

2019-2020 Report of the Court Management Advisory Board on the Management and Administration of the Massachusetts Trial Court



ROUNDING OUT THE TRIAL COURT USER EXPERIENCE STUDY

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(as of January 2021)

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I. INTRODUCTION AND OVERVIEW

The Court Management Advisory Board (“CMAB”) is pleased to present its report for calendar years 2019-2020 to the members of the Joint Committee on the Judiciary, the Joint Committee on State Administration, and the House and Senate Committees on Ways and Means of the General Court, and to the Justices of the Supreme Judicial Court (SJC) and the Chief Justice and the Court Administrator of the Trial Court of Massachusetts.

Section II of this report describes studies done by Bentley University on understanding and improving the user experience in Massachusetts trial courts, including procedures put into place to address the ongoing effects of the COVID-19 pandemic. **Section III** concludes the report with CMAB’s plan for the next year. **Appendix A** identifies the members of the CMAB and **Appendix B** presents a summary of the CMAB’s activities during the 2019-2020 years.

The CMAB wishes to express its thanks and appreciation to Trial Court Chief Justice Paula M. Carey and former Trial Court Administrator Jonathan S. Williams for their leadership and steadfast commitment to furthering the mission of the Trial Court, which is demonstrated by their relentless team efforts to improve the essential operations, management, and administration of the Trial Court system.¹

The CMAB also recognizes the work of all of the Trial Court’s judges and commissioners, clerks and staff, who support the Trial Court’s mission and perform its essential functions. A number of court staff members provided support to the CMAB during 2018, and we recognize their assistance with gratitude.

Finally, 2020 also brought a significant loss for the courts and the Commonwealth in the sudden passing of Supreme Judicial Court Chief Justice Ralph D. Gants. Renowned for his intelligence and his integrity, Chief Justice Gants used his leadership role in the court system to press for fairness, equality under the law, and justice for all. Many of the CMAB’s objectives were and are geared to furthering Justice Gants’ mission to promote access to justice.

¹ The Chief Justice of the Trial Court is the policy and judicial head of the Trial Court, which includes the Boston Municipal, District, Housing, Juvenile, Land, Probate and Family, and Superior Courts, the Office of the Commissioner of Probation, and the Office of Jury Commissioner. In this role, Chief Justice Carey has authority over all matters of judicial policy, appoints the departmental chief justices, and oversees case flow management and the establishment of programs and procedures to continuously improve access to justice by all segments of the Commonwealth's population.

II. TRIAL COURT USER EXPERIENCE

In April 2019 the CMAB invited Bentley University Professor William Gribbons, the Director of the graduate Human Factors program at Bentley, to speak on his user experience studies. As a result of his impressive presentation on this topic, the CMAB sought an opportunity to work with Professor Gribbons and his graduate students on a number of projects with the Trial Court. In 2019 a Bentley University professor worked with CMAB and Trial Court Chief Experience & Diversity Officer John Laing to commence a study completed by graduate students at some of the BMC courts in Boston. This effort has resulted in interesting findings and subsequent studies, which are detailed below. We look forward to a productive relationship with the Bentley program going forward.

A. User Experience Study By Bentley University Graduate Students

Professor Demetrius Karis of Bentley University worked with five graduate students during the fall of 2019 to understand the user experience of people using the court system in Massachusetts. The group's goal was to collect information on people's experiences while conducting business in the court, and to provide useful information on where the court user experience could be improved.

Working closely with the Trial Court's Office of Diversity, Equity, Inclusion, and Experience (ODEIE), the students recruited people as they entered the Edward W. Brooke courthouse and the Dorchester District Court, accompanied them throughout their visit to the court, observed their behavior and emotions, questioned them during the visit if anything was unclear, and then briefly interviewed them afterwards. This included walking the physical spaces of the courthouse and how people navigate through them (via maps and signs), forms and paperwork, and courtroom procedures. The team's approach was similar to accompanied shopper studies common in market research, which are used to understand and improve the retail shopping experience.

In addition to the Brooke courthouse and Dorchester courthouse, the Bentley team visited courts in eastern Massachusetts, interviewing attorneys, judges, and volunteers working in the courts.

The Bentley team organized its findings and recommendations into eleven distinct categories, some of which include wayfinding, forms and paperwork, waiting and queues, assisting limited English proficient users, and courtroom procedures and environment. In each of the eleven categories, the team provided multiple recommendations to help the Trial Court achieve some of the goals laid out in the Court's strategic plan.

The report provided by the Bentley team is enlightening and we recommend that all those interested in improving the user experience in the Trial Court system study it to understand the challenges users face, and possible solutions to some – if not all – of the identified issues.

