

# **STAFFING THE MASSACHUSETTS TRIAL COURTS:**

**RECOMMENDATIONS FROM  
THE MASSACHUSETTS APPLESEED  
CENTER FOR LAW AND JUSTICE**

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# Staffing the Massachusetts Trial Courts: Recommendations From The Massachusetts Appleseed Center For Law And Justice

## **Acknowledgements:**

Court reform has seen great strides since the Monan Report was published. Yet the financial crisis and subsequent budget cuts keep the need for more efficient and economical courts systems alive. The Massachusetts Appleseed Center offers these recommendations in the hope that when the current fiscal crisis abates the Massachusetts court system will be rebuilt. A necessary part of that effort will be development and adoption of a case management system to allow the courts to administer justice robustly and efficiently. We believe that these recommendations provide a rational budgeting approach moving forward.

## **Project Team:**

We extend our sincerest thanks to our pro bono partners for their expertise in assisting the Massachusetts Appleseed Center staff in researching and drafting these recommendations. In particular, this report would not have been possible without the leadership of Massachusetts Appleseed Board member Sarah D. Wellings, Esq.

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## **Massachusetts Appleseed Mission**

The Massachusetts Appleseed Center promotes equal rights and opportunities for Massachusetts residents by developing and advocating for systemic solutions to social justice issues.



### **Massachusetts Appleseed Center for Law and Justice, Inc.**

44 School Street, Suite 415

Boston, MA 02108

Tel. | 617.482.8686

Email | [massappleseed@appleseednetwork.org](mailto:massappleseed@appleseednetwork.org)

## EXECUTIVE SUMMARY

It is not too much to say the Massachusetts trial court system is in crisis. As reported in the *Patriot Ledger*, several dozen trial courts are critically understaffed and the case clearance rate is falling, meaning the administration of justice is suffering.<sup>1</sup> At some point, the crisis will end, and the court system will be rebuilt. A necessary part of that effort will be the development and adoption of a case management system that will allow the courts to administer justice more efficiently and provide a basis for rational budgeting going forward. For several years, the Massachusetts Appleseed Center for Law & Justice has been studying this issue, and the report that follows outlines the need for and structure of such a case management system. In particular, Massachusetts Appleseed recommends:

- Determining how judges spend their time in different courts, to create judicial staffing protocols, and
- Determine how, within appropriate staffing models, data on case management can create workplace efficiencies that will better equip the court system to weather another financial crisis.

## **Introduction**

Massachusetts has been researching issues related to court system efficiency for several years. The issue of efficiency came to the fore in 2002, when former Chief Justice of the Supreme Judicial Court of Massachusetts (SJC) Margaret Marshall appointed a Visiting Committee on Management in the Courts to study the judicial system and issue recommendations for improvement.<sup>2</sup> The committee, known as the Monan Commission after its chair, Donald Monan, S.J., former Chancellor of Boston College, produced a report detailing problems and offering suggestions for improvement. The report concluded that, while some courts were efficiently administering justice, the system as a whole was not.<sup>3</sup> The Monan Report found that justice may eventually be done, but only with significant delays and at too high a cost.<sup>4</sup> Today, this is still the case. This paper focuses on one piece of the problem: how to assess a court's staffing needs to achieve efficient administration of justice.

## **The Response to the Monan Commission Report**

In 2003, the Massachusetts legislature created the Court Management Advisory Board (CMAB) to assist the judiciary in improving efficiency. The CMAB was created to provide advice to both the SJC and to the court system's Chief Justice for Administration and Management (CJAM) on matters concerning judicial reform, such as proposals to shift existing resources among courts based upon demonstrated workload and need.<sup>5</sup> Since its formation, the CMAB has issued yearly<sup>6</sup> reports on changes in the courts that have increased efficiency.<sup>7</sup>

The court system itself responded to the recommendations in the Monan Report in 2005, when officials from the Administrative Office of the Trial Courts, with technical assistance from the National Center for State Courts (NCSC),<sup>8</sup> conducted a workload study to determine the number of staff needed in the Massachusetts trial courts. The 2005 *Commonwealth of Massachusetts Administrative Office of the Trial Courts Staffing Study* presented a staffing model based upon weighted caseloads.<sup>9</sup> NCSC has concluded that "determining caseload standards with different weights, or workload standards, is the *best* method for measuring case complexity and determining the need for court support staff."<sup>10</sup> Workload studies that do not consider case weight erroneously assume that all cases take the same time to resolve and look only at the number of filings in a given court to determine the staff needed. For example, resolving felony cases requires more time than resolving parking violations.<sup>11</sup>

