continued improvement in the timely disposition of cases, as measured by the clearance rate, particularly with diminished resources due to fiscal constraints.

Clearance Rate, 2006 to 2009



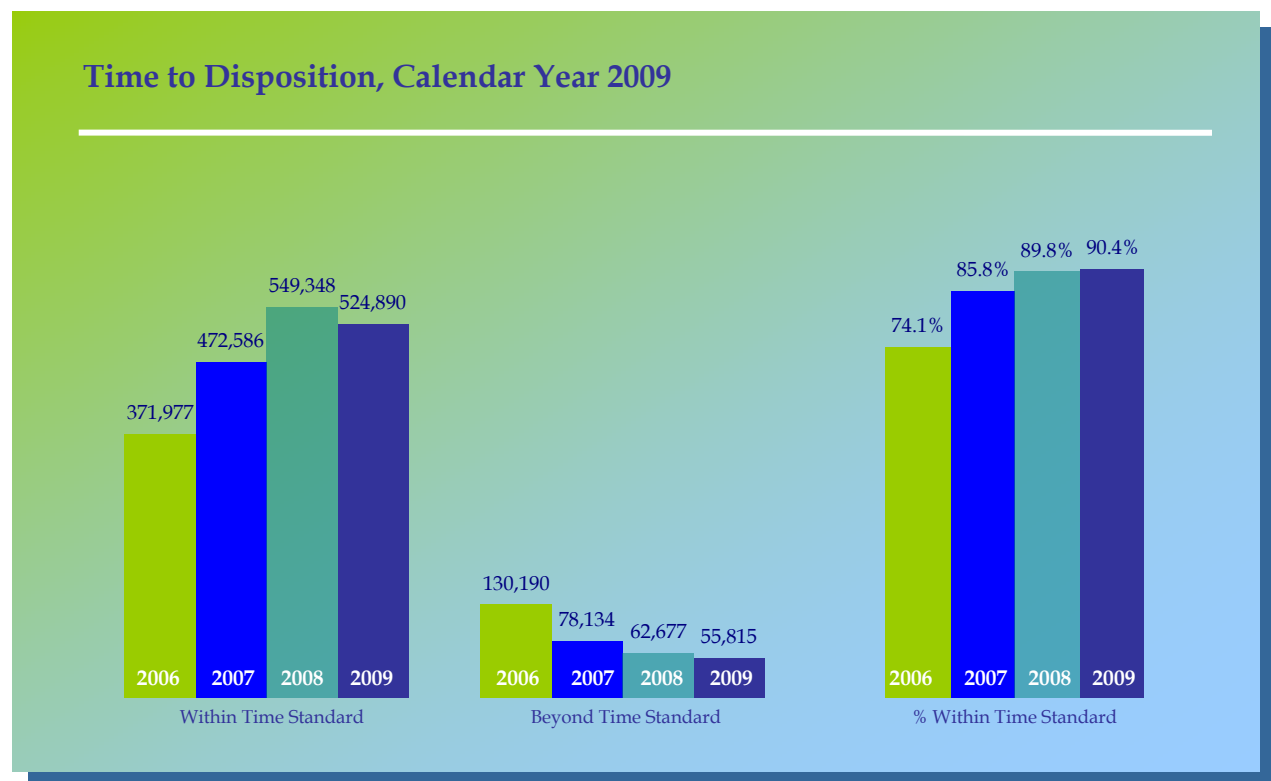
Clearance Rate, 2006 to 2009

Court Department	2006			2007			2008			2009		
	New Cases	Disposed Cases	Clearance Rate	New Cases	Disposed Cases	Clearance Rate	New Cases	Disposed Cases	Clearance Rate	New Cases	Disposed Cases	Clearance Rate
Boston Municipal Court												
Civil	41,059	43,290	105.4%	45,848	44,933	98.0%	67,362	62,490	92.8%	60,235	62,769	104.2%
Criminal	36,497	33,030	90.5%	38,486	38,668	100.5%	39,456	40,203	101.9%	35,899	38,220	106.5%
Sub-Total	77,556	76,320	98.4%	84,334	83,601	99.1%	106,818	102,693	96.1%	96,134	100,989	105.1%
District Court												
Civil	63,162	61,403	97.2%	111,702	109,470	98.0%	123,059	119,063	96.8%	111,904	116,507	104.1%
Criminal	227,461	233,009	102.4%	232,784	232,171	99.7%	230,082	225,535	98.0%	204,525	203,701	99.6%
Sub-Total	290,623	294,412	101.3%	344,486	341,641	99.2%	353,141	344,598	97.6%	316,429	320,208	101.2%
Housing Court	40,644	103,883	255.6%	45,620	55,086	120.7%	44,731	42,050	94.0%	42,066	43,640	103.7%
Juvenile Court												
Civil	16,134	18,075	112.0%	16,230	17,052	105.1%	16,238	16,358	100.7%	14,855	14,717	99.1%
Criminal	36,492	32,435	88.9%	34,765	30,885	88.8%	30,086	26,832	89.2%	24,546	22,124	90.1%
Sub-Total	52,626	50,510	96.0%	50,995	47,937	94.0%	46,324	43,190	93.2%	39,401	36,841	93.5%
Land Court	23,039	50,498	219.2%	33,276	29,992	90.1%	25,330	23,659	93.4%	31,568	22,684	71.9%
Probate and Family Court	68,552	70,123	102.3%	70,794	80,631	113.9%	57,490	56,136	97.6%	64,829	54,681	84.3%
Superior Court												
Civil	23,181	24,066	103.8%	24,558	24,855	101.2%	24,558	25,882	105.4%	24,880	25,429	102.2%
Criminal	5,823	5,496	94.4%	5,936	5,904	99.5%	5,560	5,727	103.0%	5,238	5,278	100.8%
Sub-Total	29,004	29,562	101.9%	30,494	30,759	100.9%	30,118	31,609	105.0%	30,118	30,707	102.2%
Total	582,044	675,308	116.0%	659,999	669,647	101.5%	663,952	643,935	97.0%	620,545	609,750	98.3%

