



# Court Management Advisory Board Fourth Annual Report 2008

Chief Justice Robert A. Mulligan  
Executive Secretary

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**Fourth Annual Report  
of the  
Court Management Advisory Board - 2008**

**A. Introduction**

The Court Management Advisory Board is pleased with the continuing progress on the recommendations outlined in the Report of the Visiting Committee on Management in the Courts (popularly known as the "Monan Committee") and commends Chief Justice for Administration and Management Robert A. Mulligan, his leadership team, and the Trial Court judges, clerks and staff for their tremendous dedication to the initiatives undertaken during 2008. The Trial Court, through its work on the Access and Fairness Survey Project and the Case File Integrity pilot as well as its continued focus on the four case flow CourTools performance measures, has demonstrated its commitment to accountability and transparency and its pursuit of the management excellence envisioned by the Monan Committee.

**B. Background**

**1. Creation and Composition of the Court Management Advisory Board**

Following the recommendation of the Monan Committee, the Massachusetts Legislature in 2003 created the Court Management Advisory Board (the "CMAB") 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.<sup>1</sup> As mandated by statute, the CMAB is comprised of twelve members, appointed according to the categories of experience set forth in the enabling statute. In addition to the twelve members, the CJAM serves as Executive Secretary of the CMAB. In the summer of 2004, the Justices of the Supreme Judicial Court appointed the first members of the CMAB. To date, the only change in its composition occurred in January of 2007, when David Friedman

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

joined the CMAB as the designee of the newly elected Attorney General, replacing the designee of the outgoing Attorney General. In May of 2007, all members of the CMAB accepted a second three-year term which will expire in 2010. By statute, CMAB members may serve a maximum of two terms. Attached to this report is a list of current CMAB members.

## **2. The Reappointment of Chief Justice Mulligan**

In September of 2008, the Justices of the Supreme Judicial Court announced the reappointment of Chief Justice Robert A. Mulligan as the CJAM for a second five-year term, effective October 1, 2008. The Justices had sought and received input on the reappointment from the CMAB, among other groups, prior to reaching their decision. In announcing the decision to reappoint Chief Justice Mulligan, Chief Justice Marshall noted the marked progress made over the past five years, stating “Chief Justice Mulligan’s vigorous leadership and impressive record of accomplishments in management reform have produced transformational change throughout the operations of the Trial Court.”

## **3. Worsening Economic Climate**

The economic climate presented fiscal challenges for the court system throughout 2008. Due to a worsening fiscal situation in the Commonwealth toward the end of calendar year 2008, Governor Patrick sought and received a seven percent voluntary cut in judicial branch spending for fiscal year 2009. Facing the harsh realities of a state-wide budget crisis and the anticipation of diminishing resources, the Trial Court immediately instituted a hiring freeze and created a branch-wide Fiscal Task Force comprised of representatives of all Trial Court stakeholders to explore and recommend cost-cutting measures. CMAB member Linda Carlisle served as the CMAB liaison to the Task Force, and CMAB chair Michael Keating attended some Task Force meetings.

## **C. Goals for 2008**

As stated in last year’s annual report, the CMAB’s goals for 2008 were to continue to support the Trial Court’s very important efforts on data collection and analysis and to monitor its progress in achieving its articulated goals. Additionally, the CMAB continued to encourage and support the undertaking of new initiatives by the CJAM and his leadership team of departmental

chief justices in 2008, particularly in the adoption of additional CourTools performance measurements.

#### **D. The Activities**

##### **1. Formal Sessions**

The members of the CMAB met bimonthly during 2008 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. “Striving for Excellence”**

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 members including: Charles D. Baker, Chief Executive Officer of Harvard Pilgrim Health Care; Gene D. Dahmen, CMAB member and a partner at Verrill Dana LLP in Boston; Robert P. Gittens, CMAB member and Vice President for Public Affairs at Northeastern University; Paul F. Levy, Chief Executive Officer at Beth Israel Deaconess Medical Center; and Chief Justice for Administration and Management Robert A. Mulligan; with Supreme Judicial Court Justice Robert J. Cordy serving as moderator. The program included presentation of the J. Donald Monan Award for Leadership in Judicial Administration to Appeals Court Justice James F. McHugh who served as Special Advisor to the Chief Justice for Administration and Management to revitalize the implementation of

MassCourts. In addition, the 19-member Court Metrics Working Group received a special award for Excellence in Judicial Administration.

### **3. 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.

### **4. Management Training**

In 2008, the CMAB continued to explore ways to expand management training opportunities for senior court leadership. During December 2008, the CMAB hosted the first of a series of management roundtables, 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, led the first such roundtable, which was attended by the CJAM, the departmental chief justices and CMAB members, for an informal discussion on management style and best practices. Planning is underway for two additional roundtables in 2009 which will feature 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.

Additionally, throughout 2008, the CMAB and the CJAM continued to pursue the development of a formal leadership/management training program for Trial Court leadership, including the departmental chief justices. CMAB member Linda Carlisle, working closely with Chief Justice Steven Pierce and Chief Justice Charles Johnson, discussed the development of

such a program with representatives of Harvard's Kennedy School of Government. Planning will continue in 2009 with the hope that the program will commence by the end of 2009.

## **5. Site Visits**

In addition to the formal sessions, CMAB members continued the practice of making site visits to better understand the operations of the local courts and the challenges of management on a day-to-day basis. One CMAB member spent a day at Boston Housing Court, which included a mediation session, and reported back her impressions that the operation was impressive across the board.