The 2005 Massachusetts report used a Delphi survey technique to conduct its workload study and develop staffing norms to determine the correct numbers of staff for each of the seven Trial Court Departments.<sup>12</sup> The Delphi technique, rather than measure the actual amount of time staff spends on specific tasks, relies on "expert opinions"<sup>13</sup> (the opinions of staff) to estimate the amount of time each case type takes to resolve. The staff experts arrive at the case time estimate by assessing the time needed to perform the various functions in each case type. Massachusetts

used the Delphi survey technique to develop staffing norms in part because it is less costly and less time-consuming than a full time study, which measures the actual time spent on each function of each case type. Furthermore, at the time Massachusetts was operating under significant budgetary constraints (which have since grown worse, of course) and a full time-study would have memorialized the staffing deficiencies with which the courts were working, rather than accurately determine the courts' staffing needs.<sup>14</sup>

The 2005 report details eight steps used to develop preliminary workload standards for the Massachusetts courts:

1. Establish the *case types* for which workload standards will be developed;
2. Determine the *functions or events* involved with processing cases that are to be measured;
3. Measure, through surveys, the *time* it takes to perform these functions;
4. Determine the *number of cases* that are filed in each court;
5. Determine the *distribution* of complexity for each case type;
6. Determine the *time available* to court staff to perform these functions;
7. Calculate the preliminary *workload standards*; and
8. *Validate* the preliminary standards.<sup>15</sup>

Each Trial Court Department determined the case types for which it would develop workload standards. These case types were intended to provide a realistic understanding of a court's work while not imposing the administrative burden of calculating a weight for every possible type of case.<sup>16</sup> For example, district courts determined standards for criminal and civil cases, while juvenile courts determined standards for adoption and delinquency cases; the standards differentiated between simple and complex cases.<sup>17</sup> The courts then categorized all staff activities into events such as case initiation, trial, and disposition.<sup>18</sup>

The next step was to determine how much time was spent on each type of case and within the case types, how much time was spent on each event. Surveys asked participants to estimate the time needed for each case type by considering the time needed to complete each event for each case type, accounting for different levels of complexity.<sup>19</sup> The Administrative Office of Trial Courts and the Trial Court Departments provided the number of filings in each court for each case type.<sup>20</sup> This filing data was used to determine the amount of staff time needed to process all the cases filed in a year by multiplying the time needed to resolve each case type by the number of cases within each case type filed each year.

Once the researchers had collected the data estimating the staff time needed to resolve a case within each case type, each Trial Court Department reviewed the self-reported data for reasonableness.<sup>21</sup> To determine how many staff members were needed, the researchers determined the total time each staff member could devote to cases over the course of a year by

calculating the number of available work hours a full-time staff member has in a year. Each Massachusetts court staff member has 1517 hours per year for both case work and non-case work or 91,020 minutes per staff member.<sup>22</sup>

After conducting the Delphi survey, the researchers collected data on the qualitative measures of the courts. Qualitative measures included: (i) court culture, (ii) where the court is located, including whether or not it is urban, and (iii) the individual judge for whom a staff member works.<sup>23</sup> After all the data had been collected, committees visited courts to conduct interviews with staff members, validate preliminary work standards, and to assess then-current staffing levels. They concluded that, when there is insufficient staff, the existing staff members feel pressure to accomplish time-sensitive tasks, with the result that other tasks (for example, filing) are not completed. This is unsustainable in the long term.<sup>24</sup> Tasks such as filing documents may not appear to be time-sensitive, but unfiled or improperly filed documents result in delays when those documents cannot be easily located later.

