
TESTIMONY

OF

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COURT ADMINISTRATOR**

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CHIEF JUSTICE OF THE TRIAL COURT**

ON THE

**TRIAL COURT
FISCAL YEAR 2017 BUDGET REQUEST**

**PRESENTED TO THE
JOINT COMMITTEE ON WAYS AND MEANS**

FEBRUARY 23, 2016

JOINT WAYS AND MEANS COMMITTEE HEARING

TRIAL COURT FISCAL YEAR 2017 BUDGET REQUEST

Senator Timilty, Representative Cantwell, members of the Joint Committee, thank you for giving us this opportunity to appear before you today on behalf of the Trial Court.

FISCAL YEAR 2017 REQUEST

The Trial Court's budget request for Fiscal Year 2017 consists of two major components – maintenance funding of \$654.4 million, as well as additional proposed public safety and efficiency initiatives that you may consider funding in Fiscal Year 2017. Prior to providing details on the Trial Court's Fiscal Year 2017 budget request, we want to update you on where we are in Fiscal Year 2016 and provide you with information on some of the critical initiatives that are underway.

FISCAL YEAR 2016 UPDATE

In Fiscal Year 2016 we implemented a number of important new initiatives and continued strategic efforts that began in Fiscal Year 2015. We continue to use the Trial Court's strategic plan to guide our progress in improving our ability to meet the needs of everyone served by the courts. The Trial Court continues to move forward with efforts that allow the system to operate more efficiently, while at the same time providing fair and equal access to justice. I have highlighted some of those initiatives below.

- Technology continues to play a key role in improving the efficiency of case processing, as well as providing managers with valuable information to make more informed decisions. Conversion to MassCourts has been completed and this systemwide case management system provides access to most civil cases via the e-access portal on the public internet (*www.masscourts.org*). Rollout of a secure attorney portal occurred in conjunction with the Superior Court implementation and now provides access and search capability to more than 7,500 registered attorneys.

- Following the success of the two Court Service Centers (Boston and Greenfield) opened in 2014, we have opened three additional centers (Lawrence, Springfield, and Worcester) to provide information and assist the expanding number of self-represented litigants who use the court system. A center will soon open in Brockton and two additional centers will be sited in Fiscal Year 2016. These resource centers enable individuals to better navigate the court process, allowing the Clerk's and Register's offices to handle their cases in a more efficient manner

- The Fiscal Year 2016 budget included a Specialty Courts line item funded at \$3,299,000. With this funding, we have increased the number of specialty court sessions by eight for a total of 40 sessions in the current fiscal year. Our goal is to open 50 specialty court sessions by the end of the next fiscal year. Specialty courts focus on three areas – Drug Courts, Mental Health Courts and Veterans Treatment Courts. We continue to work with our specialty courts partners, the Departments of Mental Health, Public Health and Veterans' Services, to coordinate the delivery of essential services for individuals suffering from mental health, drug addiction and post-traumatic stress.

- Chapter 260 of the Acts of 2014 requires the Trial Court to undertake a number of initiatives related to domestic violence. In Fiscal Year 2015, the Domestic Violence Registry was established. In Fiscal Year 2016, the Trial Court has developed online training modules for all Trial court employees on domestic violence issues, and worked to develop a risk assessment tool for those individuals who commit acts of domestic violence.

- The Probation Service is preparing to issue a request for proposals to select a vendor to develop a pre-trial risk assessment tool to assist judges in determining the pre-adjudication services appropriate for those accused of crimes. This tool will be used to evaluate individuals to enable pre-trial determinations that best leverage criminal justice resources. The Juvenile Court piloted a similar tool for the juvenile population in September and statewide expansion of that tool is planned.