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

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 staff.

In 2008, 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 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.

### **1. Third Full Year of Case Flow Court Metrics Completed**

In 2008, the CJAM and the Chief Justices of the Trial Court completed its third full year

using four case flow CourTools<sup>2</sup> 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 from 2008 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. We are pleased to attach hereto the Court Metrics Report for Calendar Year 2008.

After three full years of 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. Consistent with the suggestion of the CMAB, the Trial Court will continue to develop and implement an approach to audit metrics data in 2009.

## **2. Access and Fairness Survey Implemented Across all Seven Court Departments**

In 2007, the Trial Court introduced a fifth CourTools measurement to expand 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 a

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<sup>2</sup> 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.

nationally recognized survey instrument to elicit feedback from court users<sup>3</sup> 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. We are pleased to attach hereto the full report on the Access and Fairness Survey Project.

### **3. 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 systems. Some of the highlights of the progress on MassCourts during 2008 include:

- State Auditor Issues 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.

- Successful Launch in the Probate and Family Court Department

The Probate and Family Court Department successfully launched full MassCourts in June

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<sup>3</sup> Court users surveyed included attorneys, probationers, litigants, victims, police officers, jurors and others.

2008 in Plymouth County. The rollout will be completed in all 14 divisions of the Probate and Family Court by the first quarter of 2009. This rollout resulted from the tremendous collaboration between the Probate and Family Court Department and Trial Court Information Services. Implementation in the Juvenile Court and Superior Court Departments now follow.

- Boston Municipal Court and District Court Expand Applications

The Boston Municipal Court and District Court Departments continued to use the “lite” version of MassCourts and preparations began to convert to an expanded application.

- 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 were 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 were scheduled to go online in January 2009 and will enable 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.

#### **4. 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. We are pleased to attach hereto the report of the Boston Municipal Court Department Court Metrics Project: Reliability and Integrity of Case Files.

## **5. Staffing Model**

During calendar year 2008, the Trial Court updated its empirical, case-weighted staffing model<sup>4</sup> 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 throughout 2008, 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.

## **F. Recognition**

### **1. Chief Justice Mulligan Receives NCSC Award**

In February 2008, Chief Justice for Administration and Management Robert A. Mulligan received the 2008 Distinguished Service Award for a state-level court administrator from the National Center for State Courts (“NCSC”). This prestigious award recognizes those persons who make longstanding contributions to the justice system and who have supported the mission of the Center. In presenting the award, NCSC President Mary McQueen recognized Chief Justice Mulligan’s “impressive abilities not only as a jurist, but as an innovative court manager,” citing his implementation of the CourTools performance measures.

### **2. Media Coverage of Fifth Anniversary of Monan Report**

In recognition of the fifth anniversary of the release of the Monan Report, *Lawyers Journal*, a publication of the Massachusetts Bar Association, devoted its January 2008 edition to the court management reform efforts underway in Massachusetts. This special edition highlighted several of the management initiatives undertaken, including Court Metrics. Included in the attachments to this report are two articles from this special edition; the entire edition can be found on the

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<sup>4</sup> The staffing model was developed in 2005 by judges and staff from all seven Trial Court departments in conjunction with the National Center for State Courts.

Trial Court's website at [www.mass.gov/courts](http://www.mass.gov/courts). 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*, both of which are attached to this report.

## **G. Conclusion**

The Court Management Advisory Board commends Chief Justice Mulligan, his leadership team, and Trial Court personnel for the progress made during 2008 on court management reforms and initiatives including, the third year of Court Metrics, the steady and successful roll-out of MassCourts, the implementation of the Access and Fairness Survey Project across the system, and the piloting of the Case File Integrity Project. Trial Court leaders have embraced the expanded availability and quality of data to strengthen their decision-making abilities. The participation and support of the Trial Court Fiscal Task Force, comprised of judges, clerks, registers and administrators, in responding to the fiscal challenge is enhanced by their broader understanding and support of court management reform. The value of the data will continue to enable more effective strategic planning, as the court system addresses the major fiscal issues confronting the state in FY10 and FY11.

Respectfully submitted,  
Michael B. Keating  
Chair, Court Management Advisory Board

# Attachments

- **Court Management Advisory Board Members**  
(<http://www.mass.gov/courts/cmab/report/cmab-member-bios.pdf>)
- **Court Metrics Report – Calendar Year 2008**  
(<http://www.mass.gov/courts/cmab/report/court-metrics-report-2008.pdf>)
- **Report on the Access and Fairness Survey Project**  
(<http://www.mass.gov/courts/cmab/report/report-access-fairness-project.pdf>)
- **Boston Municipal Court Department Court Metrics Project:  
Reliability and Integrity of Case Files**  
(<http://www.mass.gov/courts/cmab/report/bmc-reliability-integrity-case-files.pdf>)
- **Lawyers Journal Article: Court reform continues in full swing five years  
after Monan Report ushers in new era**  
(<http://www.mass.gov/courts/cmab/report/lawyers-journal-january.pdf>)
- **Lawyers Journal Article: Administration and Management - A message  
from Chief Justice Robert A. Mulligan**  
(<http://www.mass.gov/courts/cmab/report/lawyers-journal-january-second.pdf>)
- **National Law Journal Online Article – Massachusetts courts slash backlogs**  
(<http://www.mass.gov/courts/cmab/report/national-law-journal-online.pdf>)
- **Boston Globe Editorial - The courts better themselves**  
(<http://www.mass.gov/courts/cmab/report/boston-march4-2008-article.pdf>)