Time to Disposition. Time to disposition measures the time to resolve a case in relation to the time standard established for the case type and shows whether the case was disposed within the applicable time standard.

For calendar year 2009, the goal was to improve by 10% the proportion of cases that were disposed within time standards, up to a maximum of 95%. It is noteworthy that for some court departments the high 2008 results set the time to disposition goal for 2009 at 95%.¹

In 2009, 90.4% of the cases were disposed within the applicable time standards, more than the 89.8% reported in 2008. While the Trial Court did not reach its goal; it continued to make progress in the more timely disposition of cases.

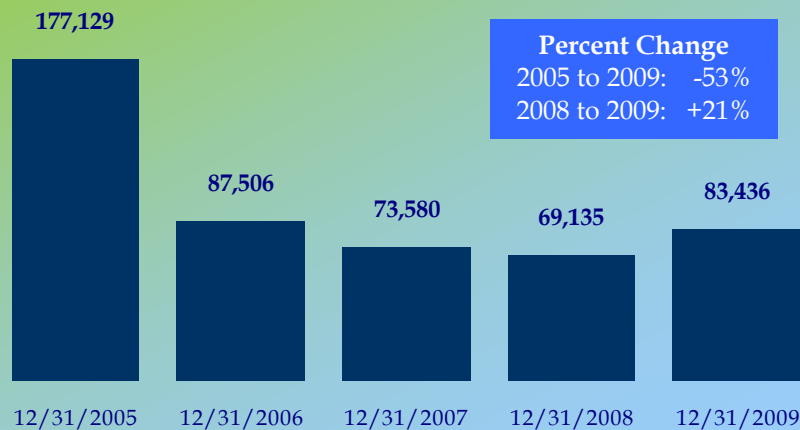


¹ For some court departments, the reported number of cases disposed for this metric differs from the reported number of cases disposed for the clearance rate. These differences relate to the range of cases for which time standards have been adopted; the ability of automated systems to report the relationship between time standards and time to disposition; and, the manner in which cases were counted when they appear as pending in automated systems but were disposed of in an earlier time period.

Time to Disposition, Calendar Year 2009

Court Department	Calendar Year 2006	Calendar Year 2007	Calendar Year 2008	Calendar Year 2009 Cases Disposed			
				Within Time Standard	After Time Standard	Total	% Within Time Standard
Boston Municipal Court							
Civil	87.5%	91.4%	95.0%	61,839	930	62,769	98.5%
Criminal	95.0%	89.3%	93.5%	35,714	2,506	38,220	93.4%
Sub-Total	90.8%	90.4%	94.4%	97,553	3,436	100,989	96.6%
District Court							
Civil	96.4%	98.8%	97.7%	125,988	2,502	128,490	98.1%
Criminal	92.1%	92.5%	92.9%	173,721	13,699	187,420	92.7%
Sub-Total	93.4%	94.6%	94.6%	299,709	16,201	315,910	94.9%
Housing Court	31.2%	65.4%	86.5%	36,016	7,624	43,640	82.5%
Juvenile Court							
Civil	72.9%	78.3%	78.8%	11,756	2,961	14,717	79.9%
Criminal	76.9%	77.9%	75.9%	16,279	5,845	22,124	73.6%
Sub-Total	75.5%	78.1%	77.0%	28,035	8,806	36,841	76.1%
Land Court	51.1%	48.4%	58.5%	1,560	1,244	2,804	55.6%
Probate and Family Court	72.6%	76.7%	78.6%	41,448	8,886	50,334	82.3%
Superior Court							
Civil	53.7%	57.1%	67.7%	18,890	6,246	25,136	75.2%
Criminal	30.0%	33.1%	32.9%	1,679	3,372	5,051	33.2%
Sub-Total	49.3%	52.7%	61.6%	20,569	9,618	30,187	68.1%
Total	74.1%	85.8%	89.8%	542,890	55,815	580,705	90.4%

Percent Change in the Number of Cases Pending Beyond the Time Standards, 2005 to 2009



Number of Cases Pending Beyond Time Standards. This metric addresses the inventory of aged cases. With the adoption of time standards, all Trial Court departments could, for the first time, consider all pending cases and determine which cases were pending beyond the disposition date set by the applicable time standard. The calendar year 2009 court metrics data reflect the fourth systematic compilation of the number of such cases.

For calendar year 2009, the Trial Court continued the use of the aggressive goal to reduce the number of cases pending beyond the disposition date by 33% from the end of the prior year. There has been remarkable progress in this metric since the baseline measurements four years ago, up until this year.

