

Annual State of the Judiciary Address

Paula M. Carey
Chief Justice of the Trial Court
October 30, 2019

Good afternoon. Thank you, Chief Justice Gants. In my view we could not have a more courageous and innovative leader of our Judicial branch.

This is one of many opportunities during the year when we gather with members of the Bar to discuss the issues that define our work. I am grateful for the strong collaboration we have in Massachusetts between the judicial system and the members of the Bar.

I will address three important issues today. First, are the efforts that the Massachusetts Trial Court has undertaken to implement criminal justice reform. Second, are the continued and sustained efforts by the Trial Court to address issues of diversity, equity and inclusion. Third, are efforts pursued by the Trial Court in the area of substance use disorders and behavioral health, and the related trauma they cause.

Last year, the Massachusetts Legislature passed legislation representing the most significant changes to the State's criminal justice system in decades. Among many advancements, this legislation incentivizes good behavior in prison, diverts people to treatment and programming as an alternative to incarceration, and strengthens community supervision.

As a result of substantial funding provided by the Legislature for Mass. Probation Service operations and programs in FY2020, the Trial Court continues to expand initiatives to reduce recidivism and enhance public safety and the welfare of communities across the state, and to make long-term differences in the lives of probationers.

The Trial Court, through the Massachusetts Probation Service (MPS), received \$3.1 million in funds to facilitate collaboration among probation, parole, Department of Corrections, House of Corrections and MassHealth, to enable better connection of high-risk/high-cost offender populations to Medicare-funded behavioral health services and medical care. With these funds, the Trial Court intends to expand a current behavioral health pilot program in Middlesex and Worcester Counties. This program provides individualized support and services – including in-reach or prior-to-release intake, assessment and case planning – for individuals in the criminal justice system with chronic, serious medical or mental health illnesses and/or substance use disorders, who are at a high-risk of re-offending. The funding will allow us to double the number of individuals currently served by the pilot, with half of the spots reserved for individuals on community supervision. Probation is expected to manage the reentry of some 250 high-risk/high-need individuals under this project.

MPS also received \$7.5 million in additional funding for the purchase of community-based transitional housing and case management reentry services. The project brings 185 transitional housing beds online that support reentry for men, women and older offenders returning to the community from prison via probation, parole and pre-release placement. Four programs are now operational, with two more slated for operation this fiscal year. Support services at these locations include medication-assisted treatment, cognitive behavioral therapy, substance use treatment, and workforce development programming. These resources help the Trial Court create a comprehensive reentry pathway in Massachusetts

Funding also allows the continued expansion of the Office of Community Corrections (OCC) – both in the network of centers and in the scope of populations and services provided. The Legislature provided \$3.8 million in funding over the last two years for the State’s Community Corrections Centers (CCCs) enabling OCC to expand its presence to Middlesex and Franklin Counties, with new centers in Framingham, Lowell, and Woburn, and a center will open in Franklin County next year.

The basic treatment model used by CCCs is both individualized and comprehensive, and this holistic approach has proven highly effective in reducing recidivism. Treatment begins with an assessment of each individual’s risk and needs. Based on the assessment, staff work with the individual to develop a treatment and support plan, which may include cognitive behavioral therapy, drug or alcohol treatment, educational programming, job training and placement, and housing referrals.

Our CCCs have evolved quite effectively into a multi-service, multi-pathway center serving multiple populations. Until recently, eligibility for OCC services was restricted to certain classes of convicted offenders sentenced to probationary “intermediate sanctions programs” as alternatives to incarceration. In the last 18 months, the Legislature greatly expanded the scope of OCC to include pretrial services and treatment, fulfillment of probationary conditions, and re-entry services for those leaving incarceration. With this expansion, CCCs can now offer access to “one-stop shopping” for assessment and support services for a much broader range of clients, whether they are awaiting trial, serving probation, or leaving prison.

For a second year, the Trial Court continues its unique-in-the-nation “learning laboratory” partnership with UTEC in greater Lowell focused on effective strategies for working with emerging adults who have high behavior risks and re-arrest rates. UTEC offers young adults between 18 and 24 paid work experience through three businesses designed to help them develop skills necessary to thrive in the workplace. Participation in the program supports positive socialization, maturation, and decision-making, all of which are the keys to development into productive adulthood. In addition, we are learning that the value of these services extends far beyond the period of the probation sentences, and is key to long-term behavior change.

In December, Probation will finalize implementation of an earned-compliance credit program, intended to incentivize compliance with the conditions of probation. This program complements the MPS work around intermediate sanctions and rewards delivered through an administrative hearing protocol. The most significant impact has been seen in juvenile delinquency cases, where violation notices filed – for new arrests and non-compliance – decreased by 53% between 2018 and 2019. While not as dramatic in the adult population, this approach also resulted in double-digit reductions for both types of violations in adult cases.

