

State of the Judiciary  
Chief Justice Kimberly S. Budd, Massachusetts Supreme Judicial Court  
Message to the Massachusetts Bar Meeting  
November 15, 2022

Thank you, President Garcia, for that kind introduction. I would like to thank you, and everyone at the Massachusetts Bar Association, for supporting and sponsoring our program today. I also want to welcome our other guests from the MBA: President-Elect Damian Turco; Vice President Tory Mair; Treasurer Mike Hayden; Secretary Sam Segal; the MBA's longtime Chief Legal Counsel and Chief Operating Officer Marty Healy; and Director of Policy and Operations Lee Constantine, who has done so much to help prepare for this event.

And I appreciate the many court leaders who are here today, including my colleagues from the SJC; Appeals Court Chief Justice Mark Green; Trial Court Chief Justice Jeff Locke and Court Administrator John Bello; the Chief Justices of our Trial Court departments; and Commissioner Ed Dolan from the Massachusetts Probation Service.

I would also like to take this opportunity to thank Governor Baker and Lieutenant Governor Polito, and our legislative leaders, including Speaker Mariano and Senate President Spilka; the Ways and Means leadership, House Chair Michlewitz and Senate Chair Rodrigues; and Judiciary Committee leadership, House Chair Day and Senate Chair Eldridge, for their strong support of the judiciary, especially during the last several years when we have been facing so many challenges.

And thanks to all of you who are joining us in the audience, both here in person and online. Chief Justice Locke, Court Administrator Bello, and I appreciate this opportunity to update you on some of our current projects and concerns in the Massachusetts courts.

Over the last 32 months, of course, all of us who work in the legal system have had to deal with extraordinary challenges and changes due to the COVID-19 pandemic. By necessity, we adopted a host of innovations: for example, we conduct court hearings via videoconference; we've expanded use of electronic signatures and email to file and serve court papers; and we've provided virtual access to court service centers and clerks' offices.

We could not have undertaken these and other changes as quickly as we did without the concerted efforts of everyone in our court system. So I want to sincerely thank the more than 6,000 people who work in the court system for their dedication to serving the people of the Commonwealth during this difficult time.

As a result of this experience, we have learned a great deal about how we can harness technology and other procedural improvements to create a system that is more efficient, and that meets the needs of court users more effectively.

We are currently in the process of reviewing the many emergency measures we put in place during the pandemic to determine which ones should be incorporated into our regular practice

going forward. At the SJC, we have asked our advisory committees to consider whether various court and procedural rules should be amended to adopt these changes permanently. Some of their recommendations have already been published for comment, such as proposals to amend the Rules of Civil Procedure to expand the use of email service and electronic signatures. More proposals will be coming. The Trial Court departments have also been working on standing orders establishing presumptions about which court proceedings will be held remotely and which will be held in person. Our decisions on these topics will be informed by the thousands of responses that we received to the attorney survey last fall, and by input from other stakeholders, such as the Access to Justice Commission, which recently issued a report on lessons learned from the pandemic.

To fully realize the potential of many of these changes, of course, we will also need to complete major upgrades in court technology. And for that reason, I am so grateful to the Legislature for having enacted our IT bond bill this year. This bill will fund \$164 million in improvements to the judiciary's IT infrastructure, including \$94 million to create digital courthouses and courtrooms, \$35 million for cybersecurity, and \$35 million to modernize administrative operations. This funding, along with the leadership of our CIO Steve Duncan and his team, will make it possible to dramatically improve the infrastructure, tools, and support needed to serve the public in a digital age.

At the same time that we have been dealing with the emergency-related needs of the pandemic, we have also continued the work of reviewing, updating and improving many other aspects of our court practices and procedures. For example, several SJC-appointed committees have been working on major revisions to court rules, ranging from pretrial discovery obligations in criminal cases to amendments to the Rules of Professional Conduct. We also have special committees that are currently working to review and update our requirements for bar admission; standards on substance use and mental health; guidelines for civil hearings involving self-represented litigants; and SJC Rule 3:03, which permits qualified law students to practice in our courts.

I want to thank all of the judges, clerks, court staff, attorneys, professors, and other professionals who volunteer their time to serve on these and many other advisory committees. You play a critical role in the continuous improvement of our court system, and we could not do this work without you.

We have also been continuing our efforts to "look afresh at what we are doing . . . to root out any conscious and unconscious bias" and "create in our courtrooms . . . a place where all are truly equal," as the SJC pledged in our June 2020 letter to the judiciary and the bar. This work is not new, but it gained renewed urgency from the events of 2020, and from the report on meetings with affinity bar associations that was issued by the Lawyer Well-Being Committee in 2021.

As a result, the SJC and the Trial Court have implemented several initiatives aimed at reviewing and improving the court system both as a workplace and as a public institution. We are also mindful of the fact that further improvements in criminal justice reform are needed to address the racial and ethnic disparities identified in the 2020 Harvard Law School study. Access to justice in civil cases also involves issues of racial and ethnic fairness, since the data suggest that over half of the people who cannot afford counsel in these cases are people of color. So we know that

the commitment to furthering the courts' anti-racism efforts must continue to be a priority, and I look forward to sharing more details on some of those initiatives during our discussion in a few minutes.

Finally, even as we have been dealing with the challenges of the pandemic, we have also experienced a number of significant leadership transitions with the retirement of several Chief Justices in the Trial Court. It is a mark of the strength of our system, however, that in each case we have been able to fill these roles with similarly talented, energetic, and experienced leaders.

In January of this year, Trial Court Chief Justice Paula Carey retired after two decades of distinguished public service as a judge in the Probate and Family Court, as chief of that department, and then as chief of the Trial Court. In her stead, we welcomed Jeff Locke, who brings to the job 20 years of experience as a Superior Court judge, plus prior experience as Commissioner of the Department of Social Services, as District Attorney for Norfolk County, and as an assistant district attorney and assistant U.S. attorney.

When Judith Fabricant retired in the summer of 2021 as Chief Justice of the Superior Court, she was succeeded by Heidi Brieger, a Superior Court judge since 2012 who previously served in the U.S. Attorney's Office for 20 years.

And when Paul Dawley retired this past June as Chief Justice of the District Court, he was succeeded by Stacey Fortes, a District Court judge since 2006 who previously served for 12 years in the Suffolk County District Attorney's Office.

Chief Justices Carey, Fabricant, and Dawley were terrific leaders who were beloved by their colleagues. And their successors, Chief Justices Locke, Brieger, and Fortes, have already shown that they will be similarly successful.

Now we are facing another transition, as Court Administrator John Bello has announced his intention to step down at the end of this year, after nine years of service in various roles in the Trial Court. John is a well-liked leader with a can-do attitude who has brought warmth and spirit to his work. And he played a critical role in helping to steer the court system through the pandemic. We owe him a huge debt of gratitude, and he will be deeply missed. But I am confident that we will again be able to find a worthy candidate to succeed him, as we have for our retiring Chief Justices.

In the midst of the challenges we have experienced over the last several years during the pandemic, our courts have helped to preserve social stability through the reasoned and impartial application of the rule of law. But that does not mean that courts should be static institutions. Like the law itself, courts must evolve and adapt to changing social conditions and the needs of court users. That is what we have been striving to do during the pandemic and, going forward, we will continue to look for ways to better serve you.

Thanks again for the opportunity to address you this afternoon.