To gather additional information regarding staff responsibilities and the sufficiency of staff numbers to meet those responsibilities, NCSC developed an online survey for court staff.<sup>25</sup> The web-based survey listed activities representing the range of tasks that staff members are expected to perform. Respondents were asked to respond to three statements related to each task. The statements were:

- I am expected to perform this activity on a regular basis.
- I typically have time to complete this task in a reasonable and satisfactory way.
- Obtaining additional staff to help perform this task should be a court priority.<sup>26</sup>

Finally, the committees evaluated the data to finalize the workload standards and identify where additional staff were needed.<sup>27</sup> The final workload standards were used to determine how many full time equivalent staff members Massachusetts courts needed to employ and in which courts they were needed.<sup>28</sup>

The caseload analysis in the 2005 Massachusetts report was expected to be valid for several years, unless there was a major change in technology or the law. Still, the study recommended that the courts “periodically review and update the data collection systems so as to preserve the validity of the staffing needs assessment process.”<sup>29</sup> It also recommended court-level audits to ensure the data collected is accurate and current, which is necessary to ensure the workload standards remain reliable.

## **Best Practices: The Minnesota Model**

Massachusetts would benefit from a multi-stage study similar to Minnesota's study of judicial and staff workload. The Minnesota Court Staff Workload Assessment is nationally recognized as having been completed using best practices. In part this is because Minnesota studied both judges and court staff. In 2002, Minnesota published the *Minnesota Judicial Workload Assessment*. This study provided a better understanding of how judges allocate time and the precise number of judges needed in the state.<sup>30</sup> In 2004, Minnesota conducted its follow-up study, the *Minnesota Court Staff Workload Assessment*, to determine the number of support staff the state courts needed to provide effective service to the public.<sup>31</sup> These two reports could serve as detailed and useful examples of how to study court staffing and judicial needs more and thereby promote more equitable distribution of staff, judges and resources in the future.

### ***Minnesota Judicial Workload Assessment, 2002***

Minnesota conducted its judicial workload assessment to determine the assessed judge need (AJN) in each of its courts. Like Massachusetts in 2005, Minnesota worked with NCSC to conduct a time study of the courts. Unlike Massachusetts, Minnesota did not rely on a Delphi Study; instead, Minnesota conducted a time study in which judges tracked their time spent on each task over the course of one month. Researchers then calculated average judicial time per case, based on then current practices.

The first step in the workload assessment was to gather information on the types of cases handled by the Minnesota court system. Researchers counted the number of case filings by case type and determined the case weight—the average number of minutes needed to resolve a case—for each type. Time on the bench was tracked by staff or by computers, and judges tracked their non-bench time on log sheets.<sup>32</sup> Time was logged by case type and by events within the types. The researchers aggregated the judges' time data for each case type and divided that by the number of filings for each to calculate a preliminary workload standard: the average judicial time spent from filing to disposition per case for each case type. The Weighted Caseload Advisory Committee, a subcommittee of the Conference of Chief Judges, oversaw the entire study and finalized the case weights based on the time study and their own review.<sup>33</sup> Once the weights were finalized, the researchers could calculate judicial workload.<sup>34</sup> The number of filings (caseload) was determined by looking at raw filings for different case types.

Researchers also collected data on the amount of time judges performed casework over the course of a year, known as the "Judge-year value."<sup>35</sup> They calculated different judge-year values for different districts. Previous studies had calculated judge-year value for courts of a given size, but the 2002 study found that it was better to calculate one judge-year value for all the courts in a district, since courts within a district had more similar non-case related time spent on travel and administration.<sup>36</sup> Calculating one case weight statewide for each case type, but

different judge-year values in the different districts, allowed the study to recognize variation among districts while providing a means of comparing the districts.<sup>37</sup> Conducting this step in Massachusetts would likely be helpful as a tool to compare courts throughout the Commonwealth.

Once the researchers knew how much time was spent on each case type and how much time judges were able to devote to case work each year, they could calculate the number of judges needed in each court. They divided the workload by the judge-year value to calculate AJN.<sup>38</sup> This calculation allows a state to know exactly how many judges it needs and in exactly which courts they are needed.<sup>39</sup>

### *Minnesota Court Staff Workload Assessment, 2004*

Two years after completing the judicial workload assessment, Minnesota published a report on staff workload, the Minnesota Court Staff Workload Assessment. To conduct this study, the Minnesota State Court Administrator's Office contracted again with NCSC to determine statewide staffing requirements of the court system based on a thorough staff workload assessment. As Minnesota had recently shifted from local to state funding of its court staff, it was important for the state to know the most efficient allocation of staff.<sup>40</sup> The primary goal of the workload study was to ensure the equitable allocation of court support staff, and the study is considered to be a benchmark in creating a national model for how to study staffing requirements with precision.