At the end of calendar year 2009, the number of pending cases beyond the time standards was 83,436. This is the first increase in this metric since the inception of this initiative. Some of the initial decrease and the more recent increase in the number of cases pending beyond time standards can be partly attributed to the ongoing automation efforts throughout all Trial Court Departments, which have included more comprehensive case data.

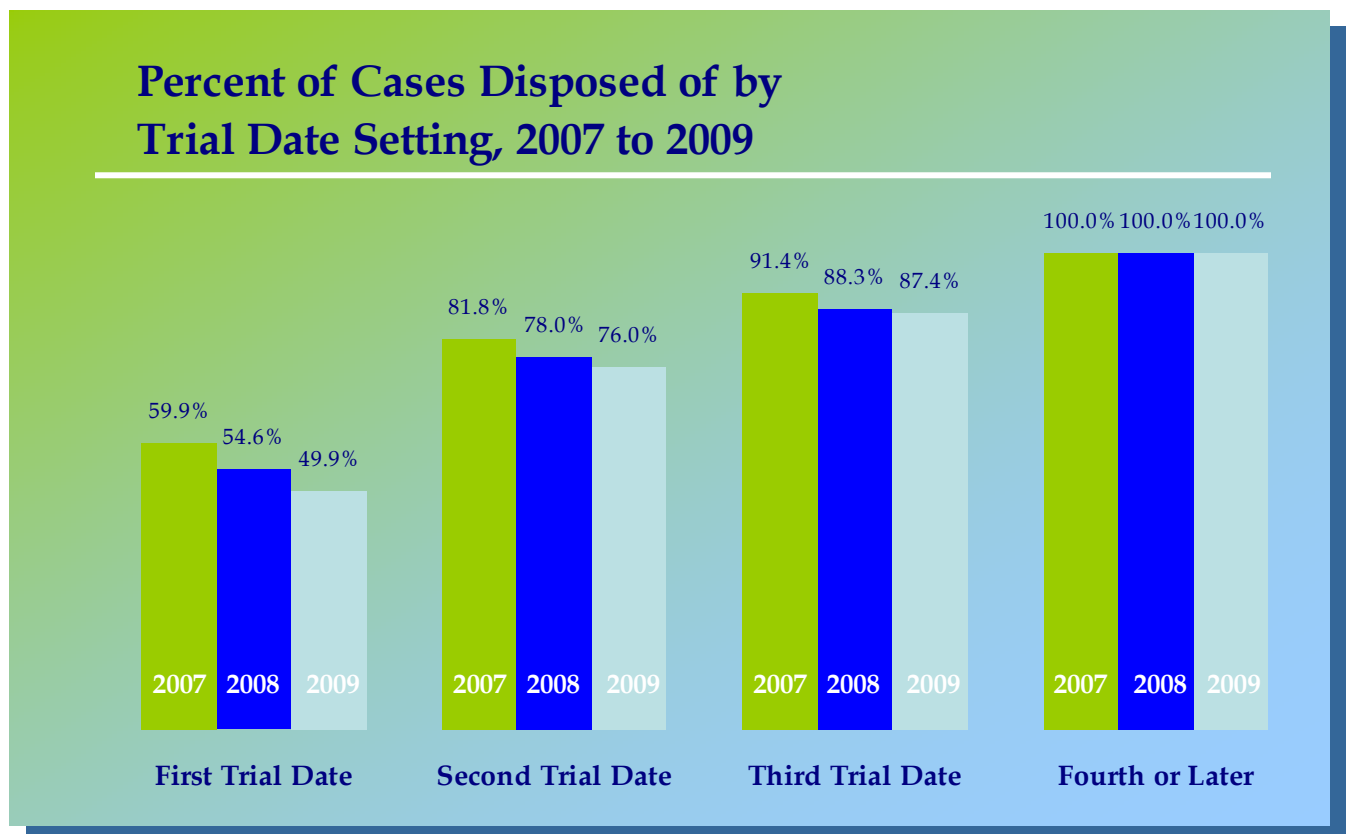
As Trial Court Departments automated case records, there were some decreases in the number of cases identified as pending due to substantial data cleanup efforts in several court departments and there were also some increases due to better identification and inclusion of cases.

Number of Pending Cases Beyond the Time Standards

Court Department	2006 Baseline	2006 Year-End	2007 Year-End	2008 Year-End	2009 Year-End	2008 to 2009 Difference
Boston Municipal						
Civil	1,841	303	168	309	218	-29.4%
Criminal	1,776	492	682	591	496	-16.1%
Sub-Total	3,617	795	850	900	714	-20.7%
District Court						
Civil	700	391	132	348	287	-17.5%
Criminal	3,640	2,469	3,459	3,782	4,055	7.2%
Sub-Total	4,340	2,860	3,591	4,130	4,342	5.1%
Housing Court	90,818	21,271	8,966	5,673	1,741	-69.3%
Juvenile Court						
Civil	3,949	3,443	3,187	3,142	4,094	30.3%
Criminal	7,824	7,174	6,720	6,766	6,210	-8.2%
Sub-Total	11,773	10,617	9,907	9,908	10,304	4.0%
Land Court	22,188	16,728	11,956	10,920	10,699	-2.0%
Probate and Family	34,572	21,953	25,586	28,817	47,247	64.0%
Superior Court						
Civil	10,209	10,674	10,205	6,373	5,999	-5.9%
Criminal	3,093	2,608	2,519	2,414	2,390	-1.0%
Sub-Total	13,302	13,282	12,724	8,787	8,389	-4.5%
Total	177,129	87,506	73,580	69,135	83,436	20.7%

Trial Date Certainty. The annual goal for this measurement targets 90% of the cases disposed of by trial to actually reach trial by the second trial date setting for all departments except for the Superior Court. For the Superior Court, the annual goal was to have 75% of the cases disposed of by trial actually go to trial by the second trial date setting. In 2009, the Trial Court measured the number of cases disposed of by trial and the number of trial date settings that occurred for each case -- one, two, three, or four or more.