As part of the Justice Reinvestment process, staff from the Council on State Government Justice Center worked with the Trial Court and MPS also developed a new curriculum and training plan for probation officers and others to align the state’s community supervision efforts with best practices on recidivism-reduction strategies. The Trial Court invested in training for its Probate and Family Court probation officers in dispute resolution and mediation – a core competency area for effective resolution of family court matters.

The work by MPS and the leadership of judges and the Trial Court departments have been critical to advancing the Trial Court’s efforts on the path to immediate and long-term safety and welfare in our communities. Most importantly, however, the criminal justice reform legislation and budgetary

investments made by the Legislature enabling the Trial Court to undertake these initiatives have been invaluable in advancing the mission of the Trial Court, and have enabled us to become leaders in criminal justice reform on a national scale. Massachusetts has the lowest incarceration rate in the country – 126 people per 100,000 – according to the Vera Institute of Justice’s “People in Prison” report.¹ We want to continue this trend as trailblazers and innovators, and we hope to have the Legislature’s continued support in this endeavor.

Next I want to address is the Trial Court’s efforts to promote diversity, equity and inclusion 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 identity, ethnicity, gender or race.

Last April, I joined approximately 80 members of the Massachusetts judiciary and our family members as we traveled to Montgomery, Alabama to visit the Legacy Museum. I felt a great deal of emotion throughout that weekend. Those emotions ranged from deep sadness to embarrassment to anger about our history. The experience caused me to reflect on what I may have done to perpetuate the great harm suffered by so many people of color by failing to stand up. At the National Memorial for Peace and Justice, we saw slabs identifying African Americans who were lynched. I was stunned to learn that lynchings occurred during my lifetime. It made me more committed than ever to our Diversity, Equity and Inclusion initiatives, not only in the Trial Court, but in our communities at-large. 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, talk the talk . . . and stand up.

As a result of the Trial Court’s ongoing commitment to diversity, equity and inclusion, we launched workshops and trainings aimed at educating judges and court staff on the importance of considering diversity, equity and inclusion in their daily work. Court departments and individual courts have also engaged in diversity initiatives. The District Court held its second annual Judicial Conference on Race and Ethnic Fairness, the Housing Court continues to develop Bench-Bar Committees, the Middlesex Juvenile Court held a county-wide Cultural Competency Training sponsored by MPS, and Land Court judges and senior managers received training on Engaging in Difficult Conversations.

Finally, I want to address our work on substance use disorder. Over the last couple of years, I have been heavily involved here in Massachusetts, regionally and nationally on issues surrounding substance use disorder – specifically opioids – and behavioral health. The opioid crisis has affected the lives of individuals nationwide – with a resulting impact on courts. Through the Massachusetts Community Justice Project we work with communities to connect systems and promote the use of strategies that support recovery, enhance public safety, and improve community and family life. This initiative uses Sequential Intercept Mapping to gauge the impact of opioid-related cases on courts and to improve services to victims of this health crisis. As local communities work to address the crisis, state courts hold an important place in providing a comprehensive response built on key partnerships between the justice system and treatment, health care, and housing systems.

The Trial Court has also responded to the opioid crisis by expanded specialty courts, and now the options for specialty court participation include drug courts, Veterans Treatment Courts, mental health courts and homeless courts in the District Court and Boston Municipal Court, a more robust Tenancy

¹ <https://www.vera.org/publications/people-in-prison-in-2018>

Preservation Program in the Housing Court due to increased Legislative funding, and a Family Drug Court run by the Franklin County Probate and Family Court in conjunction with the Franklin/Hampshire Juvenile Court.

Trauma is frequently revealed as court-involved individuals move through the system. Trauma can be difficult to identify, but is ever-present, and is overwhelming for both the individual and the court. What is often lost is the trauma experienced by employees of the Trial Court. This reality makes it imperative that we have resources available for both our court users and our judges and staff.

The Trial Court sent five staff members to be trauma-certified. Following their certification, the staff members made a number of recommendations, including the integration of trauma-informed modules into training structures, the creation of a trauma response system that can be accessed when traumatic events occur, such as deaths or serious injury in a courthouse; and, the simultaneous launching of a robust wellness initiative emphasizing self-care to help manage the stress and secondary trauma that judges and court staff experience through their work.

I am proud of this initiative and I hope to be able to continue to provide members of the Trial Court with resources and resilience capabilities to deal with the difficult issues they encounter every day.

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 who 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” also gives me the opportunity to acknowledge the great work by the Bar and the many ways you partner with us to help us deliver 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 lawyers and the Massachusetts Bar for granted. I am profoundly grateful for the contributions its members make to the justice system each and every day.

In closing, I would like to thank Chief Justice Ralph Gants and the Supreme Judicial Court 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 Deputy Court Administrators, 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.