



TESTIMONY OF
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TRIAL COURT CHIEF JUSTICE

&

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TRIAL COURT ADMINISTRATOR

ON THE TRIAL COURT
FISCAL YEAR 2023 BUDGET REQUEST

FOR THE JOINT COMMITTEE ON WAYS AND MEANS

March 21, 2022

Trial Court Chief Justice Jeffrey A. Locke
Trial Court Fiscal Year 2022 Budget Request
Joint Ways and Means Committee Hearing Testimony
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Good afternoon, Representative Williams, Senator Moore, and Honorable Members of the Joint Ways and Means Committee. My name is Jeffrey Locke and I have honor of entering my ninth week as Chief Justice of the Trial Court. Before this appointment, I served as a Superior Court Judge for 21 years and as Chair of Sentencing Commission since 2018. I also served as the Regional Administrative Judge for the Superior Court in Plymouth and Suffolk Counties, as Norfolk County District Attorney from 1997-1999, and as Commissioner of the Department of Social Services from 1999-2001.

Before I begin, I want to thank former Chief Justice Paula Carey who left me very big shoes to fill. She has been a passionate leader who, for eight years, worked tirelessly to increase access to justice for all and to achieve the Trial Court's mission of justice with dignity and speed.

Thank you for the opportunity to highlight what is happening in our courts and to outline our budget needs. We appreciate your continued support for the Trial Court and our operations without which we could not provide access to justice to thousands of court users daily across the state.

FY23 Budget Request

Our FY23 maintenance budget request is \$835.9M. This request supports 6,527 employees, 94 courthouses and 1.2M daily MassCourts transactions. We are also

requesting \$2.5M in expansion funding for two probation-related initiatives that will advance the goals of the 2018 Criminal Justice Reform Act. The Governor's FY23 budget recommendation included \$809.2M for the Trial Court, a difference of \$26.7M.

Courts and Covid-19 Recovery

As I begin my second full month as chief justice of the Trial Court, I want to relay my observations about the extraordinary work being carried out by the judges and court employees. As a judge on the Superior Court, I had a passing knowledge of court activities and initiatives but I did not appreciate the full scope of issues confronting individual courts, court departments, and administrative offices. Over the last nine weeks, I have come to understand and appreciate the many efforts underway to provide and improve on the delivery of justice to your constituents.

One of the most obvious success stories relates to the Court's response to the COVID-19 pandemic. Confronted by an urgent need to prevent the transmission of the virus, court personnel at all levels were extraordinarily creative and committed to finding different ways to provide access to our courts. From relocated clerk's and probation counters, to the creation of virtual counters, to the purchase of 1,300 Zoom licenses and distribution of 4,000 laptops, we managed to convert to a virtual court system almost overnight – a remarkable achievement resulting from innovation and cooperation.

As a result, we were able to conduct 133,000 virtual court hearings and events, while maintaining the health and wellbeing of the public and our court family. Once able to resume hearings and trials in person, court staff from all departments worked tirelessly to provide a SAFE environment for staff, litigants, attorneys, jurors, and others.

This involved the installation of miles of plexiglass in courtrooms and public spaces, reconfiguration of space with capacity limitations to maintain proper distancing, and monitoring, screening, and masking of court participants. That we were able to conduct the public's business while reducing the risk of exposure and spread of the virus, is a testament to all.

As we enter what I hope are the waning days of the pandemic crisis, we are not just getting back to all types of court business in person, but also taking advantage of what we learned during the pandemic about remote court processes. In November 2021, the Supreme Judicial Court invited attorneys to complete a survey regarding their thoughts about the potential for the continued use of videoconferencing.

Across the board, most attorneys supported continuing the use of videoconferencing for case management events such as status, scheduling and pretrial conferences. They cited saving attorney and client time and money, increased efficiency, and flexibility. We also know that remote hearings can increase a court user's access to justice, allowing them to attend a court hearing without having to secure childcare or miss a whole day of work.

As I speak to you, the seven court departments are in the process of drafting proposed standing orders regarding the parameters of videoconferencing use for court hearings. As much as possible, these orders will be consistent across departments so that court users can know what to expect.