The combined goal for the Trial Court was to begin 88% of trials by the second trial date. In 2009, 76.0% of the cases disposed of by trial actually went to trial by the second trial date setting, compared to 78.0% in 2008. The Trial Court did not achieve the overall goal.



Trial Date Certainty, 2009

Court Department	Number of Trial Date Settings					% Two or Less
	One	Two	Three	Four or More	Total	
Boston Municipal Court						
Civil	116	57	29	37	239	72.4%
Criminal	611	328	115	105	1159	81.0%
Sub-Total	727	385	144	142	1398	79.5%
District Court						
Civil	319	146	66	69	600	77.5%
Criminal	3,069	1,652	764	948	6,433	73.4%
Sub-Total	3,388	1,798	830	1,017	7,033	73.7%
Housing Court	812	287	105	84	1,288	85.3%
Juvenile Court						
Civil	210	87	38	29	364	81.6%
Criminal	134	52	19	11	216	86.1%
Sub-Total	344	139	57	40	580	83.3%
Land Court	48	9	0	0	57	100%
Probate and Family Court	624	361	95	0	1,080	91.2%
Superior Court						
Civil	323	255	114	193	885	65.3%
Criminal	365	246	163	205	979	62.4%
Sub-Total	688	501	277	398	1,864	63.8%
Total	6,631	3,480	1,508	1,681	13,300	76.0%

Analysis of Case Management Results

In calendar year 2009, the Trial Court's efforts to measure timely case processing reflected the following:

- *cleared cases at the rate of 98.3%;*
- *disposed of 90.4% of cases within established time standards;*
- *identified 83,436 cases pending beyond time standards; and,*
- *began 76.0% of all trials by the second trial date.*

The Trial Court improved its clearance rate and the proportion of cases disposed within time standards. The Trial Court also experienced an increase in the number of cases pending beyond the time standards for the first time since the inception of this initiation.

An important point to emerge from this review of the metrics statistics is that it is crucial to report the results objectively and to adopt a holistic perspective in weighing those results. No single metric tells the whole story. It is important to view the metrics on caseload processing with the combined perspective of all of the measures over time.

Effective Use of Jurors

Effective Use of Jurors

Definition

Juror Utilization is the rate at which prospective jurors are impanelled, challenged, or excused as a percentage of the total number of prospective jurors qualified and available to serve (yield).

Purpose

The percentage of citizens available to serve relates to the integrity of source lists, the effectiveness of jury management practices, the willingness of citizens to serve, the efficacy of excuse and postponement policies, and the number of exemptions allowed. The objective of this measure is to minimize the number of unused prospective jurors—the number of citizens who are summoned, qualified, report for jury service, and who are not needed.

National Center for State Courts CourtTools

The willingness of our citizens to serve on juries is essential to the functioning of the system of justice. It is the responsibility of the Trial Court to commit to doing everything possible to ensure public confidence in our jury system. The presence of jurors at the courthouse is a valuable and necessary measure to resolve cases. Balanced against this reality is the responsibility of the court system to ensure that only the number of jurors needed for the court to fulfill its mission to administer justice are brought to courthouses each day.

The Jury Management Advisory Committee and the Office of Jury Commissioner have devoted a considerable amount of time and effort to the examination of juror utilization in the Massachusetts court system. The Administrative Office of the Trial Court drew from the National Center for State Courts' CourtTools to establish the Massachusetts definition of Juror Utilization.

Juror Utilization is the percentage of all jurors appearing for service who are used in an impanelment: either impanelled, excused, or challenged. Juror utilization is one important measure of efficient court management, because it allows the court and the Office of Jury Commissioner to track how many jurors are needed to meet the requirements of the courts to conduct jury trials. It also provides important information on the experience of the jurors with the courts, such as whether they were sent to a courtroom or used in an impanelment.

The most effective method of improving juror utilization thus far has been to reduce the number of jurors appearing at the courthouse, either through jury pool reductions or daily cancellation. Changes to the jury session schedule can have the same effect. Improvements can also be realized through better management of the jurors who do appear.