The Minnesota researchers created a staffing model and researched the implications of their findings through a seven-stage process. The seven stages were:

1. Staff inventory;
2. Court performance and quality survey;
3. Time study;
4. Staff allocation and assessed judge need;
5. Formulate staffing norms;
6. Site visits; and
7. Use and implication of the Staffing Model.

The study aimed to recommend staffing levels and to determine if the staffing levels “supported efficient and effective case processing.” Efficiency was defined as the “degree of jurisdictional effectiveness;” this definition centers on the most productive use of resources, with adequate personnel assigned to tasks and having sufficient time to complete those tasks.<sup>41</sup>

## The Staffing Inventory

In November and December 2002, the Minnesota researchers developed an accurate census of the existing number of court staff in the state by collecting data from court administrators at a time when the courts were at their full complement.<sup>42</sup> They collected information on how the court staff was allocated across the different jurisdictions, job titles, types of cases they worked on, and type of work they performed. The researchers tailored their surveys so that they would be accurate measurement devices in both large courts (where jobs were more specialized) and small courts (where employees were performing many different types of work).<sup>43</sup>

Massachusetts gathered similar data about its own courts. It categorized the types of cases and determined what functions were necessary for each type.<sup>44</sup> Massachusetts also collected filing data on the number of cases filed in each court.<sup>45</sup> Both states recognized that a study intended to improve staffing at courts must start with an understanding of the current staffing situation. Massachusetts might have benefitted from the tailoring of surveys done in Minnesota to account for different staff tasks in different sizes of courts.

### Court performance and court quality surveys

Minnesota researchers conducted two separate surveys of court staff. The first, known as the Court Performance Survey, identified 81 tasks in 9 functional areas that are necessary for the courts to run effectively. Court staff identified which tasks they perform as part of their jobs and stated whether they have enough time to satisfactorily complete the tasks and areas where they believed more staff was needed.<sup>46</sup> The second, known as the Court Quality Survey, contained twelve questions about workplace satisfaction.<sup>47</sup> Previous research conducted by the Gallup Organization had shown that positive responses to these questions about workplace satisfaction correlate with increased productivity, lower employee turnover and higher consumer satisfaction.<sup>48</sup> Applied to courts, this would mean strong working relationships between court staff and judges.<sup>49</sup> Minnesota researchers were able to get 100% participation from court administrators and 95% participation from other court staff in completing the surveys. Such a high participation rate ensured accurate data.<sup>50</sup>

Massachusetts also conducted surveys of its court staff, but these surveys did not capture as much information as the Minnesota surveys. Staff members in Massachusetts answered questions about how often they were asked to complete a specific task and if they had sufficient time to do so.<sup>51</sup> Massachusetts did not conduct a survey on job satisfaction of its court staff, but did ask about court culture in the web survey, although without focusing specifically on the relationships between staff and judges. Given the importance of the relationships between staff and judges in ensuring efficient courts, Massachusetts would do well to focus on understanding the quality of these relationships in its courts.

## Time study

Seven hundred staff members in nine representative courts tracked their time over a two-week period. The data from the time study was used to calculate staff weighted caseload methods through the following five steps:

1. Choosing Representative Courts. The researchers were concerned with studying courts of representative sizes. Four courts had between 0 and 2.99 AJN and the remaining five had 3.0 AJN or more;<sup>52</sup>
2. Selecting Case Types and Events. The researchers identified seventeen case types and nine functional events;<sup>53</sup>
3. Recording Time. Court staff tracked their time in ten-minute blocks, identifying the case type and functional area or the non-case specific task;<sup>54</sup>
4. Annual Filings. Minnesota's State Court Administrator's Office helped the researchers determine the total number of filings for each case type;<sup>55</sup> and
5. Calculating Workload Standards. To calculate workload standards, the researchers divided the total reported minutes of staff time on each case type (extrapolated to one year) by the number of filings for that type. This gave the average time in minutes required to process a case type. To reduce variation in case weights between courts, the researchers aggregated the 17 case types into 8 and then developed average case weights for courts with 0-2.99 AJN and those with 3.0 AJN or more.<sup>56</sup>

Massachusetts did not conduct a similar time study. Rather than ask court staff members to track their time over a given period, Massachusetts asked staff members to estimate the amount of time needed to complete tasks for various cases. These estimates were then reviewed for reasonableness. While Massachusetts may eventually benefit from a full time study, it was wise in choosing the Delphi method as, unlike Minnesota, Massachusetts did not have a full staff complement at the beginning of the study to ensure the accuracy of its survey. Had Massachusetts conducted a time study, the resulting case weights would have needed adjustment to account for the lack of a full staff and the resulting staffing norms would not have been significantly more accurate than those produced by the Delphi study,<sup>57</sup> but would have cost substantially more.<sup>58</sup> Massachusetts may want to consider a full time study in the future when it has a full staff complement.