B. Impact Of COVID-19 On User Experience And Court Operations

As we all know, the greatest challenge facing the citizenry of Massachusetts in the recent past was the emergence of COVID-19 in 2020. The courts were not spared. The pandemic, which shut down essentially all of society beginning in March of 2020, required court administrators and personnel to triage all essential services and implement remote access in almost every court department to ensure access to justice.

In short order, the court system was introduced to the benefits of Zoom and purchased scores of licenses in an effort to shift essential operations remotely. Further, the Trial Court faced the tremendous task of training judges and staff in the effective use of the remote tools. Finally, the Trial Courts needed to address the variety of legal issues raised by the remote proceedings in the criminal courts, including the effect of remote proceedings on due process rights.

In 2020, Professor Karis's team at Bentley University conducted a second study primarily focused on the Court's response to the COVID-19 pandemic, including questions on the Trial Court's response to the emergency, the experiences of Court employees during the shutdown, and the recommendations for procedures post-pandemic. The team studied the effects of remote proceedings on due process rights, areas of improvement, and the advisability and feasibility of continuing remote proceedings after the conclusion of the public health emergency. The team undertook its study in Woburn District Court, including interviews with litigants, attorneys, and judges.

The team learned three major themes from their study: remote hearings are helpful from a time and convenience perspective; connecting and communicating with others can be difficult in a remote environment; and there are prevalent disparities in technology access and experience, which can serve as barriers to accessing justice.

With respect to recommendations to improve the remote proceeding experience, the team suggested several well-researched improvements in communication, technology, and human connection.

The team also recommended setting up a working group with lawyers and representatives from all sides to come up with recommendations for what types of proceedings should be conducted remotely and what should continue to take place in physical courtrooms. For pro se litigants, the team recommended that the Trial Court get the word out about the status of the courts and how to interact with the court system. The team also recommended allowing public access (via YouTube, for instance),

which has the potential to educate the public about the legal system and how the courts operate.

Finally, with inclusiveness in mind, the team recommended creating a plain English summary of standing orders and translating it into different languages to make the orders accessible to non-native speakers. The team recommended that more care and effort be allocated to updating the MassCourts website frequently and including access to as many documents as possible.

III. LOOKING AHEAD

The COVID-19 pandemic forced society at large to rethink ways in which people interact with each other. With respect to the court's interaction with litigants, Chief Justice Carey regularly updated the CMAB about the steps the court was taking and the progress being made. While the timing and severity of the pandemic required quick thinking and re-organization to ensure that people who needed to access the court system were able to do so by alternate means, the court and its users realized that the technology-based, alternate procedures put into place may be worthy of consideration on a going forward basis. The CMAB plans to continue its learning from the Bentley University study on Remote Court Proceedings and work with Chief Justice Carey and key stakeholders in the Trial Courts to recommend policies and procedures that carry forward "the good" of conducting court proceedings remotely while reducing or eliminating barriers for access to justice for all.

The members of the CMAB are honored to have the opportunity and privilege to advise the Justices of the Supreme Judicial Court, the Chief Justice and Court Administrator of the Trial Court on matters of court management and administration. We greatly appreciate the thoughtful consideration that court leaders have given to the CMAB's previous reports and recommendations.

In 2020, the long-term Chief Information Officer resigned after many years of service. Given the significance of this position, a representative of the CMAB assisted in the development of the job description and evaluation of the candidates applying for that position.

In addition, during the time period of this report, the CMAB reviewed the objectives of the Trial Court's Strategic Plan 3.0 as it was being developed. In its role going forward, the CMAB looks to promote accountability to the Trial Court to evaluate its performance against the objectives of the Plan. A number of new appointments have been made during the time period reflected in this report. A new Chief Justice of the Supreme Judicial Court, a new Court Administrator and a new Chief Information Officer have all been selected. The CMAB looks forward to working with the new leaders moving forward.

In closing, we wish to thank the leadership and members of the General Court for providing the necessary funding that will enable the Trial Court to maintain its ongoing operations, pursue key initiatives for continuous improvement and implement its essential capital facilities and technology infrastructure plans.