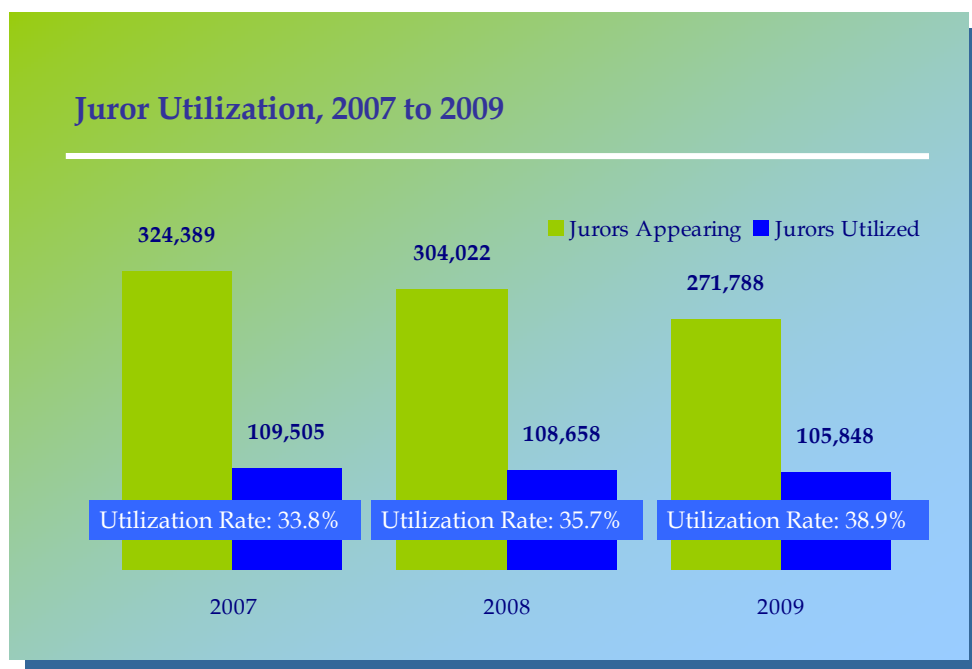
The Supreme Judicial Court and the Administrative Office of the Trial Court have made improved juror utilization a priority, and the courts have made great strides in this area by reducing the size of jury pools, adjusting court schedules, and canceling jurors when possible. The close examination of courts with consistently good utilization rates reveals that effective communication lies at the heart of good utilization. Establishing a routine flow of information between judges, jury pool officers, clerks, and parties leads to more efficient case management, improved utilization, and a better experience for

the jurors, who are the court's primary constituency among the general public.

The goal of sharing the best practices of courts and judges with good utilization is to enable all courts to benefit from the positive experiences of their colleagues. Since the inception of the juror utilization initiative, the savings of time and money to the courts, the jurors, and the business community has been substantial. With the widespread adoption of best practices, the savings and efficiencies will increase.

These techniques and others resulted in 32,000 fewer citizens reporting to court for jury service in 2009 as compared to 2008, saving the courts and the business community millions of dollars. The juror utilization rate in 2009 was 38.9%, compared to the goal of 40%, and represents an improvement from the previous year's rate of 35.7%.

The Office of Jury Commissioner will continue to work with the courts to provide individualized reports and recommendations to pursue this goal. Ultimately, it is the courts themselves that reap the benefits of improved utilization through more efficient case management and great goodwill in the juror and business communities.



Access to Justice

Access and Fairness

Definition

Ratings of court users on the court's accessibility and its treatment of customers in terms of fairness, equality and respect.

Purpose

Many assume that "winning" or "losing" is what matters most to citizens when dealing with the courts. However, research consistently shows that positive perceptions of court experience are shaped more by court users' perceptions of how they are treated in court, and whether the court's process of making decisions seems fair. This measure provides a tool for surveying all court users about their experience in the courthouse.

National Center for State Courts CourTools

Access and fairness are key components in the delivery of quality justice. Beginning in 2007 and continuing throughout calendar year 2008, the Trial Court implemented the Access and Fairness Survey. This survey, developed as one of the performance metrics in *CourTools* by the National Center for State Courts, is a 16-question written survey which seeks feedback from all types of court users on their experiences in accessing the courthouse and conducting business there. The use of this measure reinforced the Trial Court's focus on accountability and supported ongoing efforts to enhance access to justice. The Trial Court achieved its ambitious goal to implement the Access and Fairness survey in all court locations by the end of calendar year 2008.

Use of the anonymous survey furthered the empirical approach to accountability through the collection of data on the experiences of many court users. The results were used by management to further improve court operations and services.

A total of 9,046 court users participated in the project including:

- 1,507 in the eight divisions of the Boston Municipal Court Department during 2007; and,
- 7,539 in 98 additional court locations across the Commonwealth during 2008.

The results of the Access and Fairness project provide interesting and valuable data as indicated by the following responses from the 9,046 court users surveyed:

- 80.5% agreed or strongly agreed that their overall experience at the courthouse was satisfactory;
- 87.7% agreed or strongly agreed that they were treated with courtesy and respect;
- 91.4% agreed or strongly agreed that they felt safe in the courthouse; and,
- 68.6% agreed or strongly agreed that they were able to complete their court business in a reasonable amount of time.

In June 2009 the Chief Justice of the Supreme Judicial Court and the Chief Justice for Administration and Management appointed a Special Advisor for Access to Justice Initiatives in the Trial Court. This appointment recognized the critical role of the judicial branch during a challenging economy when data confirm that more people seek

recourse from the courts. As social, linguistic, and economic diversity in the Commonwealth grows, as laws become more complex, and as increasing numbers of poor and middle class individuals represent themselves in legal matters, ensuring court-based access services to litigants is an integral part of the mission of the judicial branch. The Special Advisor will 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.

An Interim Report on Access to Justice Initiatives in the Trial Court was released in 2009. The report reviews the work done since the initiative was announced in June 2009, and summarizes the results of the Access to Justice Survey of Trial Court employees conducted last fall. It also identifies priority projects and an organizational structure for undertaking those projects.