IT Bond Bill

As you know, Judiciary House Chair Mike Day and former Representative Sheila Harrington filed an information technology bond bill on behalf of the Judiciary; the Judiciary Committee gave the bill a favorable report and it is now pending in the Joint Bonding Committee. The pandemic demonstrated, like nothing else could have, the necessity of modern, up-to-date information technology capacity and systems. From my perspective as Chief Justice and from 20 years on the Superior Court bench, this bond bill and the modernization it will bring is crucial and more than timely.

For judges, this bond bill will fund a digital judicial workbench, allowing judges to view all case filings and materials electronically. Judges will be able to conduct proceedings virtually without worrying about the video feed being disrupted because of inadequate bandwidth. Interpreters will be available through video remote interpretation, so cases will not have to be continued because an interpreter was not physically available. Modernizing physical and cyber security means all judges, court employees and court users will be more secure, as will confidential case information. Court Administrator Bello will tell you more about the details of this bill but I urge swift action once this bill reaches Ways and Means.

Jury Trial Resumption

One of the pandemic's biggest impacts on the court system has been jury trials, especially the more serious Superior Court cases. One of my main priorities as the new Chief Justice is to ensure these cases move forward to trial. Before the surge of Omicron-related COVID cases, almost 71,000 jurors came to court and we impaneled

more than 1,300 juries. But, because of public health considerations, we had to pause in December.

We have resumed jury trials and we are intent on trying as many cases as our courts can accommodate. I am working with the jury commissioner to expand jury pools to enable multiple cases to be tried at same time. During the week of March 7, we had 11 eleven simultaneous trials taking place in Suffolk Superior Court.

Expansion Modules for Innovation – Digital Notification

As I mentioned earlier, we are requesting expansion funding for two initiatives, which would advance the goals of the 2018 Criminal Justice Reform Act. That Act required the Trial Court, specifically the Massachusetts Probation Service, to “provide notifications and reminders to defendants of court appearance obligations to reduce the risk of accidental defaults.” In October 2019, the Trial Court launched an e-Reminder system in four pilot courts. We then expanded the Interactive Text Message (ITR) system in the District Court, the Boston Municipal Court, and the Superior Court Departments, so that any pretrial defendant with a pending case before any adult criminal court in the Commonwealth could opt in to receive a text reminder prior to all future court dates. Last March, we launched the second phase of the e-reminder service in the Housing Court, Probate & Family Court, and Juvenile Court. Since inception, the Trial Court has delivered over 79,937 text message reminders.

With the initial launch of this notification program complete, we now seek funding to expand system capabilities. This expansion request will allow an upgrade in program capabilities through software enhancements to add e-mail as an alternative notification

method, which will expand the number of reminded recipients. It will also support upgrading data collection capabilities of the current system to improve our ability to measure the program's effectiveness with more accurate reporting. Additionally, this module will support adding one full-time staff technician responsible for monitoring the system, analyzing data, and providing user support to all court departments.

Specialty Courts

Over the last decade, we have seen a substantial increase in substance use disorder and co-occurring mental health issues impacting defendants and litigants. Thanks to funding provided by the Legislature, we continue to meet the needs of these high-risk, high-need defendants through our specialty court sessions. We will be opening four new mental health courts in the next fiscal year in Lawrence, Lynn, Chelsea, and Worcester, bringing the total of these sessions to 13. We will also be opening one new drug court in Attleboro, which will then mean that anyone who needs and qualifies for the services of a drug court, has access to one. I want to tell you about the success that drug courts are experiencing. According to a recent review of drug court graduates from 2017-2021, the recidivism rate one year post graduation was 16.8%. This is remarkable for a population that typically recidivates at 59-69%.

Diversity, Equity, and Inclusion

We recently published our fifth annual Diversity Report, which summarizes our progress in some areas, however we recognize that there is much more to do to achieve our objective of a fair and equitable system where all persons are treated with

dignity and respect. Reports issued by Harvard Law School in 2020 and by the SJC Standing Committee on Lawyer Well-Being in 2021, provided disturbing data on the existence of systemic racial issues within the court system.