APPENDIX A - LIST OF CMAB MEMBERS

The SJC appoints 10 of the 12 members of the CMAB, and the other two members serve *ex officio*.² The appointed members serve for three-year terms. The SJC's use of staggered and overlapping terms of membership on the CMAB ensures a balance of continuity and new ideas. As of December 2019, the members of the CMAB are the following:

- **Mark D. Smith** (CMAB Chair) – Partner, Laredo & Smith, LLP (filling the CMAB seat for a lawyer with significant experience in the practice of criminal law).
- **Ziyad S. Hopkins** – Staff Attorney, Youth Advocacy Division, Roxbury Office, Committee for Public Counsel Services (filling the CMAB seat for a lawyer with significant experience in the representation of juveniles in the courts)
- **Inga T. Lennes, MD, MBA, MPH** – Senior Vice President for Practice Improvement and Service Excellence, Massachusetts General Hospital (filling one of the two CMAB seats for persons with significant experience in business administration)
- **Liam Lowney** – Executive Director, Massachusetts Office for Victim Assistance (*ex officio* CMAB member)
- **Lon Povich** – Counsel, Anderson and Kreiger, filling one of the two CMAB seats for persons with significant experience in public administration

² The CMAB exists pursuant to General Laws chapter 211B, section 6A, which provides as follows:

There shall be an advisory board to assist the justices of the supreme judicial court, the chief justice of the trial court, and the court administrator. The board shall consist of the attorney general, or his designee, the executive director of the Massachusetts office of victim assistance and the following 10 additional members appointed by the supreme judicial court: 2 persons who have significant experience in public administration, 2 persons who have significant experience in business administration, 1 lawyer with significant experience in the practice of criminal law, 1 lawyer with significant experience in the practice of civil law, 1 lawyer with significant experience in the practice of probate and family law, 1 lawyer with significant experience in the representation of juveniles in the courts, 1 lawyer with significant judicial experience but not a current justice of the commonwealth or a retired justice serving the commonwealth pursuant to judicial recall, and 1 person who has significant experience in information technology. The board shall choose its chair. The appointed members of said board shall serve for a term of 3 years. The maximum amount of time that said members may serve on said board shall be 2 such terms. The chief justice of the trial court shall be the executive secretary of the board.

The board shall advise the justices of the supreme judicial court, the chief justice of the trial court, and the court administrator on all matters of judicial reform including, but not limited to, a proposal for the allocation of resources based on the demonstrated workload of each court.

- **Paige Scott Reid**- Partner, Prince Lobel (filling the CMAB seat for an attorney with significant experience in civil law)
- **Donald Oppenheimer** – Chief Information Officer, John F. Kennedy School of Government (filling the CMAB seat for a person with significant experience in information technology)
- **Anne Sterman** – Chief, Trial Division of the Government Bureau, Office of the Attorney General (designee of Attorney General Maura Healey, *ex officio* CMAB member)
- **Kenneth Turner** – As of December 2019, President-CEO, Massachusetts Life Science Center (filling one of the two CMAB seats for persons with significant experience in public administration). Previously served as Director of Diversity and Inclusion Compliance at Massport.
- **Susan Rossi Cook** – Susan Rossi Cook Attorney & Mediator (filling the CMAB seat for a lawyer with significant experience in probate and family law)

The Honorable Scott L. Kafker, Associate Justice of the Supreme Judicial Court, acts as the SJC’s liaison to the CMAB. The CMAB is grateful for Justice Kafker’s guidance and encouragement.

Over the course of 2019-2020, the CMAB held meetings at which its members discussed a range of issues pertaining to the management and administration of the Trial Court. The CMAB's meetings were regularly attended by Trial Court Chief Justice Paula M. Carey, Court Administrator Jonathan Williams, and the SJC Associate Justice Scott L. Kafker. Featured speakers and other guests also attended from time to time, as warranted by the CMAB’s meeting agendas. In addition, the Chief Justices and the Deputy Court Administrators of the seven judicial Departments of the Trial Court (the Boston Municipal Court, District Court, Housing Court, Juvenile Court, Land Court, Probate and Family Court, and Superior Court) were invited to attend and participate in many of the CMAB meetings.³

³ The CMAB especially wishes to thank Mary F. Rafferty, the Trial Court’s Senior Assistant for Administration & Communications, and James Morton, who served as the Trial Court’s Senior Assistant for Judicial Policy, respectively, during 2018, together with Associate Court Administrator John Bello, Chief Experience & Diversity Officer John G.C. Laing Jr. The CMAB also thanks Attorney Payal Salsburg of Laredo & Smith, LLP for her efforts and thoughtful contributions. All of them, together with others, have extended themselves to provide information and support to the CMAB.

