

**Chief Justice Paula M. Carey**  
**State of the Judiciary**  
October 26, 2017

Good afternoon and welcome to the 2017 State of the Judiciary.

When I contemplate preparing remarks for an event like today, I always think about the Trial Court's mission: "one mission: justice with dignity and speed." My focus today is on the justice and dignity, piece of what we do, collectively, as one Trial Court consisting of seven trial court departments, probation, security, facilities management, the office of court management and the executive office. In light of the national and local environment, I'd like to highlight the relation of this mission to our efforts on race, gender and implicit bias, cultural competency, poverty and criminal justice reform.

We come to our work as persons of all shapes, sizes and ethnicities. This year, thanks to an amazing initiative conceived by our Probation Department, we just celebrated the strength of our differences with our first Cultural Appreciation Day.

The Probation Department launched this effort under the leadership of Commissioner Ed Dolan who was greatly assisted in this event by Deputy Commissioner Lydia Todd, Regional Supervisor Pamerson Ifill, who by the way is a rock star, and the many Cultural Proficiency Champions in the Massachusetts Probation Service. They conceived of this Day and found ways to engage judges, clerks and employees in celebrations in over 80 court locations in Massachusetts.

A number of wonderful events were held across the state. Many centered on food, with people coming together to sample ethnic specialties prepared by and shared with colleagues and the public. Locally, at the Brooke Courthouse there was a book talk led by Probation Officer Rhonda Greene highlighting some of the insights she gleaned from the book, *Hillbilly Elegy*. She discussed how some of the concepts explored in the book could provide insight for Probation Officers' work with probationers. Delicious dishes had been prepared with recipes from various homelands. At the Suffolk Superior Court a display of children's artwork depicted

their pride of the United States and their ethnicity. That celebration also included poetry readings, Celtic step dancers, an African attire fashion show, as well as, a concert by the Boston Latin Choir. We had judges dancing in front of courthouses...what better way to celebrate what our courthouses are to the community than to have judges embracing local culture.

These events were a wonderful way to explore the diversity we have in the court system, both in the workforce, and among the people and the communities we serve. It was a true celebration of the differences that make all of us special.

One need only turn to the radio, TV or internet to know that issues of race and gender are front and center in our world, including in the Trial Court. As a system, the Trial Court has implemented a broad-based effort to address the issues of race and implicit bias that we know exist within our justice system. While we are making strides, we cannot escape the events on our national landscape. Make no mistake, these events affect our work and influence how court users view the court system.

Since 2015 our efforts in the area of race and implicit bias have been comprehensive and intentional. They include a revised judicial evaluation instrument that is still under evaluation; an all-court race and bias conference for judges, and multiple follow-up conferences, one directed at civil cases and a second dedicated to criminal matters, all focused on identifying and addressing issues of bias.

Each Trial Court Department has established a judicial race and implicit bias committee that meets regularly and has developed bench cards and implemented further follow-up efforts to combat and address race issues. In addition, separate clerks, probation and security committees exist to accomplish the same result. We have established a Trial Court steering committee that includes judges, clerks, probation and court security to oversee all efforts with the goal of changing Trial Court culture on diversity issues.

Just last week we brought together all who serve on these committees, including leaders of three pilot courts. The outcome of the gathering and the energy it produced was more than I could have imagined. We are the Trial Court. We deliver justice to all impartially, fairly and without regard to race and ethnicity. I think I speak for all who were there in saying that individually and collectively we left even more committed to having the hard conversations and to addressing issues of race and bias head on.

I recently saw a video of a powerful speech on race delivered by Lt. General Jay Silveria of the Air Force Academy. He had gathered over 4,000 cadets and employees after someone wrote racial slurs on message boards outside the dorm room of five students of color. At one point in his forceful speech he asked everyone in the audience to take out their phones and record him so that his message was clearly heard, understood, and remembered. He said “If you can’t treat all with dignity and respect, get out.”

Our hope is to build capacity so that our leaders and our employees can hold each other accountable in ensuring that our users have trust and confidence in our system and that all employees feel valued and are treated with respect and dignity.

Increasingly, we are seeing more people in our system who now live or grew up in extreme poverty. In order to truly treat people with respect and dignity we must consider each person as a comprehensive whole and consider how their life experiences cause them to be connected to our justice system.

Poverty creates legal problems that the middle class and wealthy individuals generally do not have. Challenges for people living in poverty in navigating our system include difficulty producing paperwork to prove their case and often an inability to read or comprehend written or oral court orders, decisions or agreements. They may also face more basic obstacles like lack of transportation and day care.

The question our system must ask is, 'do those who live in poverty fare the same as middle class and wealthy individuals when contact with the justice system becomes necessary?'