## Staff Allocation and Assessed Judge Need

An efficient court system depends on the right relationship between court staff and judges, and so the Minnesota researchers developed a staffing model that recognized that the ratio of staff to judge time will vary by case. For example, minor criminal cases use more staff time and less judge time than do major criminal cases.<sup>59</sup> Minnesota focused its staff study on the appropriate relationships between the number of judges and the number of staff. The 2002

Judicial Workload Assessment provided the appropriate number of judges, and researchers used the staffing inventory and the time study to determine the appropriate number of staff.<sup>60</sup>

Since Massachusetts has not conducted a judicial time study, no AJN or judge-year value was available. The 2005 Massachusetts report treated the staff independently of the judges. Thus, Minnesota's survey presents a better understanding of how different positions at the court relate to each other, and Massachusetts would greatly benefit from studying this relationship. According to the NCSC group consulting on the 2005 Massachusetts report, for a court to run efficiently and effectively there must be a balance between judges and staff; linking staff positions to judges creates a model where that balance is achieved.<sup>61</sup> A model that assigns staff to courts without considering the number of judges may not be valid for as long a period as one that does. Given the investment necessary to conduct a workload survey, it is best to conduct one that will have longevity. A staffing model based on AJN may make it easier to hire the necessary staff because states are typically more willing to create new judges than new staff—if the model requires both, then sufficient staff will follow the new judges.<sup>62</sup>

#### Formulate Staffing Norms

The researchers used the data collected in the study to develop staffing norms, defined as the average number of case-related staff needed per judge for each case type in a court of a given size.<sup>63</sup> The norm is the ratio of staff to judges, using the staff per case type as determined by the staffing inventory, and the 2002 AJN figures.<sup>64</sup>

The researchers then calculated implied staffing levels, or number of staff needed in a court, using these norms which were based on the staff inventory. They used twenty-four separate norms, one for each of the eight case types and in each of the three sizes of courts (0 to 0.5 AJN, .51 to 2.99 AJN, and 3 or more AJN).<sup>65</sup> To determine the staff need in a particular court, the researchers looked at its size based on AJN to determine which norm to use and multiplied that norm by the AJN for the court.<sup>66</sup>

The researchers also calculated staff need based on the time study, using the workload standards produced in the time study. With these standards—the average number of minutes court staff devoted to a case type—the researchers could calculate the total workload of each case type for court staff over the course of the year.<sup>67</sup> The total workload divided by the Staff-Year Value (total number of minutes an average staff person has to process case during the year) determines the implied staffing need for that case type in that court.<sup>68</sup>

By calculating the implied staffing level in two different ways, the researchers could compare the results and use one to validate the other. The inventory and the time study produced very similar numbers of additional staff and where they were needed, each confirming the accuracy of the other.<sup>69</sup> Researchers then compared these findings to the actual staffing levels at the time, and assessed staff need by considering the differences.<sup>70</sup> Across the entire state, the model did not require hiring any additional staff. *Within* the system, however, there were some

disparities. Some counties had a staff level above their implied staffing need, while others were understaffed compared to their implied levels. Redistribution, rather than hiring, was necessary to promote equitable allocation of staff.<sup>71</sup>

Massachusetts also formulated staffing norms, called workload standards in its report. As previously discussed, Massachusetts calculated a court staff member's total available minutes over a year and divided that number by the minutes needed per case to calculate the number of cases a staff member could complete in a given year. Knowing the number of cases filed per year, Massachusetts determined the number of staff members needed in a court. Unlike in Minnesota, neither staff norm nor staff need were tied to the number of judges, but they did help illustrate how Massachusetts should staff its courts.