APPENDIX B – SUMMARY OF CMAB ACTIVITIES IN 2019-2020

February 13, 2019 CMAB Meeting

1. Remarks from Paul Dietl, Chief Human Resources Officers of the Trial Court
 - First impressions upon joining the Trial Court
 - Thoughts about the CMAB's Report on Hiring and Promotion Practices
2. The Trial Court's Enterprise Risk Assessment – Kevin Costello, Director of Internal Audit, and Marcel Vernon, Chief Financial Officer of the Trial Court
 - Overview of the project
 - Discussions of findings and next steps
3. Update from the Trial Court – Chief Justice Paula M. Carey and Court Administrator Jonathan S. Williams
 - Plans for Development of Strategic Plan 3.0
 - Recent Management Hires
 - Budget Discussions
4. Court User Experience
 - Selection of proposed focus areas/projects/issues and game plan for targeted CMAB discussions with key Trial Court staff
 - Review of proposed template for information-gathering, before discussions with trial Court staff

April 10, 2019 CMAB Meeting

1. Update from the Trial Court – Chief Justice Paula M. Carey and Court Administrator Jonathan S. Williams
 - Strategic Plan 3.0 planning and development
 - CMAB engagement with Strategic Plan 3.0 planning and development
2. Remarks by William Gribbons, Ph.D.-Bentley University on User Experience Study
 - The evolution of user experience design
 - Human factors in information design
 - Creating human-centered and value-driven user experiences
 - Delivery of justice – service design
 - Possible applications of user experience lessons to court management and administration

May 15, 2019 CMAB Meeting

1. Update from the Trial Court – Chief Justice Paula M. Carey and Court Administrator Jonathan S. Williams
 - Strategic Plan 3.0 planning and development
2. The Court User Experience, continued remarks by William Gribbons, Ph.D.-Bentley University
 - Providing access to justice/enhancing the user experience

June 25, 2019 CMAB Meeting

1. Farewell Reception for Departing Members
2. Reflections and recommendations of departing CMAB members

October 24, 2019 CMAB Meeting

1. Remarks by Professor William Gribbons, Bentley University:
 - Study on courthouse experiences. Conducting in-person interviews with a variety of court users in sample courts;
 - Evaluation of Mass.gov website, research on why users access the website, how it is used, current data on user experiences, and report on lessons learned.
2. Court Update
 - Strategic Plan 3.0 Enhancing the User Experience

November 25, 2019 CMAB Meeting

1. Presentation by Cynthia Robinson-Markey on Strategic Plan 3.0 Operational Excellence
2. Court Update by Chief Justice Paula Carey and Court Administrator Williams
3. Discussion of Dr. Gribbons' work, and potential projects for 2020

January 22, 2020 CMAB Meeting

1. Update on Bentley University Study by John Laing, Chief Experience and Diversity Officer
2. Presentation on Reentry and Supervision Issues by Edward Dolan, Commissioner of Probation
3. Presentation on Community Justice Issues by Sheila Casey, Specialty Court Administrator, and Marissa Hebble, Manager, Massachusetts Community Justice Project

June 4, 2020 CMAB Meeting (via Zoom)

1. Presentation on Trial Court COVID-19 Operations Committee by Associate Court Administrator John Bello and Deputy District Court Administrator Phillip McCue
2. Presentation on the Trial Court Budget Advisory Committee by District Court Chief Justice Paul Dawley
3. Remarks on Efforts by the Trial Courts to address COVID-19 crisis by Chief Justice Paula Carey and Court Administrator Williams

October 8, 2020 CMAB Meeting (via Zoom)

1. Update on continued efforts to address COVID-19 challenges by Chief Justice Carey and Court Administrator Williams
2. Update on budget development by Chief Justice Dawley
3. Update on Trial Court COVID-19 Operations Committee by Associate Court Administrator John Bello and Deputy Court Administrator Phil McCue
4. Update on Bentley University projects by Professor Karis
 - Remote Court Proceedings via Zoom
 - Interpretation Session in the Age of COVID 19
 - Understanding the Experience of Using the Virtual Registry

November 12, 2020 CMAB Meeting (via Zoom)

1. Remarks on Managing through the Pandemic – Chief Justice Carey and Court Administrator Williams
2. Additional update on budget development by Chief Justice Dawley
3. Update on Trial Court COVID-19 Operations Committee by Associate Court Administrator John Bello and Deputy Court Administrator Phil McCue
4. Search for a new Court Administrator – by Carol Lev, Executive Director SJC
5. Search for a new Chief Information Officer – by CMAB Member Donald Oppenheimer
6. Update on status of Bentley University projects by Chair Mark Smith

December 3, 2020 CMAB Meeting (via Zoom)

1. Court Update by Chief Justice Paula Carey
2. Reflections on his tenure with the Court by outgoing Court Administrator Jonathan Williams
3. Findings of Bentley University study – by Professor Demetrious Karis
 - Remote Court Proceedings via Zoom
 - Interpretation Services in the Age of COVID
 - Understanding the experiences using the Virtual Registry