- Probation purchased 9,000 pieces of new equipment that tests for an expanded line up of drugs, including Suboxone. The equipment adds the ability to use oral swabs to collect samples, in addition to urine cups. The contract with a new drug testing vendor will be completed by March 1. In the near future the vendor will operate six collection centers: Pittsfield, Springfield, Worcester, Lawrence, Boston, and Fall River/New Bedford. This will provide more flexible delivery of testing and increase our ability to monitor substance abuse patterns. It also will allow more frequent and randomized testing that will protect the integrity of the test.
- The Trial Court Strategic Plan issued in 2013 served as an operational blueprint for the system and now that most major initiatives have been completed we have begun a process to develop Strategic Plan 2.0, which will provide guidance for the next several years. This planning process will invigorate the system by engaging judges, clerks and probation staff from across the state and will identify new goals and objectives.

**GOVERNOR'S
FISCAL YEAR 2017
HOUSE 2 BUDGET RECOMMENDATION**

The Governor's Fiscal Year 2017 recommendation (House 2) for the Trial Court totals \$638.6M. The recommendation funds 17 line items – the 16 line items included in the Fiscal Year 2016 budget, as well as a new line item to fund statewide expansion of the Housing Court Department, a line item which we hope you will also include.

The House 2 recommendation of \$638.6M represents an increase of \$7.1M over our 2016 appropriation of \$631.5M. However, the recommended funding is \$15.8M less than the Trial Court's FY17 Maintenance Estimate of \$654.4M.

House 2 would fund approximately 6,200 positions in the Trial Court. The FY17 Maintenance Estimate requests funding for 6,520 positions projected to be filled by June 30, 2016. A reduction of more than 300 positions will severely impact Trial Court's ability to administer justice across the Commonwealth.

While we greatly appreciate the additional funding, especially when the Governor must deal with budgetary challenges throughout the state, adequate funding for the Trial Court is essential to a properly functioning Judiciary.

The Trial Court has made tremendous progress in recent years in expanding specialty courts, access to justice, and technology. Sufficient funding is needed to ensure that the positive impact and full benefit of these initiatives can continue, along with meeting fundamental operating requirements.

**Fiscal Year 2017
Trial Court Budget Request**

As noted above, the maintenance portion of the budget request totals \$654.4M, which funds 6,520 positions. The spending increases above Fiscal Year 2016 spending are listed below and were included in the maintenance request submitted in October:

- \$2,373,919 annualizes union collective bargaining increases received in Fiscal Year 2016

- \$ 980,647 annualizes salaries for judges and to provide sick and vacation buyback for judges who retire during the year

- \$ 289,243 annualizes salary adjustments for management employees to ensure a consistent differential with union employees

- \$3,679,764 Fiscal Year 2017 step rate increases and annualization of 2016 step increases due employees in accordance with collective bargaining agreements and personnel policies

- \$8,374,879 Fiscal Year 2017 salary increases for union employees pursuant to collective bargaining agreements

- \$ 850,169 Fiscal Year 2017 salary increase for management employees

- \$6,143,533 annualizes new hires being completed in Fiscal Year 2016

- \$ 909,172 annualizes salaries of employees on a leave of absence or workers compensation for a portion of Fiscal Year 2016

- \$ 374,072 increases for private and county leases

- \$ 886,395 personnel related costs for promotions, reclassifications, stipends and differential pay and increases in sick and vacation buyback for retiring employees
- \$ 625,000 annualizes the cost of obtaining a consultant to develop a pre-trial risk assessment tool for Probation
- \$ 245,041 annualization and inflation for law library collections, utilities, case related expenses for interpreters, guardians ad litem and dental/optical trust agreement.

The above increases are offset by one-time costs and negative annualization totaling \$2,879,389. The one-time costs relate to sick and vacation buyback, costs for terminated employees on the payroll for only a portion of Fiscal Year 2016 and one-time non-personnel costs.

FISCAL YEAR 2017 BUDGET MODULES

Specialty Courts

\$2,798,353

In the past two fiscal years, the Legislature and the Governor approved a total of \$6.2 million to expand Specialty Court sessions across the Trial Court. Specialty Courts are a collaborative effort by the Trial Court and the Departments of Public Health, Mental Health and Veterans' Services using a coordinated model for the Commonwealth. These court sessions provide a proactive structure for the judicial branch, as it seeks to assist defendants with substance abuse, mental health and trauma issues in a more effective manner.