A total of 2,082 surveys were received representing an overall response rate of 29% for all Trial Court employees. In response to the question "What additional access to justice services would you like to see where you work?" the most frequently mentioned items were:

- Instruction materials in other languages (n=818);
- Court forms that can be completed on the internet (n=805);
- Wireless access in the courthouse (n=790); and
- Staff who can speak and read other languages (n=770).

Insuring that the promise of justice is accessible to all is a core responsibility of the judicial branch. The rule of law does not exist for any unless it exists for all. This initiative is intended to support the ongoing efforts of many people in the Trial Court who are committed to fulfilling our core mission.

*Honorable Dina Fein,
First Justice
Western Housing Court and
Special Advisor for Access to Justice
Initiatives*

Conclusion

The Trial Court stands committed to enhancing the delivery of quality justice through performance-based management: setting goals, measuring progress empirically, and reporting outcomes transparently.

The integrated enterprise of creating standards, adopting metrics, setting goals, and measuring outcomes has improved the timely and expeditious delivery of justice, which enhances the quality of justice in Massachusetts courts. Civil and criminal time standards are in place in all departments; common goals and uniform metrics on case processing have been adopted for all departments; and systematic, performance-based reports are regularly generated for all departments.

All Trial Court departments have embraced and expanded this initiative, representing a radical departure from traditional court practice. This approach reflects a commitment to transforming the Trial Court to “a culture of high performance and accountability,” in which management decisions and policies are informed by performance-based data, rather than anecdotes and intuition.

The Trial Court will continue its commitment to performance measurement in 2010 and in future years. Goals for 2010 have been set and refinements to the metrics reporting system have been adopted. Opportunities to introduce additional performance measures will continue to be identified throughout the Trial Court. The Trial Court stands committed to enhancing the delivery of quality justice by introducing performance-based initiatives, setting goals, measuring progress empirically, and reporting outcomes transparently. This commitment is critical in view of ongoing fiscal challenges.



CHARLES R. JOHNSON
CHIEF JUSTICE

BOSTON MUNICIPAL COURT DEPARTMENT
TRIAL COURT OF THE COMMONWEALTH OF MASSACHUSETTS
EDWARD W. BROOKE COURTHOUSE
6TH FLOOR
24 NEW CHARDON STREET
BOSTON, MA 02114-4703

TEL: (617) 788-8700
charles.johnson@jud.state.ma.us

September 18, 2009

Honorable Robert A. Mulligan
Chief Justice for Administration and Management
Administrative Office of the Trial Court
2 Center Plaza, Suite 540
Boston, MA 02108

RE: Report of the Case File Content Committee
of the Boston Municipal Court Department

Dear Chief Justice Mulligan:

As you know, the Boston Municipal Court Department is committed to a culture of high performance and accountability, and to a collaborative and innovative approach to the delivery of quality justice. This Department has been at the forefront of several initiatives designed to identify, measure and improve major areas of court performance, including the assessment of the reliability and completeness of court files as measured by our Case File Reliability and Integrity Project. The Case File Project reviewed 1600 case files in our eight court divisions for retrieval, reliability and completeness. While this review generated very encouraging results (99.8% retrieval, 80.8% reliability, and 82.3% completeness), this Project also highlighted the need for the development of uniform standards for case file content in our courts.

As a result, on November 3, 2008, I appointed the Case File Content Committee to propose uniform guidelines for the content of civil and criminal cases in all divisions of this Department. With First Justice Eleanor C. Sinnott as Chair, this Committee was comprised of the Clerk, First Assistant Clerk or Assistant Clerk from each court division. As detailed in the enclosed report, the proposed guidelines were promulgated by consensus among the Committee members.

Chief Justice Robert A. Mulligan
Administrative Office of the Trial Court
September 18, 2009
Page 2 of 2

Thank you for your support of this endeavor, and for the opportunity to be of service to the Trial Court in furthering our common mission of ensuring quality justice for all persons in the Commonwealth of Massachusetts. Please do not hesitate to contact me if you have any questions concerning this latest initiative.

Sincerely,

A handwritten signature in black ink, reading "Charles R. Johnson". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Charles R. Johnson, Chief Justice

CRJ/ly
Enclosure

cc: Hon. Margaret H. Marshall, Chief Justice, Supreme Judicial Court
Hon. Paula M. Carey, Chief Justice, Probate & Family Court Department
Hon. Lynda M. Connolly, Chief Justice, District Court Department
Hon. Michael F. Edgerton, Chief Justice, Juvenile Court Department
Hon. Steven D. Pierce, Chief Justice, Housing Court Department
Hon. Barbara J. Rouse, Chief Justice, Superior Court Department
Hon. Karyn F. Scheier, Chief Justice, Land Court Department

Boston Municipal Court Department Court Metrics Project:

Case File Content Committee

Introduction

In the Massachusetts Trial Court's efforts to enhance the delivery of quality justice through greater accountability and transparency, the Trial Court has benefited greatly from the existence of CourTools, ten core trial court performance measures developed in 2005 by the National Center for State Courts.

One of the CourTools sets forth a methodology for evaluating the reliability and integrity of court case files, which are considered key components to the delivery of quality justice and vital to public confidence in the judicial process. In CY2008, the Boston Municipal Court Department implemented this metric in its eight court divisions. As detailed in its September 2008 report, the Case Files Project measured three essential components of the quality of information in court case files: retrieval (how long it took to locate a case file); reliability (the extent to which a case file's contents corresponded to the case docket and vice versa); and completeness (whether key documents were contained in a case file). A review of 1600 case files (50 pending criminal case files, 50 closed criminal case files, 50 pending civil case files, and 50 closed civil case files, totaling 200 case files in each of eight court divisions), generated very encouraging results, but also highlighted the need for the development of clear standards for case file content in the courts.

