



TESTIMONY

OF

**PAULA M. CAREY
CHIEF JUSTICE**

ON THE

**TRIAL COURT
FISCAL YEAR 2020 BUDGET REQUEST**

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

MARCH 15, 2019

Chief Justice Paula M. Carey
Joint Committee on Ways & Means

Good morning. Thank you for the opportunity to present today. I am grateful for the chance each year to highlight our budget needs and to thank you for your support of the Trial Court. I know Jon joins me in expressing our appreciation for your interest and aid in our efforts to deliver fair, impartial and effective justice.

Today, I will touch upon a few issues I think might be of interest to you. However, I first want to express sincere appreciation for the funded expansion of the Housing Court, fully implemented last fall and now operating with statewide jurisdiction. We, and hopefully you, have received very positive feedback on the focused attention housing matters now receive in the 84 additional towns impacted by this change.

We also are thankful for the FY19 funding that enabled us to make progress on several key initiatives. We implemented a case management triage plan for the Probate and Family Court allowing us to hire sessions clerks to manage courtrooms sessions, so that judicial case managers actually do the triage and direct cases to the tract that is warranted based upon the issues involved. It also allowed us to expand our fiduciary litigation session so that more complicated cases to get the special attention they require. I am happy to tell you that this initiative was partially funded for FY20 in House 1.

You also funded our request for Permanency Mediation Services in Juvenile and Probate and Family to help move children towards permanent placement more quickly. This initiative also was funded in House 1.

Over the past year, we also made great strides with Alternate Dispute Resolution. Your support allowed us to increase the use of dispute resolution services to reduce time and cost for parties and allow focus on those cases that really require litigation. Your support for our Race & Bias Initiative enabled us to expand our capacity to provide diversity training and ensure a more diverse workforce. Unfortunately, though continued funding is much needed, neither of these initiatives were funded in House 1.

I must mention that House 1 leaves us in a very difficult position. The last two budgets provided resources that allowed us to ensure progress. However, this

year, House 1 leaves us \$21 million behind our maintenance request. Jon will highlight the specific differences, however, I want to express my concern as well, as our situation is acute.

Most of the initiatives I will touch upon are included in our maintenance budget and one is an additional budget module. First, criminal justice reform; second, the opioid crisis, Specialty Courts and our Sequential Intercept Project, more aptly described as the Community Justice Project; and lastly our budget module for differentiated case management.

Implementation of Criminal Justice Reform

In terms of the advancement of Criminal Justice Reform efforts, we are seeing positive indicators that system changes are producing better outcomes – reduced crime, reduced arrests, more diversion, reduced incarceration – for both pretrial and sentenced populations; reduced non- criminal violations, and most heartening, reduced new criminal activity for the 10,000 pre-trial cases and 56,000 sentenced cases under Trial Court / Mass. Probation Service supervision.

We see progress in our own data:

- Our emerging adult data is very strong
- Our OCC data on intermediate sanctions shows a 70% return to regular supervision for individuals essentially on a path to re-incarceration.
- Our probation data and our court data is also trending very positively.
- Our pretrial measures – numbers held, failure to appear (FTA) rates, new arrest rates are on par or lower than many of the best performing states in the country.
- Non- criminal violation filings are down 28% for calendar year 2018.
- New Offense violations – re-arrests – are down 13% for the same 12-month period.

For juveniles the results are even stronger – efforts like Juvenile Diversion Alternatives Initiative and work we have done internally have produced strong positive outcomes for youth in the Commonwealth as well:

- Non-criminal violation filings for juveniles were down 62% in 2018.

- New Offense violations – re-arrests – were down 48% for the same 12 - month period.

We know it is not just the Trial Court, producing these results. It is the economy, it is cities and towns, schools, and child welfare and youth services, law enforcement, corrections – many factors go into reduced crime and positive results. The data shows that the Trial Court, including and primarily the Massachusetts Probation Service (MPS) are compounding the investment by others, as well as producing strong results in our own right – thereby, delivering justice, protecting victims, keeping communities safe and supporting the types of behavioral change that lead to long term positive outcomes for offenders, their families and our communities.

Trial Court is Charged with Creating Pre-Trial Services Statewide.

Currently, over 90% of defendants receive pretrial release – the vast majority on personal recognizance. Case data reflect a relatively low failure-to-appear rate – 12 to 15 % – as well as a low re-arrest rate.

We have expanded the use of pretrial probation and created two new pretrial pathways at the Office of Community Correction Centers.

- One, a support-heavy, voluntary track for individuals who know they need treatment and want to engage in recovery.
- The other, an involuntary, is an intensive pre-trial plan for individuals who by virtue of criminal history, level of offense, dangerousness hearing, and behavioral concerns require highly structured, service and supervision intensive monitoring.
- We are working with our vendor to include text message reminders for probationers and others this Spring.

We also are examining the use of assessment tools and processes to help guide judicial decision making in the pretrial area, and we are providing additional education to judges and Probation staff regarding dangerousness and incorporating lessons learned into decision-making practices and supervision.

Residential Transitional Re-entry Capacity and Expertise are being Added to Probation this Spring.

Currently, the Mass. Probation Service manages the more than 40% of the DOC re-entry population who have from-and-after sentences.

Through the leadership of the legislature to fund transitional housing beds, MPS recently selected a vendor to provide 150-200 transitional housing beds, programming support, and job development in at least two locations statewide. These facilities will support DOC and HOC inmates in work release and pre-release status or being released to the community, and also will support clients supervised by either Probation or Parole. As required by the authorizing language, the vendor will provide services in an evidence-based manner to male, female, and elderly citizens returning to the community.