When Minnesota calculated Implied Staffing Need through its second set of calculations, it did a similar calculation to that done in Massachusetts. But Minnesota's first set of calculations depended on the previously calculated AJN, which was not available in the Commonwealth. With only one method of calculation, Massachusetts could not verify its results as Minnesota did. Massachusetts would benefit from a second set of calculations, preferably one based on the relationship between judges and staff, so that it can evaluate its staffing determinations based on the number of cases filed and staff-minutes per year.

### Site Visits

The Minnesota researchers visited five courts to conduct interviews about then-current practices and to validate the results of the study. Structured interviewing of individual staff members allowed researchers to gather more detailed data and responses to inform further study. On-site studies allowed them to validate and finalize the staffing model by comparing it to a real-world setting. The researchers asked two hundred staff in five courts of representative sizes about: (i) exemplary practices and procedures, as well as ones that need improvement; (ii) to validate results; and (iii) to assess the impact of recently decreased staffing level, which had in fact compromised services that courts could provide to the public.<sup>72</sup> These visits occurred in August 2003, during a hiring freeze implemented for budgetary reasons. Visiting the courts at this time allowed the researchers to see how insufficient staffing affected the courts and negatively impacted the services they could provide.

Through these interviews, the researchers found that an increasing number of staff vacancies meant that courts could no longer process cases efficiently and effectively.<sup>73</sup> Staff had to prioritize their tasks, and ones that were not immediately time-sensitive were delayed or left undone, including staff training.<sup>74</sup> Additionally, staff members were performing tasks that were not originally part of their job descriptions.<sup>75</sup> Over time, these shortages lead to undertrained staff being asked to perform more tasks.<sup>76</sup> Staff made more errors, which required additional time to correct. There was not enough time to correct all of the errors, so case files did not always contain all necessary documents. There was insufficient time for records management.

Furthermore, the legislature imposed new fees on the court system to help make-up a budgetary shortage, the implementation of which required court staff to create new forms and find ways to collect the fees. Thus, the added fees created an additional burden on court staff who were already operating without sufficient numbers.<sup>77</sup> All of these manifestations of the budget shortage meant that “staff responsibilities [were] compromised and overall quality of service suffer[ed].”<sup>78</sup>

Massachusetts surveyors also conducted visits to the courts. The goals were similar—to validate the results of the study and to assess current court staffing levels. The findings were also similar. With insufficient numbers of staff, time-sensitive tasks were prioritized at the expense of other necessary daily tasks, compromising the overall experience for those who interact with the courts. Without adequate staffing, the courts cannot provide citizens with justice in an efficient manner.

### Use and Implications of the Staffing Model

The goal of Minnesota’s study was to develop norms that made clear how to best staff courts and also to assess the current staffing levels. The report includes reasons why the model Minnesota developed is both reliable and useful, including the high levels of participation as well as the flexibility of broad staffing norms, which allow court administrators discretion in staffing specific tasks.<sup>79</sup> The report includes recommendations, mostly for expanding the use of the research model, making its findings easier to monitor concretely, and automating these methods of research.<sup>80</sup> If these recommendations were adopted, up-to-date information could be made readily available at any time and incorporated into the state’s strategies so that the implications of the study’s findings would never be rendered obsolete.

### **Recommendations**

- (1) The courts must determine the appropriate number of staff members. This number can be determined by studying the relationships between judges and staff in the different courts. While it is unlikely that Massachusetts will be able to undertake a full judge-time study in the near term, the Commonwealth may in the future be able to find a way to approximate it. Massachusetts accordingly should work with the NCSC to study how the judges spend their time in the different trial courts, to evaluate the number of judges needed in each court and determine the relationships between judges and court staff. An efficient and effective court system depends on the relationship between judges and their staffers.<sup>81</sup>
- (2) Massachusetts should also focus on some of the other areas where Minnesota was able to gather data that helped it to staff its courts appropriately, such as indicators of workplace productivity and positive relationships. Creating an efficient court system is not simply about the numbers of staff members, but also the quality of their work.

## Conclusion

With limited resources, it is important that Massachusetts staff its courts efficiently. To do so in the future, and to help the court system to weather another financial crisis, the Commonwealth must be prepared to expend some resources on studying the court system as it currently exists. This will help to improve the quality of justice throughout the commonwealth and ensure that each citizen receives justice “promptly, and without delay.”<sup>82</sup>

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<sup>1</sup> Nancy Reardon Stewart, *State courts falling behind*, PATRIOT LEDGER, Feb. 7, 2011, at 1.

