



Order in the courts starts with reforms

By Stephen J. Adams

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The imperative to fix the state court system in Massachusetts is a no-brainer. Reams of data, dozens of examples, reports and news stories have demonstrated the crying need for court reform. The malaise within in the state's judicial system is undeniable and current management practices indefensible. That is why groups as diverse as Pioneer Institute, Common Cause Massachusetts, Appleseed Center for Law and Justice and the League of Women Voters have banded together to work for management reform in the state's courts. It is why in last year's gubernatorial race almost every candidate from Robert Reich to Mitt Romney embraced the need to fix the courts.

The most recent call for reform is perhaps the most extraordinary. It comes not from vote-seeking politicians, reform-minded think tanks, or public policy advocates, but from a volunteer committee comprised of some of the state's most respected and civic-minded leaders. The Special Visiting Committee on Management in the Courts convened by Chief Justice Marshall includes a former Democratic state senator, a former Republican cabinet secretary, CEOs of major Massachusetts corporations, judges and lawyers with experience in the state's courts and management and finance experts all led by Father Donald Monan, the revered Chancellor of Boston College. Armed with the staff support of world-class management experts from McKinsey & Co., the Monan Committee presented a thorough and dispassionate assessment of the current state of the Massachusetts judiciary, practical reforms and a clear implementation plan by which to achieve them.

They found a court system "mired in managerial confusion," explaining that "the administration and management of the Judiciary is uneven at best, and oftentimes dysfunctional. Morale is near the breaking point, and there is little concern for customer service." The report noted that "the current funding procedure rewards individual clerks, judges, and probation officers who abuse system guidelines and lobby individually for special favor from the Legislature." In addition, it pointed out that "although senior Judiciary leaders are responsible by statute for reporting on Judiciary finances, they have little actual authority to make decisions concerning these resources or to hold lower level managers accountable for their use." The report concluded, "These managerial and structural challenges...have paralyzed the Court system so effectively that it is unable to heal itself."

The Monan Committee calls for changes in law and practice that establish a clear chain of command within the Judiciary starting and ending with the Chief Justice, and that grant the court system the authority to manage its resources as it deems appropriate. It also calls for a cultural shift within the courts driven by performance and accountability to the Legislature and the citizens for measurable results. The Committee noted that adopting these reforms will not only improve court management but will allow the courts to operate with less overall funding.

Perhaps most extraordinary is what the Committee does not do. It does not affix blame for the problems of the courts. It focuses less on the failings of decision makers while describing the consequences of years and layers of bad decisions. Rather than point fingers, Father Monan and his colleagues seek leadership from the Legislature, the Governor and the Courts to promptly execute a their plan for turning the situation around.

The work of the Monan Committee is a gift to the entire Commonwealth, but mostly to Speaker Finneran and Senate President Travaglini. As they and Governor Romney mete out the pain that comes with a \$3 billion budget deficit, the Monan report offers an opportunity to demonstrate leadership, to markedly improve a critical public service and find sorely needed budget savings in the process.

The best immediate response to this gift would be for the Speaker, the Senate President, the Governor and Chief Justice to look each other in the eye, acknowledge that they will have differences over the coming months on many issues, but commit to work together to fix the mess in the courts right away. In the face of the state's budget crisis there is little to lose and much to gain by being bold on this matter. As the Monan report asserts, "Success brings a great reward: a Court system that performs to high standards of civility, timeliness, cost-efficiency, and decision-making, and a Commonwealth where citizens can rest assured they will receive the same quality justice from the Islands to the Berkshires." Seems like a no-brainer.

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