

**State of the Judiciary**  
**Trial Court Chief Justice Paula M. Carey**  
**John Adams Courthouse**  
**October 24, 2018**

Good afternoon. Thank you, Chief Justice Gants for your inspirational and insightful remarks. Since the Chief and I are attached at the hip on many of these issues, I hope I will not overlap too much with his remarks. I am delighted to be here with Jon Williams to share with you the “state of the Trial Court”. We are proud of our work, and we remain steadfast in our commitment to the delivery of justice across this Commonwealth. Today, I expect to focus on four primary areas: Judicial independence; Diversity, Equity, and Inclusion; Specialty Courts; and Section 35.

First, I am humbled and grateful for the opportunity to serve as Chief Justice of the Trial Court for another five-year term. I am blessed to be a part of a judiciary that is truly engaged and committed to the delivery of justice. I thank the Justices for this opportunity and hope that collectively we can move our system to the next level.

By next level, it is our vision that the quality decision making we’ve always had here in Massachusetts continues, coupled with increased efficiencies through technology, so that judges, clerks, and probation can work seamlessly to ensure that our system is efficient and that we effectively resolve those matters that come before us. We do this with courtesy and respect, so that all persons who interface with our system are treated with dignity regardless of their race, gender, ethnic or gender identity.

At the outset, I must address the public criticism and personal attacks recently directed with increasing intensity at the judicial system and individual judges. While critical public scrutiny of judicial decisions is a necessary element of the administration of public justice, unfair personal attacks endanger judicial independence and undermine a fair and impartial judicial system. This does not mean we can’t or shouldn’t examine our system, we should be willing to revisit policies, procedures, or rules where warranted.

The departmental Chief Justices, Public Information Office and I have worked closely to respond to these situations. Due to concerns raised about the speed of our media response and the expanded use of social media, we are re-evaluating our internal protocols. We are actively evaluating what we can and can't say when judges are criticized. Our need to respond to these situations must be properly balanced with respect and sensitivity for the family and community grief associated with tragic events. I am thankful to our partners in the Bar who have been so supportive, and we hope to continue to partner with you as we examine these issues.

We are also looking to adopt longer-term initiatives to increase public awareness and confidence in the judicial system. We are developing a Speakers Bureau to educate the public on issues such as bail, sentencing, the importance of judicial independence and the role of the court and the judge. Additionally, we plan to produce several short videos to explain what we do as a court system.

In recent weeks we met with law enforcement officials to hear their issues, express our concerns, and explain key statutory provisions in order to develop ongoing relationships of respect and understanding. We look forward to continuing these conversations. Going forward, we hope to work with the SJC Judiciary Media Committee to plan a seminar for journalists and judges. Our goal is to share information and discuss issues related to a free press and an independent and impartial judiciary in furtherance of an effort to build relationships of respect and understanding.

I am committed to defending the judicial system and individual judges, who we know to be the most hardworking and diligent judges anywhere. Deciding cases as the law requires, regardless of public opinion, is exactly what judges must do. I applaud their courage, dedication and commitment to the rule of law.

The Trial Court has been engaged in a sustained effort over the last several years to address issues of diversity, equity and inclusion in our system by integrating leadership principles and awareness in all aspects of court operations. Diversity is an integral part of how the Trial Court promotes justice, equity, fairness, inclusion and respect for all people regardless of their identity.

It is important for us as a Trial Court to reflect the communities we serve. Public trust and confidence principles require that we do so. As an organization, we are energized and enthusiastic about change in this area. Nothing could be more important.

If we really want our justice system to be true to the words of the US Constitution and the Declaration of Rights, we must walk the walk and talk the talk. We live in a Commonwealth made up of so many ethnicities and cultures that all contribute to the wonderful tapestry we call Massachusetts.

This year, we engaged in our First Cultural Appreciation week. Last year was, to quote Probation Commissioner Dolan, “a grand experiment” where we engaged in cultural appreciation efforts for one day. The effort was such a resounding success that we decided to designate a full week to celebrate and appreciate each other’s cultures. We had local art exhibits, dance, ethnic foods, book readings, demonstrations and information tables where our community providers came to our courts to engage with users of the court and community members.

The week was a great opportunity to celebrate the ethnicities of our staff and communities and to embrace our similarities, rather than focus on our differences. Great thanks go to the 130 cultural proficiency champions who made the week’s events happen.

The Trial Court of today is not the Trial Court of yesterday. In many ways the Trial Court is the default mental health and substance use coordinator. Our system has had to adapt and employ evidenced based practices in order to address the needs of justice involved individuals.