Emerging Adult Supervision Strategy in Development

Fifty young adults ages 18 to 24 are being managed through re-entry with a combination of trained Probation Officers and additional services via UTEC Learning Lab Project. We also have promising projects with solid outcomes at Suffolk Superior Court where there is a pilot with a dedicated PO and a Social Innovation Bond Project via ROCA.

Trial Court and Probation data indicate significant positive results with a population that generally has among the highest rates of recidivism and re-incarceration.

Update on Specialty Courts

Since 2013, with the support of the Legislature, the Trial Court has expanded specialty courts from 25 to over 40. The majority of these specialty courts have been drug courts in an effort to address the opiate crisis. In Fiscal Year 2019, we are opening 12 new Specialty Courts, which will bring our total to 53 specialty courts, as follows:

- Drug Courts: 25 currently; 10 opening by end of FY19;
- Mental Health Courts: 7 currently; 1 opening by end of FY19;
- Veterans Treatment Courts: 5 currently; 1 opening by end of FY19.

Specialty Courts utilize a team approach of judges, probation officers, law enforcement, prosecutors, defense attorneys, clinicians and treatment providers working together to find appropriate treatment in the community for justice-involved individuals with serious substance use and mental health disorders while protecting the safety of the public. The Trial Court has partnered with DMH, DPH-BSAS, DVS, and VA using the appropriation to fund clinicians in the specialty courts, probation officers, and members of the DVS Save team.

Just over 80% of drug court participants use heroin and other opiates, increasing their risk of overdose and death from overdose substantially. The devastation caused by opiates is like nothing we have seen – we are losing 144 people in this country, 4-5 Massachusetts residents – every day to overdoses. In 2017 drug overdose deaths reached an all-time high of 71,600. By comparison, the United States suffered 58,000 casualties during the Vietnam War. Drugs kill more persons than guns, car accidents and suicides combined.

Research, nationally and in Massachusetts shows that drug courts are very effective at sustaining recovery and reducing recidivism. Working with the Center of Excellence for Specialty Courts at the UMass Medical School Dept. of Psychiatry, we have collected data on over 800 drug court participants and will be obtaining de-identified data from DPH-Bureau of Substance Addiction Services and CHIA to show the quantity and levels of treatment of these individuals, as well as cost;

To ensure that our Drug Courts are operating with fidelity to the Drug Court model and research, the Trial Court created a certification process with the Center of Excellence. To date, 13 courts have been certified and another 6 courts will undergo the certification process later in this calendar year. The certification process provides an opportunity to take a close look at how the drug court operates, how the team functions, and how the program can be improved. Any deficiencies are addressed and corrections and improvements implemented before a court can be certified.

Some results we are seeing from participation in specialty courts are as follows:

- In a study of 125 drug court participants who had been terminated from drug court, as compared to persons who had successfully completed drug

court, only 27% who completed Drug Court were re-arraigned for a new offense within the year after termination or completion.

- Of those who did not successfully complete drug court and were terminated, 61.6% were re-arraigned on new charges within a year of their termination.

Legislative funding has supported:

- Full and part-time master's level clinicians to be assigned to EVERY specialty court in Massachusetts, enabling us to provide evidence-based assessments of substance use disorder severity, level of care needed, presence of mental illness, diagnosis and severity, referrals to treatment, monitoring progress in treatment, and addressing criminogenic needs;
- Training for new and existing Drug and other Specialty Court teams, including three full days of Drug Court 101 training for new teams;
- Attendance at regional and national drug and specialty court trainings and conferences;
- Creation of the Center of Excellence for Specialty Courts, located at UMass Medical School, a partnership providing research, evaluation, grant development, training and technical assistance.

Community Justice Project / Sequential Intercept Mapping

The Massachusetts Community Justice Project is a Trial Court initiative convening working meetings in local court jurisdictions with justice, healthcare, behavioral health treatment and community partners.

These meetings (Community Justice Workshops) span a day-and-a-half and use a facilitated process to map out the justice system in each region and identify how people with mental illness, addiction and co-occurring disorders move through the justice system.

The process involves an identification of the local resources, as well as where there are gaps in programs and practices for moving people out of the justice system and into treatment and recovery support. The meeting concludes with the development of an action plan to address the top priorities for change identified throughout the event.

Staff from the project work with a small planning group in each region, spearheaded by the local First Justice and including the Chief Probation Officer, to plan and implement the event. Staff provide technical assistance in follow-up from the event, for partners working on the implementation of their action plan. Project staff collaborate with DPH-BSAS funded coalitions, DMH Forensic Directors and DMH site offices in all stages of workshop development, implementation and follow-up.

To date, 23 workshops have been conducted statewide. Reports from the events can be found on the Trial Court's website: [mass.gov/massachusetts-community-justice-project](https://www.mass.gov/massachusetts-community-justice-project). Upcoming workshops are in development for Brockton, Fall River, Woburn, Malden, and a workshop targeting justice-involved pregnant women dealing with addiction.

Common gaps in communities include:

- Ongoing training and resources for law enforcement – regarding mental illness, substance use disorders, trauma and what the local resources are and how to access
- Access to drop-off/walk-in services for timely evaluation and treatment
- Information sharing between partners, particularly partners in different systems
- Peer support across the justice system and in the community
- Access to treatment during pre-trial detention, including medication-assisted treatment (MAT)
- Medication assisted treatment during incarceration
- Coordinated case management post-crisis, post-treatment, post-incarceration, post-Section 35

I hope you will reach out at any time to learn more about the cutting edge work that is underway in the Trial Court with our criminal justice partners. We greatly appreciate your past interest and support of this work. There is still so much more to do and we hope that you will help us make that possible.