The majority of persons living in poverty must navigate the justice system without legal assistance, especially in civil areas. The right to counsel in criminal cases is well established. However, in civil cases the right to counsel is limited and in fact the Legal Services Corporation, the largest funder of civil legal services, continues to fight for its existence. Our system was designed for lawyers. Substantive and procedural law is unfamiliar and difficult for any untrained individual.

Our documents are written at high levels of literacy. Efforts are underway in our state to put court forms in plain language, at a fifth grade level, but we have a long way to go to make our forms and procedures understandable for a critical mass of unrepresented litigants.

Much of what I have spoken about relates directly or indirectly to the issues of criminal justice reform and access to justice. The Trial Court is firmly committed to criminal justice reform, not only in the form of the Governor's bill but also in more expansive changes to our bail statute. The Trial Court supports efforts to decrease reliance on cash bail, systematize the factors courts consider when deciding whether to release someone pending trial, and require the least restrictive bail conditions. The Trial Court also applauds the focus on ensuring that individuals detained prior to trial have the process appropriate to that outcome. The Trial Court welcomes the expansion of Community Corrections Centers that the Governor's bill includes. The ability to use these resource-rich centers for pretrial services will enable us to better serve the people appearing in our criminal courts.

Our work in this area in the last year has provided a wonderful opportunity to collaborate with the executive and legislative branches in ways that are unprecedented. I am both proud and grateful for this partnership. Chief Justice Gants discussed overall reform in his remarks so I will not repeat his always eloquent points. But I do want to touch upon one aspect of reform that is of great interest to the Trial Court and that is the area of Emerging Adults, ages 18-24.

We learned from our work with the Council of State Governments that young adults aged 18-24 in Massachusetts account for a disproportionately high percentage of arrests and prison admissions. Statistics indicate about half of previously incarcerated young adults return to prison within three years following release. There is much debate about when young people fully mature and have full control of their behavior. Is it 18?, 21?, 24? or later. Research continues to develop. When is their brain maturation complete? Having a justice system that appropriately responds to criminal behavior and helps young adults rebuild their lives has the potential to reduce future criminal activity and consequently the number of future victims.

The Trial Court is committed to getting this work right. We have examined specialty court sessions, such as those occurring in San Francisco, and restorative justice models in Buffalo. We have learned much from our review. Recognizing the unique needs in Massachusetts, our model will be one that focuses specifically on high risk / high need emerging adults.

In connection with the Council of State Governments' work, state funds have been allocated for the Trial Court to begin its first-ever Massachusetts Young Adult Pilot Probation Program. The goal of this pilot program is to develop a new approach for working with probation-involved young adults (ages 18-24) that will result in better outcomes and cost efficiency for a targeted population that currently has the highest recidivism in the state. Moreover, we intend that this program intervention, grounded in evidence-based research, will serve as a model for innovative service delivery, data sharing and procurement design that could be scaled in Massachusetts and beyond.

Given conversations around criminal justice policy reform and the focus on new programming for young adults due to recent brain research development, we believe that this particular program can also represent a significant contribution to the overall field of young adult justice. We are also developing education modules for all judges and Probation to provide cutting edge research on how to approach these "emerging" adults in a way that will preserve public safety and improve outcomes.

Further, we will be exploring our own version to an Emerging Adult Court Session with strong judicial involvement devoted to high risk / high need individuals.

I look forward to this “State of the Judiciary” every year. Those of you who know me, know I love to talk about the Trial Court – the judges, clerks and incredible people who work so hard to make a difference every day – the people that make me so proud to be a leader in this organization – and to talk about my passion – the work of delivering justice. But the “State of the Judiciary” always gives me the opportunity to reflect upon the Bar and all the ways that you partner with us to help in that delivery of justice with dignity.

It is only with all of you – DA’s, CPCS, AG, the MBA, BBA, all the local and affinity Bar associations – with your individual representation, the programs you sponsor, staff and fund, and your advocacy for the Trial Court, that we succeed. We share a background of legal education, training and advocacy that allows us to do this important work. Please know that I never take the quality of representation or the good will of Massachusetts Bar for granted.

In closing, I would like to thank Chief Justice Ralph Gants and the SJC for their incredible support, my Partner in Justice Jon Williams for his commitment to Massachusetts and for the knowledge and experience he brings to us, and my fellow Chief Justices, individually and collectively. You are the best I could ever hope for. You each do an amazing job of representing and advocating for your department but when the time comes to consider the collective needs of the system, you are able to change hats and do that equally as well – so, thank you.

Thank you all for your support and collaboration. These are challenging times but I know that we will continue to make progress in Massachusetts given the strong partnerships represented here today.