

Testimony before Joint Committee on Ways and Means

March 25, 2015

Ralph D. Gants  
Chief Justice  
Supreme Judicial Court  
Commonwealth of Massachusetts

Senator Moore, Representative Dykema, members of the Joint Committee, I very much appreciate the opportunity to appear before you today on behalf of the Judicial Branch. Let me begin by thanking you and your colleagues in the Legislature for your support of the Judiciary during the past few years. Your strong financial support has enabled the Judicial Branch to stabilize its operations and to implement reform and improvements throughout the court system.

Because you will hear from many witnesses today, I shall be brief in my remarks. I do have some comments about the impact on the Judicial Branch of the Governor's proposed budget, and then I want to provide you with some detail on the Supreme Judicial Court's budget. Details on the Appeals Court budget will be provided by Chief Justice Phillip Rapoza, and Chief Justice Paula Carey and Court Administrator Harry Spence will speak on the Trial Court Budget.

I do not exaggerate when I say that the proposed budget submitted by the Governor for the Judicial Branch in Fiscal Year 2016 would be devastating to the delivery of justice for the people of the Commonwealth. It would require hundreds of layoffs in the Judiciary, jeopardize our ability to keep courthouses open to the public, and undermine the remarkable progress we have achieved during the past three years of court reform.

I do not sound this alarm unaware of the difficult financial constraints that face the Governor and this Committee for the next fiscal year. The Justices and I fully recognize the widening gap between revenue and governmental needs. But in confronting that challenge, we cannot ignore that the delivery of justice, although a small fraction (less than two percent) of the State's spending, must be among the highest priorities of government. Every day, our courts address the most serious and complex problems faced by the residents of this Commonwealth, render services essential to the preservation of public safety, and provide the infrastructure for the rule of law indispensable to a successful economy. The Judicial Branch will not be able to perform

this essential role with the budget provided by the Governor.

I think it is important to keep in mind the impact on the Judicial Branch of the last financial crisis and recognize that, in some respects, the Branch has never fully recovered. During that crisis, 22 percent of the total state reduction in force came from the Judicial Branch even though it constituted only nine percent of the Commonwealth's workforce. Since FY08, the budgets of other parts of state government grew by 37.3 percent, and the Executive Branch increased its full time equivalent workforce by almost five percent. In contrast, during that same time period, the Judicial Branch budget has grown by a mere 4.6 percent, and the workforce of the Trial Court has actually shrunk by a whopping 16.5 percent. Today, the Trial Court has 1,100 fewer employees than it did in July of 2007. It has 1,651 fewer employees than it did in 2001, a reduction of 20.6 percent. If the Governor's budget is approved, the Trial Court will need to lay off several hundred more employees, and the adverse impact on the quality of justice we can provide in our courts will be profound.

For the Supreme Judicial Court, the Appeals Court and the Trial Court, the budgets proposed provide less money in Fiscal Year 2016 than we have available to us in Fiscal Year 2015, even after taking into account the recent mid-year 1.79 percent budget cut. Focusing on the Trial Court alone, the proposed budget of little over \$603 million is a \$4 million reduction from the revised FY15 budget, and is \$40 million less than the \$642.6 million that the Trial Court requires just to maintain its current levels of service. At \$40 million less than its maintenance budget, the Trial Court could only survive through a significant reduction of staff and services, and the closing of courthouses. This would be even worse than the darkest days of the last financial crisis, when one in three of our courthouses had to restrict public hours just to process cases.

I am sure none of us desire a return to the state of the judiciary during those bleak days of the

Great Recession. In fact, it has been with the Legislature's strong financial support, and with its leadership in court reform, that the Judicial Branch has, over the past three years, slowly restored personnel and resources and created the momentum for innovation, productivity, and efficiency throughout our system. In order to sustain that hard earned momentum, we must have a budget that allows for the Branch to retain the critical employees we now have. And that requires a budget that supports our current workforce and provides the funding for collectively bargained wage increases scheduled to take effect in Fiscal Year 2016. All of our maintenance budgets provide that necessary funding, and I urge you to support them.