<sup>2</sup> The Visiting Committee On Management in the Courts, *Report to Chief Justice Marshall*, March 2003 (Monan Report).

<sup>3</sup> *Id.*

<sup>4</sup> Monan Report at 4.

<sup>5</sup> 2005 Annual Report of the Court Management Advisory Board at 1.

<sup>6</sup> CMAB reports were yearly from 2005-2008. The CMAB members’ terms expire 2010, and they issued a 2010 report with several recommendations to generally improve the efficiency of Massachusetts courts. Many of their final recommendations would require legislative change to reorganize court structures.

<sup>7</sup> In 2006, CMAB reported that the trial courts had adopted CourTools, a system which allowed them to track clearance rate, time to disposition, age of pending caseload, and trial date certainty. 2006 Annual Report of the Court Management Advisory Board. In 2008, CMAB reported that Massachusetts courts were increasingly using “performance measurements and empirical data to inform decision-making and determine best practices.” 2008 Annual Report of the Court Management Advisory Board 5. Reports are available at <http://www.mass.gov/courts/cmabreport.html>.

<sup>8</sup> NCSC is an “independent, nonprofit court improvement organization founded at the urging of Chief Justice of the Supreme Court Warren E. Burger. He envisioned NCSC as a clearinghouse for research information and comparative data to support improvement in judicial administration in state courts.” NCSC provides research and consulting to help state courts improve the administration of justice “that supports fair and impartial decision making.” National Center for State Courts website, <http://www.ncsc.org>.

<sup>9</sup> The full report is available at <http://www.mass.gov/courts/staffingmodelreport.html>.

<sup>10</sup> 2005 Massachusetts report, 6, citing V. Flango and B. Ostrom, *Assessing the Need for Judges and Court Support Staff*, (National Center for State Courts, 1996) (emphasis in original).

<sup>11</sup> *Id.* at 5.

<sup>12</sup> The seven Trial Court Departments are: Boston Municipal Court, District Court, Housing Court, Juvenile Court, Land Court, Probate and Family Court, and Superior Court. 2005 Massachusetts report at 2-4.

<sup>13</sup> *Id.* at 6.

<sup>14</sup> *Id.* at 6. “Due to the staffing reductions that the Massachusetts Trial Court system as a whole has experienced over the last several years due to budgetary constraints, the NCSC recommended against performing any type of staffing evaluation that looked at existing practice alone, such as the time study and staff to judge ratio methodologies. These types of exercises, absent any qualitative component, would serve to merely enshrine the staffing deficiencies that have developed as a result of the reductions in the trial courts budget, and produce a staffing model that does not adequately provide for a sufficient level of staff to provide for effective and efficient resolution of cases pending before the courts.” Similarly, Minnesota’s judicial workload study expressed concern about “case weight erosion” defined as “reduction in time per case, based solely on rising volume,” Minnesota Judicial Workload Assessment, (2002) at 8. Such erosion results in judges and staff members forced to spend less time on tasks than is needed to fully complete the task.

<sup>15</sup> 2005 Massachusetts report at 8.

<sup>16</sup> *Id.* at 10.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 12.

<sup>19</sup> *Id.* at 13-15.

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<sup>20</sup> *Id.* at 15.

<sup>21</sup> *Id.* at 8.

<sup>22</sup> *Id.* at 15-16. The workload standard, or number of cases a staff member could process in a year, was calculated with the following formulas:  
Time of Function x Percentage of Complexity = Time Per Case  
Available Time / Time per Case = Workload Standard (i.e., number of cases each full time staff person can complete in a year). *Id.* at 7

<sup>23</sup> *Id.* at 21.

<sup>24</sup> *Id.* at 23-24.

<sup>25</sup> *Id.* at 24.

<sup>26</sup> *Id.* at 24.

<sup>27</sup> *Id.* at 37.

<sup>28</sup> *Id.* at 38. Based on the FY 2004 filings, Massachusetts needed 391 FTE additional court staff. Massachusetts was able to allocate 108 positions to trial courts that had been understaffed. 2005 Annual Report of the Court Management Advisory Board at 5.

<sup>29</sup> 2005 Massachusetts report at 41.

<sup>30</sup> Minnesota Judicial Workload Assessment, (2002).