We are taking these reports very seriously and in July formed the Committee to Eliminate Racism and Other Systemic Barriers, which has nine working groups. These groups are focused on important aspects of this effort, including policies & protocols, human resources topics such as hiring and advancement, case management, and communication. The Committee will recommend approaches that allow us to take concrete actions that will have system-wide impact. Chief Justice Paula Carey has asked to continue her leadership of this work, which is integral to our ability to build public trust and confidence in the work of the Judiciary.

Conclusion

Thank you again for the opportunity to speak to you today. I invite all of you and your staff members to reach out at any time to learn more about our work in the Trial Court. We greatly appreciate and thank you for your past and ongoing interest in and support of the court system. I will now turn this over to my partner in justice Court Administrator John Bello to tell you more about our budget and our IT initiatives.

Trial Court Administrator John Bello
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Good afternoon, Representative Williams, Senator Moore, and Honorable Members of the Joint Ways and Means Committee. Thank you for the opportunity to provide testimony today regarding the court system and its needs.

I would like to begin my remarks by joining Chief Justice Locke in acknowledging the distinguished leadership and service of former Chief Justice Paula Carey. It was my distinct privilege to serve alongside her during my first full year as Court Administrator, and I am grateful to have had the opportunity to lead the Court with her through what continues to be a challenging time for us all.

As Chief Justice Locke mentioned in his remarks, our FY23 budget maintenance estimate is \$836 million which represents the annualized value of the FY22 budget after collective bargaining and step increases for 6,527 full time equivalent positions, as well as cost growth in other areas, such as IT and Facilities. We have provided a detailed breakdown of these costs to the Ways and Means staff, and I would be happy to address any questions you may have regarding our budget maintenance estimate. The Governor's budget recommendations in H1 included \$809 million for the Trial Court, a difference of about \$27 million. We are hopeful that the Legislature's budget recommendations will enable us to continue to address our court system's needs.

Covid-19 and the Courts

During these past two years, every one of our employees has demonstrated resiliency and has shown how innovative they could be. The pandemic continues to test us all, but I am pleased to report to you that we, as a court system, continue to meet the challenges presented to us. In the process, we have even accelerated some of our long-term initiatives to operate more efficiently and to improve access to justice for all. These include investments in remote and hybrid work modalities that continue to support video-enabled access to court hearings as well as various administrative functions.

Massachusetts Probation Services

The Massachusetts Trial Court through the Massachusetts Probation Service has achieved one of, if not the lowest, re-incarceration rates for technical violations in the country. That is based on independent analysis by both the PEW Foundation and the Council of State Governments. Furthermore, we have accomplished this while, at the same time, maintaining historically low rates of rearrest for new offenses committed while on probation.

Through the Legislature's support, the Probation Service has partnered with Parole to bring on line 138 transitional residential or programming or halfway house beds in 3 major population areas along with 120 low threshold beds statewide. In partnership with EOHHS and MassHealth, again through Legislatively supported CSG Funding, Massachusetts Probation is a key collaborator in the Behavioral Health Justice Initiative. This project provides prison in-reach to encourage MassHealth

enrollment and intake into one of 11 behavioral health service providers statewide prior to release for state and county inmates returning to their communities.

MPS is further working in partnership with MassHealth to provide expanded access to MassHealth and other critical services – credentialing, Transitional Assistance, for example – for pretrial populations and all ex-offenders. The OCC Community Justice Support Centers provide the community-based platform for delivery of these services.

The final piece noted by the PEW Foundation is employment, the subject of the second expansion module for FY 2023. This innovative module is focused on building the capacity within the MPS to address this final area cited by PEW and is supported by the data as central to effectively changing the life trajectory and reducing recidivism of the 63,000 individuals we work with every day through the Probation Service.

The key feature of this module is to add the expertise in the area of employment services, to build out sustainable connections with training, apprenticeship, education, and employment organizations and agencies and to build connections and pathways to employment with employers across the state.

Strategic Planning

In 2013, the Trial Court Launched its first ever strategic plan. We are in the process of envisioning our fourth strategic plan that will guide the Trial Court through 2025. As prior plans, strategic plan 2023-2025 will set forth strategic initiatives and processes to ensure the court system is aligned internally but as important, externally to ensure are goals service the needs of those interacting with the courts. As part of this

process, we will revise our mission, vision and goals to ensure it still captures the essence of the work we do.

