June 16, 2017

Re: Funding for the Massachusetts Legal Assistance Corporation, the Trial Court including statewide expansion of the Housing Court, and the Committee for Public Council Services

Dear Conference Committee Members:

As President of the Boston Bar Association (BBA), I write to respectfully request your support on several critical items currently before the Legislature’s FY18 Budget Conference Committee. I recognize that the Legislature faces difficult challenges in the current fiscal climate, but I hope you can appreciate just how urgent the needs are in the following cases:

MLAC Funding

We are very grateful that both the House and the Senate has recognized the importance of Massachusetts Legal Assistance Corporation (MLAC) funding by providing for a $20 million appropriation, and we ask the Conference Committee to include the same amount in line item 0321-1600. MLAC funds civil legal aid programs throughout the Commonwealth. Despite generous funding increases by the Legislature in recent years, overall funding is still inadequate to meet the overwhelming need for the services these programs deliver.

Civil legal aid provides critical support to low-income individuals and families in cases related to housing, employment, health care, education, immigration, domestic relations, and more. These services directly touch many of the biggest social problems facing the Commonwealth, including foreclosures and emergency shelter, the opioid crisis, and domestic violence. The need for MLAC funding is especially urgent given the proposal in President Trump’s federal budget to eliminate the Legal Services Corporation (LSC) and its $385 million in federal appropriations for civil
legal aid. If the LSC loses funding as proposed, Massachusetts would lose more than $5 million in federal money for civil legal aid and nearly 26,000 low-income Massachusetts residents would be left without much-needed legal assistance. The consequences of such a proposal would, at best, render those most vulnerable amongst us unable to properly access our courts for daily needs such as housing, health care or safety, and at worst, keep them from exercising their basic rights to survive in this country.

The BBA report, *Investing in Justice*, demonstrates that, due to lack of resources, the civil legal aid agencies funded by MLAC already turn away 64 percent of qualified clients in need of legal aid for basic life necessities, such as housing, protection from domestic abuse, and child support. The report also shows that investment in legal aid actually pays for itself, and more, by saving the state money on “back-end” costs such as emergency shelter, foster care, and health care. Indeed, according to MLAC’s most recent report on the economic benefits of legal aid, legal assistance for low-income residents resulted in over $49 million of total income and savings for the Commonwealth in FY16 alone. Specifically, the report shows that legal aid led to $12.1 million in cost savings on social services for the state, $15.9 million in federal revenue entering the Commonwealth, and $21.2 million in benefits for residents.

A $2 million increase over last year’s appropriation to $20 million would allow MLAC-funded civil legal aid programs to take on 2,500 additional cases and assist an estimated 6,475 additional residents in households across the state in FY18. Given the dire need for these services, the potential federal legal aid crisis looming, and the sound investment legal aid funding represents, we urge you to include the full $20 million in the FY18 Budget for the MLAC line item, as unanimously supported by both the House and the Senate.

**Trial Court**

The BBA greatly appreciates the generous appropriations provided by the House and the Senate, and we urge the Conference Committee to include $661,814,143 in the FY18 Budget to ensure the effective and efficient operation of the Trial Court.

Comprised of seven court departments, the Trial Court handles near all of the cases in the Commonwealth and is the primary point of contact for nearly all Massachusetts residents who are seeking resolution of their legal issues. In order to continue the efficient operation of the judicial system and fair, impartial, and equal access to justice, it is essential that the Trial Court receives adequate funding.

Though it received an increase of over $8 million in FY17, the Trial Court remains underfunded. Over the last few years, it has made great strides in finding ways to work smarter and leverage technological advancements to get more done with less. Their current request for maintenance funding of 6,359 positions represents a decrease of 161 positions below the FY16 projected staffing level and a 19% reduction in staffing since FY02.

Despite these transformational efforts, the Trial Court still has a major need for increased funding to sustain and continue the progress made in recent years. For example, the installations of new technologies that will ultimately save on staffing and overhead costs nevertheless require large up-front investments. In addition, the Trial Court’s facilities are in dire need of upgrades in the area of security systems. These upgrades are necessary to preserve the safety of court employees, users, and the general public, ensuring the Trial Court remains effective and accessible for all residents of the Commonwealth.

Overall, adequate trial court funding is essential in order for it to continue providing accessible justice of the highest quality, and we urge you to include $661,814,143 in the FY18 budget.
Housing Court Expansion

An especially striking example of the Trial Court’s work to expand both access and efficiency is the plan to expand jurisdiction of the Housing Court to the full State (Outside Sections 131 – 135 and Line Item 0036-0003). Both the Governor and the Senate included the enabling language and $1 million for the Housing Court expansion in their budgets, and we ask the Conference Committee to do the same.