As was the case last year, the Trial Court budget proposal also includes certain modules for specific initiatives that the Judiciary would like the Legislature to consider funding in Fiscal Year 2016. These budget modules are described in detail in the budget request. I will leave the detailed advocacy of the modules for Chief Justice Carey and Court Administrator Spence, but you should know that all of the modules have the support of the Justices of the Supreme Judicial Court. There is one module, however, that I have special knowledge about from my work as co-chair of the Access to Justice Commission: the module that will permit every resident of Massachusetts to have access to a Housing Court. Right now, nearly one-third of our residents have no access to a Housing Court, which means that they have no access to Housing Court judges who are experts in the complexities of housing law, no access to housing specialists who help resolve the majority of cases by mediation, no access to the Tenancy Preservation Program that attempts to spare those with disabilities from homelessness, no ability to transform condemned three-deckers into renovated apartments through receiverships, and no forum to enforce building and safety codes efficiently. We have proposed legislation that will give every resident of Massachusetts access to a Housing Court, and this module provides the funding we need to do that. It is neither fair nor

sensible that residents of Boston and Boylston have access to a Housing Court, but residents of Brookline, Braintree, and Burlington do not.

Let me turn now to the specific request of the Supreme Judicial Court.

For Fiscal Year 2016, the Justices have requested \$8,788,200 in the Supreme Judicial Court administration account and \$1,614,235 for the Clerk of the Supreme Judicial Court for Suffolk County. These requests are modest. They merely provide base funding for court operations, cover cost of living increases, and maintain already lean staffing levels. When I speak of lean staffing levels, I mean it; we have nearly seven percent fewer staff today than we had in 2001.

The Governor's Fiscal Year 2016 House 1 Budget recommendation for the SJC is almost \$700,000 less than what we requested for maintenance and, as I mentioned earlier, even less than we were allocated this year. I ask that you reject this unwise and unfair treatment of the state's highest appellate court and instead provide full funding for our maintenance needs.

If the SJC were funded as proposed, it would likely necessitate staff reductions at the SJC. It is particularly important that our staff not be reduced this coming year because we expect to launch our appellate courts electronic filing project, which has been funded by capital dollars. Ensuring the successful launch of that project will require significant time and energy in FY16, and its successful implementation may be jeopardized by any staff reductions.

There are a number of non-judicial and non-affiliate organizations that, for budgetary purposes, are included within the sequence of accounts associated with the Supreme Judicial Court. Keep in mind that the courts have no practical control over the budgets of these agencies, and we do not oversee their spending. Consequently, our practice has been merely to forward the budget requests of these agencies without formal recommendations, and we do so again this year. But I note that included in this budget proposal for Fiscal Year 2016 is a \$10 million increase for the

Massachusetts Legal Assistance Corporation. Last Fall, the Boston Bar Association Statewide Task Force to Expand Legal Aid in Massachusetts issued a report that established quite clearly that increased public funding for civil legal services to the poor is not only essential if we are to provide equal justice in our courts, but is also extremely cost-effective, saving the Commonwealth far more than it costs: \$1 dollar spent for legal aid in eviction and foreclosure cases saves \$2.69 in homelessness costs; \$1 dollar spent for representation of domestic violence victims saves \$1 in state medical costs; \$1 dollar spent to help our residents obtain the federal benefits to which they are entitled by law brings in \$5 in additional federal benefits to this Commonwealth. An investment in civil legal services to the poor is an investment any rational investor would make, and the savings such an investment would generate become even more important in these challenging fiscal times.

### **Conclusion**

As I stated, I will leave the specifics of the Appeals Court and Trial Court budgets to Chief Justice Rapoza, Chief Justice Carey and Court Administrator Spence, respectively. I merely add that the Justices of the Supreme Judicial Court are in complete support of their budget requests.

I thank you, the Joint Committee Chairs, Senator Spilka and Representative Dempsey, Senator Moore and Representative Dykema, and all the members of the Joint Committee, for this opportunity to address the budgetary needs of the Judiciary, and to share the Justices' views on the Governor's budget recommendations contained in House 1. I would like to reiterate the continued commitment of the Justices and all court leaders to work cooperatively with you and the committee staff as you prepare a budget that both preserves the quality of justice and addresses the financial challenges facing the Commonwealth. I would be pleased to answer any questions you may have now, or, if you prefer, answering questions after you have heard from all the Judicial Branch leaders.