IT Bond Bill

The need to adapt to the pandemic by accelerating our information technology upgrades better positioned us to build the “Digital Courthouse” and greatly expand our options for serving the public.

We continue to expand our eCourts initiative through our eCourts Program Office. We have expanded eFiling for the electronic filing of all documents to all Trial Court departments. We have implemented ePay to allow people to pay court fees and fines online and we are working towards a paperless system. We have also launched eDelivery to expand on email delivery of court documents. But we have much more work to do.

To that end, the Judiciary’s IT Bond Bill, House Bill 4499 - An Act to Improve and Modernize the Information Technology Systems and Capacities of the Judiciary, has been reported favorably by the Judiciary Committee and it is now with the Bonding Committee.

The pandemic has demonstrated, like nothing else has, the significance of technology to an individual’s ability to access the justice system - physically, virtually, and psychologically. When we looked at the IT needs of the court system, we looked at it from that perspective: what do court users need to access justice?

Before coming to court, court users need the ability to file forms, pay filing fees, find information, and access guidance on the court process from their home. For many

court users, coming to court means taking a day off from work or paying for childcare. Not being able to miss work or get childcare could mean a default judgment or even a default warrant.

If a court user does not have access to the technology to participate in a virtual hearing? They need a viable alternative that would permit them to have their virtual hearing and not have to be in court all day. When a courthouse visit is necessary, court users need to know where they are going once inside a courthouse. They need to know they are safe in a secure building and that the confidential information they have provided in their case is secure.

If litigants or witnesses speak a language other than English, they need to know their language needs will be met so they can fully participate in the court process. Once someone has had their court hearing whether virtual or in person, we also know they need access to information as soon as it is available. Our IT Bond Bill which requests \$164M responds to all these needs.

We appreciate your support for the work we do and for understanding the importance of this bill as a key enabler for that work. I want to extend a particular word of thanks to Judiciary House Chair Representative Mike Day and Representative Sheila Harrington for their sponsorship and ongoing support and leadership as this bill moves through the legislative process.

Diversity Initiatives

As Chief Justice Locke mentioned, we are working on initiatives to make the court system fair and equitable. I know the challenges we must overcome to overcome

systemic racism. As a person of color, I know what it feels like to be marginalized. With my personal experiences informing how I approach my new role, I am committed, as is Chief Justice Locke, to create systemic change. We know it will take time and we are committed to see this through.

To that end, in July of 2021, we created the Committee to Eliminate Racism and Other Systemic Barriers in the Massachusetts Trial Court. The committee is charge with advising the Chief Justice of the Trial Court and Trial Court Administrator regarding policies and initiatives to address institutional racism and systemic barriers based on race, ethnicity, gender, gender identity, sexual orientation, mental or physical disability, age, socio economic status or other matters of identity that may give rise to inequity among Trial Court users, judicial officers, or court personnel. Such policies or initiatives may involve (a) data collection, analysis, and dissemination; (b) educational programs for judges, clerk magistrates, jurors, court staff, and the public; (c) recruitment activities to promote diversity among the judiciary and court personnel, retain personnel and promote career development; and (d) outreach to court personnel and the public.

Our Office of Diversity, Equity, Inclusion and Experience is taking the lead on training *all* of our employees on how to have hard conversations about race and implicit bias and build our capacity around these issues. We are going out into the communities to listen to our court users about their experience of our system.

Our Office of Workplace Rights & Compliance continues to work with judges, elected and appointed officials, managers, supervisors, employees, non-court employees who work in or have business with the court, members of the public who use court facilities, vendors and contractors to create a work environment where everyone

feels welcomed, safe, and supported. We are working to increase the diversity of our workforce and we currently publish an Annual Diversity Report so that our efforts are public and transparent.

We are becoming a more inclusive, diverse and supportive organization so that we can better address the needs of colleagues and the public we serve. I look forward to meeting with all of you so that we can tell you more about our efforts and update you on our successes.

Thank you again for your time and your attention. I am happy to answer any questions you may have.