Housing Court offers a number of key benefits, including operating as the only forum in the Commonwealth capable of handling all housing matters, from code enforcement to eviction proceedings, on a daily basis. Housing Court judges are exceedingly well-versed in all aspects of housing law, an area that can be quite complex, and have the specialized expertise to analyze federal, state and local laws on housing. Additionally, parties in the Housing Court have access to Housing Specialists, who mediate cases, facilitate settlements, and even provide on-site reviews to resolve issues with housing conditions. The BBA supports the proposal to correct the anomaly that, by accident of geography, gives some residents access to all these benefits while sending others, with identical housing cases, into the already over-burdened District Court instead.

Currently, over one-third of the State does not have access to Housing Court. When parties without access to Housing Court must take their matters to District Court, they wait in line behind parties bringing a full range of civil and criminal cases and eventually appear before judges who hear only an occasional housing matter. These parties also lack access to the Housing Specialists and therefore may miss an opportunity to settle and avoid the need, and expense, of trying the matter in court. In FY16, there were 27,487 eviction cases filed in the Housing Courts and a statewide expansion would allow the Court to increase its eviction caseload by approximately 6,000 cases.

Unlike in District Court, 75% of Housing Court litigants, and more than 90% of tenant defendants, are pro se. For all the reasons outlined above, the Housing Court is simply better equipped to handle the unique needs of self-represented parties than the District Court. This particular ability to assist pro-se litigants is important not only to judges, court staff, and the parties themselves, but also to all those who benefit from efficient processing of claims – which is to say, all of us in Massachusetts. The Trial Court also estimates that 4 out of 5 landlords file in the Housing Court when they have the choice between it and District Court. The Housing Specialists who help to facilitate settlement agreements, not only assist pro-se landlords and pro-se tenants, but can also save represented landlords a great deal of the costs associated with litigation, storage fees, move out fees, and re-renting the apartment.

In addition, the Housing Court is a model of efficiency, featuring the lowest cost per case of any Trial Court department. Beyond this, the Housing Court offers programs like the Tenancy Preservation Program (TPP) – a unique intervention that enables trained counselors to assist with services in cases involving persons with disabilities, ultimately helping in preventing homelessness. Currently, conservative estimates show that TPP saves the state from spending between $4 million and $8 million in shelter costs and if Housing Court is expanded statewide, TPP could save the state an additional $1.8 million.

For these reasons, we urge the Conference Committee to make this the year that all those in the Commonwealth have access to Housing Court and request the Committee to adopt the Senate Bill’s Outside Sections 131 – 135 and Line Item 0036-0003 to enable and fund the expansion of the Housing Court statewide.
Committee for Public Counsel Services (CPCS)

We thank you for recognizing the importance of providing adequate funding for CPCS and urge you to provide in the FY18 budget the Senate amounts and organization of $59,986,454 for staff and operations (line items 0321-1500, and 0321-1504), $100,000,000 for private counsel compensation (line item 0321-1510), and $20,189,970 for indigent court costs (line-item 0321-1520). In addition, we ask the Conference Committee to adopt the Senate outside Section 229 and include that language in the final FY18 Budget, raising the billable hours cap for private assigned counsel from 1,650 to 2,000 hours, notwithstanding existing law.

CPCS plays a vital role in our judicial system, providing representation to indigent persons in criminal and civil cases, and administrative proceedings, in keeping with the right to counsel under our laws and the Constitution. Adequate funding—as a start, through the Senate budget’s allocation of $500,000 in line item 0321-1506—would allow CPCS to increase compensation paid to private assigned counsel, as well as increase salaries of their staff attorneys, who are woefully underpaid in comparison to their colleagues in other states, and to attorneys of similar experience in the executive branch. This is not merely our conclusion but that of the recent Commission to Study Compensation of Assistant District Attorneys and Staff Attorneys of the Committee for Public Counsel Services, for which I was also an appointed member. The BBA supports the Commission’s recommendation that minimum salaries for these attorneys be increased, over time, to match the corresponding minimums for executive branch attorneys, and the appropriations outlined above would be a significant and beneficial step in that direction.

Overall, inclusion of the provisions outlined above (line items 0321-1500, 0321-1504, 0321-1506, 0321-1510, and 0321-1520, and outside section 229), would help to ensure CPCS is able to efficiently and effectively execute its crucial role in the judicial system.

The BBA understands the serious budget constraints currently facing the Commonwealth, but we also recognize the need for a fully functioning justice system. It is essential that MLAC, the Trial Court, including statewide Housing Court expansion, and CPCS receive adequate funding. We respectfully ask for your help with these priorities as everyone in the state should have equal access to the courts and to the justice they provide. That is only possible with adequate funding of these key line items.

I want to thank you in anticipation of your careful consideration of these vitally important budgetary items, and I sincerely thank you for your important work on behalf of all of us in the Commonwealth of Massachusetts.

Sincerely,

Carol Starkey
President

cc: Senate President Stanley Rosenberg, Room 332
    House Speaker Robert DeLeo, Room 356
    Joint Committee on the Judiciary Chairperson, Claire Cronin, Room 136
    Joint Committee on the Judiciary Chairperson, William Brownsberger, Room 504