

Trial Court Administrator Harry Spence

MBA State of the Judiciary

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Good afternoon.

The Massachusetts Trial Court is the sixth public institution with which I've been involved in an institutional change process. In the past, it has been my experience that it is in the third year of an institutional change process that you begin to get substantial traction—the process of change both deepens and accelerates in the third year.

Chief Justice Paula Carey and I entered our third year together just three months ago, and the third year rule is proving to be as accurate here as in all my previous engagements: the process of change in the Trial Court is deepening and accelerating. I won't try to paint the entire canvas of the changes occurring in the Trial Court—there are too many, and the time is too short. I want instead to share with you changes in two key areas: the digitization of Trial Court operations and the transition to evidence-based practice in the Massachusetts Probation Service. These are two processes of change that are dramatically altering the manner in which justice is delivered in the Massachusetts Trial Court.

Just two weeks ago, the last county in the Superior Court converted to MassCourts, our automated case management system. With this conversion, every one of the seven Trial Court departments is on a unified, integrated case management system. The monumental effort required to establish this unified, integrated case management system is essentially complete, but this is the start of our effort to automate the court functions of the Trial Court, not the end of it. I predict that by the end of Fiscal Year 2018, less than three years away, the Massachusetts Trial Court will be at least 85% digitized; that at least 85% of the ongoing work of the Trial Court will be done with digital documents, not with paper.

The essential elements required to digitize the work of the Trial Court are in development right now:

- 1) Currently, five courts are receiving all their criminal complaints from the police in electronic form. In order for the rest of the state's police departments to file criminal complaints electronically, the providers of the software systems used by police departments need to upgrade their software. That process of upgrading police department software has begun through the joint efforts of the Trial Court, the Executive Office of Public Safety and Security and the Department of Criminal Justice Information Systems. We are hopeful that within two years,

every police department in the state, short of a handful of tiny rural departments, will be filing their criminal complaints electronically.

2) In the civil arena, six efilings pilots are underway: three in the Trial Court, and three in the appellate system. As of this week, the Worcester District Court received its first civil efilings, with several Worcester law firms participating in the pilot. After Worcester, Brighton in the Boston Municipal Court will pilot efilings, followed closely by the Essex County Probate and Family Court. Three appellate pilots will be conducted in concert with these Trial Court pilots, and in early 2016, we will initiate the process of rolling out efilings across the Commonwealth. I predict to you that within two years, efilings by lawyers will be the norm in the Massachusetts Trial Court and will be mandatory for lawyers by the end of Fiscal Year 2018.

3) The Legislature in the Fiscal Year 2016 budget approved the technical changes necessary for the digital document to become the official record of the Trial Court. The Supreme Judicial Court is now considering a rule change that would memorialize that change from paper to digital document as the official record. By early 2016, that rule change will be complete. We have requested from the Secretary of Administration and Finance \$1.5 million to purchase equipment and expert assistance to accomplish that change on the ground. By the end of Fiscal Year 2018, we expect to have fully accomplished that conversion to digital records for all court business going forward.

4) We have opened the attorneys' portal in five of the seven departments of the Trial Court, and are working to open the final two departments. The attorneys' portal allows attorneys to go online to check the court calendar and the docket of every case in which they are involved. Right now, 6660 attorneys are using the attorneys' portal, logging in to check their schedules 9686 times weekly. In the next step, we have identified the Superior Court documents that we will shortly begin to make available through the attorneys' portal and online, greatly increasing the utility of the portal to the bar.

5) We have now put most major civil case types online in every one of the seven departments of the Trial Court. The Public Access Committee, which has been developing guidelines for the publication of court cases online will complete their work by the end of the calendar year, and we expect to put criminal cases, with some limitations, online early next year. In August, online cases received 74,440 visits online. Most of those visits would once have been a phone call or a visit to the Clerk's office.

We are confident that the era of the digital court is well launched. Our greatest challenge will be to bring not just the bar, but our many self-represented litigants into the new digital world. While I don't want to underestimate that challenge, the next three years will in any event witness the conversion of the great majority of court business to an overwhelmingly digital format. Paper will be a relatively scarce commodity in the Trial Court, fundamentally altering the business processes of the Court. In the experience of the relatively few state and county jurisdictions that

have accomplished this change, digitization will change the workforce of the Trial Court. The need for clerical support in Clerks' offices will decline—a change we will accomplish by attrition, as an aging work force retires and is replaced by a new, smaller, more technically savvy workforce for the twenty-first century. We will enter an entirely new era in the conduct of court business.

But not every aspect of the court's business can be automated. While Probation record keeping will be digitized, the fundamental work of Probation—altering the arc of the lives of persons involved in the criminal justice system in order to reduce recidivism and enhance the community's safety—will remain a human activity. The core work of Probation will never be automated. But that doesn't mean that the work of Probation is not being profoundly altered.

Today, the shift to evidence-based practice in the work of Probation is well underway. The move to evidence-based practice began with the introduction of the Ohio Risk Assessment System or ORAS risk-assessment tool some four years ago, followed by the training of every Probation Officer in Evidence Based Community Supervision Practices. At this time, we are introducing our first pretrial risk assessment tool in the Juvenile Court, and next spring we will begin the development of an adult pretrial risk assessment tool. Meanwhile, the Woburn District Court will pilot a domestic violence risk tool, to assess the dangerousness of domestic violence defendants. In the meantime, Salem District and Superior Courts, and the Worcester and Chelsea District Courts are employing a new evidence-based practice for the supervision of high-risk probationers known as HOPE/MORR. Preliminary results from these courts give evidence of substantial reductions in probation violations and promise significant reductions in recidivism through the implementation of this powerful evidence-based practice. We will open ten more HOPE/MORR sessions this year. Probation work will no longer be based on a hunch or on someone's notion of common sense—it will be based on evidence of effectiveness with a proven record of improved outcomes.

This will make probation supervision a far more powerful alternative to incarceration, which we know to be a relatively weak tool for reducing recidivism. In fact, the evidence continues to accumulate that inappropriate incarceration increases recidivism, by giving an advanced course in criminality to the apprentice criminal. Too often, at great expense, we increase criminality rather than reducing it. If our goal is not just punishment, but an actual increase in the safety of the public, then we will increasingly rely on community supervision under the Massachusetts Probation Service as the key to reduced crime.

If we are to make this transition to increased community supervision and reduced crime, we will need to increase the staff of the Massachusetts Probation Service. Since 2001, we have reduced the number of Probation Officers in Massachusetts by some 35%. The American Probation and Parole Association recommends a caseload of no more than 50 moderate to high risk cases for each Probation Officer in order to reap the benefits of using evidence-based practice in Probation work. While manageable caseloads are not in and of themselves sufficient to reduce recidivism,

they are absolutely necessary to enable the Massachusetts Probation Service to engage in those evidenced-based practices that result in reduced recidivism. We are significantly over the recommended maximum Probation caseload in every department of the Trial Court. As a result, this year, for the first time in a number of years, we will request an increase in Probation staffing in the Trial Court's Fiscal Year 2017 budget.

In short, the modernization of the Massachusetts Trial Court is well underway. The results of that modernization will not only be streamlined, more efficient operations; the results of that modernization will be reduced crime across the Commonwealth. To accomplish that, we will need to make strategic investments in evidence-based practice in the treatment of criminality—investments that will not only reduce costs, but will actually increase safety for the residents of Massachusetts. The future is bright for the delivery of justice—effective justice, that promises a safer future for less cost.