<sup>31</sup> Minnesota Court Staff Workload Assessment, (2004).

<sup>32</sup> Minnesota Judicial Workload Assessment, (2002) at 18.

<sup>33</sup> *Id.* at 8-9.

<sup>34</sup> The formula is Caseload x Case Weight = Workload (i.e. judicial case-related time for given case type). *Id.* at 12.

<sup>35</sup> *Id.* at 17.

<sup>36</sup> *Id.* at 32.

<sup>37</sup> *Id.* at 21.

<sup>38</sup>  $AJN = \text{Case Weights} / \text{Judge-Year Value}$ .

<sup>39</sup> For example, Minnesota determined that it needed 5.78 additional judges. *Id.* at 33.

<sup>40</sup> Minnesota Court Staff Workload Assessment, (2004) at 7.

<sup>41</sup> *Id.* at 23.

<sup>42</sup> Had the courts been understaffed at the time of the study, any accurate time-keeping would capture insufficient staffing levels. Studying the courts when they were fully staffed allowed the researchers to have confidence that the norms they were capturing were norms that would continue to serve the courts of Minnesota well.

<sup>43</sup> *Id.* at 43.

<sup>44</sup> 2005 Massachusetts report at 10-11.

<sup>45</sup> *Id.* at 15.

<sup>46</sup> Minnesota Court Staff Workload Assessment, (2004) at 16.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 52. However, subsequent research indicated that such a survey is not a good predictor of relationships. Interview by Sarah Wellings with Chris Ryan, NCSC, Denver office, who headed the NCSC group acting as a consultant for the Massachusetts study. (August 5, 2004) (on file with author).

<sup>50</sup> Minnesota Court Staff Workload Assessment, (2004) at 16, (“Given that nearly 100 percent of court staff completed the surveys, the results appear both compelling and valid.”).

<sup>51</sup> 2005 Massachusetts report at 24.

<sup>52</sup> Minnesota Court Staff Workload Assessment, (2004) at 57.

<sup>53</sup> *Id.* at 58.

<sup>54</sup> *Id.* at 59.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 59-61.

<sup>57</sup> Interview by Sarah Wellings with Chris Ryan, NCSC. (August 11, 2004) (on file with author)

<sup>58</sup> Minnesota’s judicial workload study cost at least \$300,000 and the staff workload study cost at least \$250,000. Interview by Sarah Wellings with Chris Ryan, NCSC. (August 5, 2004) (on file with author).

<sup>59</sup> Minnesota Court Staff Workload Assessment, (2004) at 18.

<sup>60</sup> MN Staff Study 18. AJN accounts for different workloads in different courts.

<sup>61</sup> Interview by Sarah Wellings with Chris Ryan, NCSC. (August 9, 2004) (on file with author).

<sup>62</sup> *Id.*

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<sup>63</sup> Minnesota Court Staff Workload Assessment, (2004) at 27-28.

<sup>64</sup> *Id.* at 24.

<sup>65</sup> *Id.* at 28.

<sup>66</sup> *Id.* at 29. The formula can be expressed (Appropriate Staff Norm) x (AJN for court) = Implied Staffing Level.

<sup>67</sup> *Id.* at 31.

<sup>68</sup> *Id.* The calculations are as follows:

(Case Weight) x (Number of Filings) = Total Workload

(Total Workload) / (Staff-Year Value) = Implied Staffing Need.

<sup>69</sup> *Id.* at 34-36.

<sup>70</sup> *Id.* at 27-29.

<sup>71</sup> *Id.* at 38.

<sup>72</sup> *Id.* at 65.

<sup>73</sup> *Id.* at 20.

<sup>74</sup> *Id.* at 66.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* at 66-68.

<sup>77</sup> *Id.* at 68.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* at 21.

<sup>80</sup> The full list of recommendations born from the Minnesota study are as follows:

1. Update the staffing inventory and AJN figures annually;
2. Automate the annual study update procedure;
3. Periodically validate and re-establish the staffing norms;
4. Develop similar study methods in order to address the needs of non-case-related employees; and
5. Tie the staffing norms to a set of outcome-based performance measures. *Id.* at 40 – 41.

<sup>81</sup> Interview by Sarah Wellings with Chris Ryan, NCSC. (August 9, 2004) (on file with author).

<sup>82</sup> MASS. CONST. ART. XI.