Massachusetts is working with the Council of State Governments/Justice Reinvestment Initiative (CSG/JRI) to implement a cost-benefit analysis model that helps states invest in policies and programs that are proven to work. Drug courts are one example of a widely accepted evidence-based practice for adult offenders that has been shown to have a

positive benefit-to-cost ratio. Using this approach, there is an estimated \$3 benefit for every dollar invested in drug courts.

For Fiscal Year 2017 we request \$2,798,353 to fund seven additional specialty court sessions. These additional sessions will be the culmination of a three-year expansion effort and will provide access to a specialty court session for anyone in the state whose case is appropriately handled in a specialty court session. The funding request for the new specialty courts is in addition to the funding provided in our maintenance request to sustain our existing specialty courts. The expansion funding will provide for, DMH provided Court Clinicians, , DPH provided residential treatment, Probation Officers, and certification and training.

Security Systems Enhancements

\$4,087,660

Adequate security in our courthouses is becoming an increasingly serious concern. We recently administered a new entrance exam for security personnel and will select candidates for a new academy class to begin in the Spring. However, security staff is only one element of the overall security strategy for our courthouses. Many court screening stations (package x-ray machines and walk-through metal detectors) and closed circuit television systems (CCTV) are outdated and require frequent and costly repairs, exposing courthouses and their occupants to unacceptable security risk. I am requesting \$4,087,660 to replace 4 CCTV systems, 78 walk-through metal detectors and 96 package x-ray scanners. The walk-through metal detectors and package x-ray machines will replace equipment that is in excess of 10 years old and not as effective in detecting contraband.

Statewide Expansion of the Housing Court Department

\$1,194,614

The Housing Court Department provides landlords and tenants with a forum to resolve their disputes with judges and staff with expertise in housing issues. Currently, one third of the state's population has no access to a Housing Court. Legislation has been proposed to provide statewide jurisdiction for the Housing Court Department to expand the benefits of specialization in these matters across the entire state. Statewide jurisdiction will require the creation of a sixth Housing Court Division. The annual cost for new personnel, including five additional judges, is \$2,389,227. For Fiscal Year 2017, we

request funding to support six months of operation for the new division. The six-month cost is \$1,194,614.

Increased Probation Officer Staffing

\$6,975,000

Research by the Council of State Governments/Justice Reinvestment Initiative (CSG/JRI) documents the cost, as well as public safety benefits, of effective pretrial services and diversion, as well as effective probation supervision that focuses resources on moderate and high risk offenders. We seek a 15 percent increase in Probation Officer staffing in Fiscal Year 2017. There are currently close to 800 Probation Officers. A 15 percent increase would add 120 Probation Officers at an annual cost of \$9,300,000. The Fiscal Year 2017 request funds the 120 positions for nine months.

Probation Officer staffing is woefully inadequate. The American Probation and Parole Association (APPA) has struggled with the question of the ideal caseload for probation officers. The APPA has established general guidelines, but instead of a “cookie-cutter” approach APPA recommends that “agencies adopt a weighted workload strategy informed by local factors.” The Mass. Probation Service has adopted and implemented the APPA approach and developed a Resource Allocation Guide. Consistent with APPA methodology and standards, the MPS has established target adult caseloads not to exceed 50 moderate-to-very-high risk cases and juvenile caseloads not exceed 30 cases of moderate-to-very-high risk individuals.

Current caseload rates in the Superior Court Department exceed 90 cases per Probation Officer, in the District Court Department 133 cases and in the Boston Municipal Court caseload is 101 per Probation Officer. The net average adult caseload per Probation Officer is 120, far exceeding the recommended level of 50. Juvenile caseloads are currently averaging 134 cases per Probation Officer, again exceeding the recommended level of 30 cases. The addition of 120 PO positions, along with the adoption of case management efficiencies for lower risk cases, would be a significant move toward sufficient staffing to support full fidelity to evidence-based supervision practices in both adult and juvenile courts.