As discussed in greater detail below, in order to develop proposed standards for case file content, in FY2009, the Boston Municipal Court Department established the Case File Content Committee.

Case File Content Committee

Committee Chair

Honorable Eleanor C. Sinnott,
First Justice
Charlestown Division

Committee Members

Margaret F. Albertson
Clerk Magistrate
South Boston Division

Anthony S. Owens
Clerk Magistrate
Dorchester Division

Patricia F. McDermott
First Assistant Clerk Magistrate
Brighton Division

Deborah A. Nicholls
First Assistant Clerk Magistrate
East Boston Division

Linda M. Scanlon
First Assistant Clerk Magistrate
Roxbury Division

Ann Heffernan
Assistant Clerk Magistrate
West Roxbury Division

Patty Wong Murphy
Assistant Clerk Magistrate
Central Division

Stephen L. Pearson
Assistant Clerk Magistrate
Charlestown Division

Lisa A. Yee
Administrative Attorney
Administrative Office

Joanne Hoey
Fiscal Operations Supervisor
Administrative Office

Methodology

Case File Content Committee. On November 3, 2008, Chief Justice Charles Johnson appointed a committee to propose uniform guidelines for the content of civil and criminal case files in all divisions of the Boston Municipal Court Department. First Justice Eleanor C. Sinnott was appointed as chair, with assistance from Administrative Attorney Lisa A. Yee and Ms. Joanne Hoey from the Administrative Office, and Chief Johnson invited each Clerk-Magistrate to designate a representative from each division.

Committee Meetings. On December 11, 2008, the Case File Content Committee held its first meeting to discuss preliminary draft guidelines proposed by Judge Sinnott. In a series of lengthy meetings through March 2009, the Committee carefully reviewed both the substance and the specific phrasing of each proposed guideline. Although 100% attendance was not possible for every meeting, each Committee member was always given an opportunity to comment on proposed drafts by e-mail.

Consensus of Committee Members. Proposed changes and edits to the guidelines were not adopted until there was consensus among all Committee members. Where legal or administrative issues were raised in meetings, such as whether the original recognizance slip in criminal matters or the plaintiff Confidential Information form in c. 209A matters should be kept in the case file, these issues were subsequently researched and resolved to the Committee's satisfaction, sometimes with an explanatory footnote.

Case File Content Guidelines. The Committee is not aware of any official Trial Court policy relative to case file content, and has proposed the following guidelines, establishing the contents of criminal and civil cases, both essential docket entries and required key documents.

Boston Municipal Court Department

Honorable Charles R. Johnson
Chief Justice

Brighton Division
Honorable David T. Donnelly
First Justice
James B. Roche, Clerk Magistrate

Central Division
Honorable Paul K. Leary (ret.)
First Justice
Daniel J. Hogan, Esq., Clerk Magistrate

Charlestown Division
Honorable Eleanor C. Sinnott
First Justice
John Whelan, Esq., Clerk Magistrate

Dorchester Division
Honorable Rosalind H. Miller
First Justice
Anthony S. Owens, Clerk Magistrate

East Boston Division
Honorable Robert Ronquillo, Jr.
First Justice
Joseph R. Faretra, Clerk Magistrate

Roxbury Division
Honorable Edward R. Redd
First Justice
Michael W. Neighbors, Clerk Magistrate

South Boston Division
Honorable Michael C. Bolden
First Justice
Margaret F. Albertson, Esq., Clerk Magistrate

West Roxbury Division
Honorable Kathleen E. Coffey
First Justice
Richard L. Walsh, Esq., Clerk Magistrate

Boston Municipal Court Department

Criminal Case File Content Guidelines:

Applicability: These criminal case file content guidelines shall apply to **all** criminal case files.

Docket Entries: As used in this guideline, the term “docket entries” encompasses entries made in *MassCourts*, CourtView, and on the case jacket. **All criminal cases should contain the following docket entries, where applicable.** Each notation should also include the initials of the person making the notation as well as the date of the entry. Where appropriate, a docket entry should also reflect the name of the judge, the session which generated the particular docket entry, and the audio index information.

1. Date/Time recorded; can also be
 - date and signature at the bottom of the application for criminal complaint with clear determination of probable cause by clerk
2. Docket numbers of related cases (e.g., co-defendants, restraining orders, mental health matters)
3. Court hearing dates, both when scheduled and when held
4. Documents filed by either party or issued by the court, as of the date of issuance or receipt
5. Current status/final disposition; can also be
 - notation of transfer of case to or from another division
6. Defendant’s current bail status for **every** event or appearance, including any increase, reduction, or forfeiture of bail, and personal recognizance
7. Significant verbal orders of the court
8. Warrants (straight or default, whether default removed, whether fee imposed, whether warrant recalled)

9. Date of when bail received by court, and date of return of bail to surety
10. Trial information, including when the Commonwealth moves for trial, when jury empanelled, date of trial, parties, attorneys, judge and session, jury/bench verdict, if any mistrial, audio index information
11. When Abstract sent to RMV (if electronic transmittal not applicable)
12. Post-disposition activity