The Trial Court is grateful for support from the legislative and executive branches, as we attempt to deal with the behavioral health and substance use disorders that cause individuals to cycle through our system with no improvement in personal outcomes. We have embraced the role of being the conduit for behavioral health and substance use services through our Specialty Courts and our Community Corrections Centers for those justice-involved individuals who find themselves in need of services.

The Trial Court currently conducts 45 specialty court sessions across the state, almost double the number in 2013. With legislative support we have expanded and strengthened specialty courts over the years and plan to expand further in FY19 to ensure that anyone in the Commonwealth who needs a Drug Court will have access to one.

Specialty Courts address underlying causes for court involvement to reduce recidivism and ensure public safety. These sessions provide an alternative to incarceration by mandating treatment and increasing access to community resources with intensive probation supervision and in many cases with wrap-around services and peer supports. A key component is regular monitoring by the judge.

I think you will be interested in some of our recent statistics. The most recent study by the Massachusetts Probation Service showed a recidivism rate at 28% after one year from graduation from drug court compared to a national trend overall for high risk individuals of 60-65%. Another study of 125 drug court participant indicated that 27% of graduates were re-arraigned within one year, compared to a 62% re-arraignment for those who did not graduate.

In addition to the support we have received from our executive and legislative partners, the Trial Court has received numerous external grants from local, state, and federal entities in one-time and multi-year awards. These awards greatly enhanced and supplemented much-needed services. FY18 grant funding of \$4.2 million focused on supporting drug courts and their participants, victim services, domestic violence training, Juvenile Detention Alternative-related projects, development of a youth recidivism reduction plan, and the development of online training on transgender issues.

I am pleased to announce that we just received \$1.5 million from the Bureau of Justice Assistance to coordinate a multi-disciplinary initiative with the courts of the six New England states. We will partner with the National Center for State Courts and Indiana University on this three-year effort to leverage data and share strategies to combat the opioid epidemic.

The challenge of addressing the needs of those suffering from behavioral health issues and substance use disorders must focus at the community level. Toward that end the Trial Court continues

to be the convener of multiple Sequential Intercept Mappings where justice and community partners map the criminal justice system by community, to identify the series of intercept points at which an intervention can be made to prevent people from entering or penetrating deeper into the criminal justice system. Massachusetts is unique in that the judiciary is driving this project and we are well on our way to meet the goal of mapping the entire state.

Families affected by the opioid crisis continue to turn to our courts for assistance to obtain safe, secure and effective care and treatment for loved ones who struggle with the complex and often deadly dependence on substances. Our Trial Court judges continue to process and adjudicate petitions for civil commitment for persons with substance use disorder under the provisions of G.L. c. 123, § 35, and those filings have exceeded 10,000 petitions per year for the last 3 fiscal years.

Our work continues, however, not just in the courtrooms across the Commonwealth but also in our continued collaboration with the Legislature and with the Executive agencies - DPH, DMH and DOC - that are statutorily charged with providing the care and treatment for respondents committed under § 35 to an inpatient setting. I thank the Governor and the Legislature for the thoughtful, evidence-based approach undertaken to carefully review the statute and to leverage a data-driven analysis of the effectiveness of § 35 and the procedures in place.

Section 104 of Ch. 208 of the Acts of 2018, establishes a “§ 35 involuntary commitment commission” to study the efficacy of involuntary treatment for individuals diagnosed with substance use disorder. As Chief Justice, I have been asked to serve on that Commission, which has been tasked to consider many areas of appropriate care and treatment for substance use disorder. This will include a review of medical literature and expert opinions to determine whether § 35 is effective at reducing long term relapse rates, and whether there are differences in outcomes for persons who have been involuntarily committed vs. those who have accessed treatment in less restrictive settings. I look forward to the work on the § 35 Commission and to our continued collaborative efforts to work with the Governor and the Legislature to secure the most effective and results-based treatment for those

who come before our courts seeking care and treatment for loved ones who suffer from substance use disorder.

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 acknowledge the great work by the Bar and the many ways you partner with us to help in that delivery of justice with dignity.

It is only with all of you – District Attorneys, Committee for Public Counsel Services, Attorney General, the Mass. Bar Association, Boston Bar Association, 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 justices 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 and DCAs, individually and collectively. You each do an amazing job of representing and advocating for your department, as well as the collective needs of the system, and thanks to the judges, clerks, commissioners, and employees across the Trial Court who do such exemplary work every day. My sincere gratitude and appreciation to all of you.