While the funding request would not achieve the recommended caseload levels, it does move Probation in the right direction. Increased staffing combined with other administrative initiatives will allow more proper supervision of moderate and high risk individuals. The work underway with the CSG/JRI effort underscores the significant return on investment in both recidivism reduction and long term cost savings of investing in Probation programs.

Court Facilities Repairs and Maintenance

\$10,000,000

The Trial Court Facilities Management Department and the Division of Capital Asset Management and Maintenance have identified \$85,610,700 in repairs and deferred maintenance projects that are necessary for courthouses across the state. Needs include cooling tower and chiller replacements, elevator modernization, prisoner lock-up upgrades, and exterior masonry/building envelope stabilization projects. Most courthouses do not meet today's standards for secure circulation and several locations have severe overcrowding. Although there are \$85,610,700 in identified projects, resource limitations would allow the Trial Court to complete only approximately \$10,000,000 in projects on an annual basis. A list of the projects is provided as Attachment A.

Alternative Dispute Resolution Programs

\$2,164,547

Prior to the budget crisis of 2008, numerous Alternative Dispute Resolution (ADR) programs operated with several court departments. As part of the sharp spending reductions required by reduced appropriations, funding for these programs was eliminated. Although these programs were casualties of budget cuts, ADR does provide an important case management tool to reduce the volume of pending cases. In addition, ADR provides litigants with an alternative that can be quicker, less expensive, and lets them manage their own case resolution. We request \$2,164,547 to fund a core infrastructure for ADR in the Trial Court that would provide programs and needed training for the Boston Municipal Court, District Court, Housing Court, Juvenile Court, Superior Court and Probate and Family Court Departments.

HOPE/MORR Expansion

\$1,228,500

The Trial Court has had high-intensity probation supervision programs operating in Salem and Worcester and we are adding ten locations by the end of Fiscal Year 2016. The HOPE/MORR model applies swift, certain, measured sanctions for high-risk probationers to increase their commitment to probation conditions and to reduce recidivism. Increased supervision is required to ensure the intensity of oversight and support to insure adherence and immediate response on any violations of probation conditions. The two currently operating HOPE/MORR sites have demonstrated dramatic results in terms of probation condition compliance.

The MPS is currently working with a third party evaluator to document long term recidivism reduction impacts of this approach in Massachusetts. Research conducted in an increasing number of states that have adopted the HOPE model of probation and, independently, conducted by the Department of Justice shows great promise for this approach in increasing supervision compliance and reduction in reoffending. We request funding of \$1,228,500 to staff ten additional locations in Fiscal Year 2017 with 20 Probation Officers, a HOPE/MORR Coordinator, and five Assistant Probation Officers, as we continue a multi-year approach to implementing HOPE/MORR across the state.

Access to Justice / Self-Represented Litigants

\$785,000

Self-represented litigants make up an increasingly large portion of the people served by the Trial Court. As such, the Trial Court must provide information and assistance to these individuals so that justice can be delivered in a fair and efficient manner. We request \$785,000 to greatly expand the forms and self-help videos available in multiple languages, as well as to provide electronic signage for four court complexes to assist visitors with navigating the courthouse. This request also includes funding for a legal technologist position to work at the intersection of the court's technological innovations and the needs of self-represented litigants.

Telecommunication Enhancements

\$4,568,000

We request \$4,568,000 to allow phone system upgrades that will enable us to complete the move of phone systems for all courts onto the Trial Court network, eliminating long distance charges, and to create a central messaging platform, rather than maintaining

separate, outdated voice mail systems. The upgrades also will allow more efficient communication within the Trial Court.

We have provided both Senate and House Ways and Means staff with line-item backup for the Trial Court's Fiscal Year 2017 budget request. The Trial Court's Fiscal Department is available to explain calculations and to provide additional information, as needed.

We extend our sincere appreciation to the Chairs of the Joint Committee on Ways and Means, Senator Karen Spilka and Representative Brian Dempsey, and to Senator Timilty and Representative Cantwell, as well as to the Committee members for this opportunity to present the Trial Court funding request for Fiscal Year 2017.