Documents: Criminal case files should contain the following documents, if applicable:

1. Application for Criminal Complaint, dated and signed with clear determination of probable cause by clerk; can also be:
 - computer generated application
 - police citation for motor vehicle offense must be accompanied by application for criminal complaint and narrative
 - police citation plus narrative (for non-motor vehicle offenses, violations of by-laws and ordinances, etc.)
2. Police Report (narrative)
3. Verified Booking Sheet, if defendant arrested
4. Complaint, signed and dated by complainant and clerk
5. Proof of Service, if summons issued
6. Appearance of Counsel form, and any updates/changes; can also be:
 - NAC Form (if electronic transmittal not applicable)
 - Waiver of Counsel Form
7. Reasons for Ordering Bail/Mittimus/Writs of Habeas Corpus

8. Bail warnings
 - signed form, or
 - noted as docket entry when given verbally
9. Documents relating to Bail (e.g., recognizance slips¹, including from other courts; petition for review of bail finding; transfer of bail; release due to overcrowding; etc.)
10. Warrants (straight or default); Notice of Outstanding Warrant; Warrant Recall Notice(s)
11. Motions and other related documents filed by either party, as well as written findings/orders by the court, indicating when received/issued
12. Pretrial Conference Report and Certificate of Discovery Compliance forms
13. Plea Tender
14. Trials
 - Waiver of Jury Trial
 - List of Exhibits
 - Verdict Slip
 - Documents relating to Jurors (seating chart, questions submitted by jurors in sealed envelope)
15. Post-disposition activity filings
16. Probation documents:
 - Revocation Hearing Notice, date stamped
 - Preliminary Violation of Probation Findings
 - Final Violation of Probation Findings

¹ Pursuant to the provisions of the AOTC Fiscal Systems Manual, Section 9.4 Accounting for Bail, at pages 3-4, the original recognizance slip should be filed in the criminal case file and a photocopy should be kept in a separate Bail file.

Boston Municipal Court Department

Civil Case File Content Guidelines:

Applicability: These civil case file content guidelines shall apply to **all** civil cases, **except** for motor vehicle appeals. While recognizing the uniqueness of civil commitment and civil restraining order cases, nonetheless these civil file content guidelines should be followed for these case types also.

Docket Entries: As used in this guideline, the term “docket entries” encompasses entries made on the formal case docket as well as entries made in civil BasCOT, CourtView, civil *MassCourts*, and on the case jacket. **All civil cases should contain the following docket entries, where applicable.** Each notation should also include the initials of the person making the notation as well as the date of the entry. Where appropriate, a docket entry should also reflect the name of the judge, the session which generated the particular docket entry, and the audio index information.

1. Date/Time when case filed
 - date stamp on complaint/application, or
 - date stamp of payment of filing fee on complaint/application, or
 - notation on docket of receipt of complaint/application
2. Court hearing dates, both when scheduled and when held
3. Documents filed by either party or issued by the court, as of the date of issuance or receipt
4. Appropriate explanatory notes as needed to clarify docket entries
5. Verbal orders of the court, especially noting the date, the judge and the session for each order
6. For small claims case, also note date of mailing of notices
7. For civil restraining order case, also note any related criminal case(s), and any WMS/CARI checks for the defendant, and the petitioner if requested

8. Trial information, including date of trial, parties, attorneys, judge and session, jury/bench verdict, and audio index information
9. Current status/final disposition
10. Post-disposition activity

Documents: Civil case files should contain the following documents, if applicable:

1. Complaint; can also be:
 - Statement for small claims cases, or
 - Application for supplementary process², or
 - Application for summary process, or
 - Summary Process Summons and Complaint form
2. Return of Service; can also be:
 - Notation on docket of the date of mailing of small claims notices
3. Answer, Default, or Dismissal; can also be
 - For small claims case, a defendant's motion or appearance at court hearing
 - For supplementary process case, a defendant's motion or appearance at court hearing
4. Case Management Report
5. Motions filed by either party
6. Appearances/Withdrawals filed with the court
7. For civil commitment case, also include § 15A evaluation form and transportation order

² Although the practice in many divisions is for the original execution to be filed along with an application for supplementary process, no such requirement is contained in the statutes governing supplementary process; in fact, G. L. c. 224, § 15 provides that at the examination of the judgment debtor "[t]he execution, or a certified copy thereof, shall be sufficient proof of the judgment." See also *Scourtis v. Bililies*, 335 Mass. 290, 291 (1957), where the Supreme Judicial Court noted that "[t]he purpose of c. 224, §§ 14-18, is to enable a creditor to obtain payment of a judgment and not to adjudicate procedural rights in such a way as to deprive him of a right to enforce payment by other statutory remedies."

8. For civil restraining order case, also include defendant profile³
9. Pre-Trial Conference Report
10. Trials
 - List of Exhibits
 - Verdict Slip/Findings of Court
 - Documents relating to Jurors (seating chart, questions submitted by jurors in sealed envelope)
11. Disposition/Judgment/Execution
12. Post-disposition activity filings

³ The Confidential Information form completed by plaintiffs in G. L. c. 209A matters should be segregated from the public case records if possible, and must be removed from all cases and case management records before providing public access to said case records. All case records involving minor plaintiffs or defendants must be withheld from public inspection except by order of the court. See G. L. c. 209A, § 8, as amended by St. 2000, c. 236, § 24.