



# Inland News

## Crush of cases hobbling courts

Riverside County criminal, civil trials bump deadlines for dismissals

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By **RICHARD K. DE ATLEY**  
The Press-Enterprise

Civil cases have ground to a halt and criminal cases risk being thrown out because of a logjam in Riverside County courts caused by too many cases and not enough judges.

"We are on the brink of dismissing criminal cases every day. That is the reality," Riverside County Superior Court Presiding Judge Sharon Waters said.

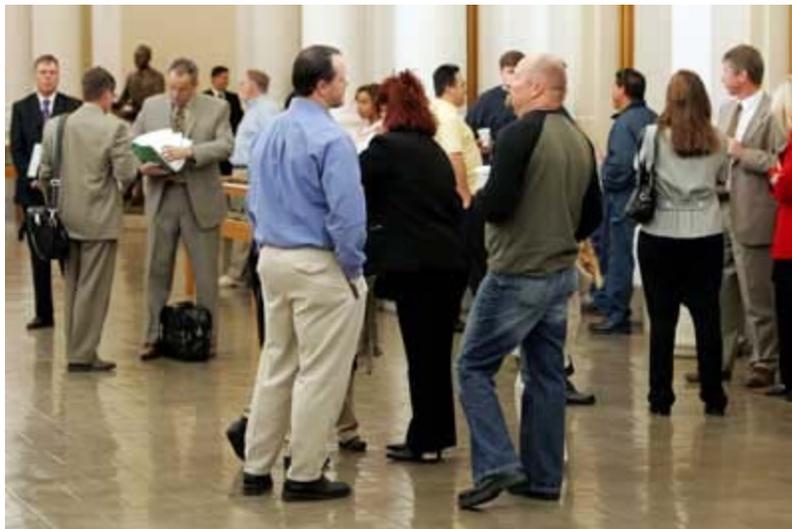
The district attorney's office sued the courts in October to require judges to find courtrooms for three cases that were nearing the 60-day deadline for a constitutionally guaranteed speedy trial.

Even though courtrooms were found and the writ was denied, David Bristow, president of the Riverside County Bar Association, said, "It's certainly ratcheting up the heat on this issue."

Meanwhile, people waiting to resolve matters from mental health to divorces to wrongful-death disputes in civil court are facing long and costly delays.

Riverside County has exported at least 20 civil trials to Orange and San Diego counties in recent weeks because they were approaching a five-year dismissal deadline.

Story continues below



William Wilson Lewis III / The Press-Enterprise

Jurors, lawyers and spectators mingle at the Riverside Historic Courthouse. Riverside County has 49 judges and 20 commissioners, non-elected court officials who conduct trials if

The addition of seven new judges next year and a monthly allotment of visiting judges are not expected to solve the problem.

"There is no light at the end of the tunnel," said Judge Gary Tranbarger, supervising judge for the Hall of Justice's criminal department.

At the beginning of December, more than 900 criminal cases were ready for trial and awaiting courtrooms in the Riverside downtown Hall of Justice alone, while each of the county's 11 civil trial judges had between 200 and 300 cases also ready for trial.

Riverside County Superior Court Judge Craig G. Riemer said probate and conservator cases as well as hearings for mentally ill people, who have been detained by police, also are backing up.

"We don't have the ability to schedule hearings with any confidence. These are people being held against their will," he said.

### **Too Few Judges**

Riverside County has 49 judges and 20 commissioners, non-elected court officials who can conduct trials as long as both sides agree.

Riverside County should have 135 to handle the current caseload, according to Waters, based on an estimate by the Judicial Council, which governs the state court system.

Crowded courts have plagued Riverside and San Bernardino counties for more than a decade. San Bernardino County has the worst caseload per judge, 6,161, among the state's largest counties, compared with Riverside County's 5,818, according to the Judicial Council. Both have staggered for years with too few judges as the Inland population exploded.

But San Bernardino County conducts far fewer criminal trials because the district attorney's office settles more cases before they get to that point. In fiscal 2004-05, Riverside County had 379 felony trials while San Bernardino County had 165.

Riverside County declared civil-trial moratoriums in 2004 and again in late 2005. Both lasted several weeks. Today, the civil courts are virtual criminal courts, with only five civil trials heard since summer.

The district attorney's office suggested in its writ filed in October that courtrooms not normally considered for criminal trials -- family law, drug court and juvenile court -- should be used if needed to avoid dismissals.

"The mandate is clear that a criminal matter should be sent out for trial and heard," Elaina Bentley, supervising deputy district attorney of the writs and appeals unit, said in a telephone interview. "It doesn't elaborate which civil courtroom."

### **Policy Under Fire**

Frustrated civil attorneys blame the district attorney's office, in part, for filing multiple charges in individual cases and adopting a tough stance in terms of pre-trial plea bargaining. That causes defendants to take their chances at trial.

"Public safety is paramount, but what has occurred is that trials in the name of public safety have caused the system to break down," county bar leader Bristow said.

The Riverside County public defender's office has an internal study that looked at 438 cases it tried in 2004.

The study concluded that in slightly more than 50 percent of the cases there was a more favorable outcome for its clients when compared to the initial plea-bargain offer from prosecutors.

The district attorney's office says it is obligated to continue its policy of tough prosecution.

"We just can't afford to back down," said district attorney spokeswoman Ingrid Wyatt. "We have to continue our tough-on-crime stance. ... the bottom line is, it's our job."

Riverside County Supervisor Bob Buster said, "The district attorney's office has stood out statewide for going after perpetrators and trying to send a message we won't tolerate this sort of thing in the county."

Bristow said the consequences of that tough prosecution policy may not be apparent to anyone who doesn't have a pending civil matter.

"If it's the position of the district attorney's office that the citizens of the county have chosen to give up the rights to protect their property, their homes, their businesses ... I think they should tell the citizens of this county that is what they are doing," Bristow said.

Civil attorney Christopher Russell said that among his clients is a 74-year-old woman who must wait until October 2007 for a trial in a wrongful-death suit filed in June 2005 for the loss of her husband.

"The courtroom is really the only place in our society where you can level the playing field," Russell said. "And in situations like this, justice delayed is justice denied."

### **'It Is a Crisis'**

Judge Riemer, who is assigned to a civil trial court, said, "For the civil bar and for their clients, it is a crisis."

Riemer said he has heard 21 criminal trials and just six civil trials this year.

In addition to the inconvenience, delays can be expensive.

Riverside attorney and former State Bar president James O. Heiting said a medical expert can charge as much as \$5,000 for canceling when a personal-injury civil case scheduled for trial has to be bumped.

Such experts are usually medical doctors who have cleared their patient calendar for a day of testimony, he explained.

"Trial delays costs thousands of dollars each time, and it comes out of your client's pockets," Heiting said.

Delays also discourage settlement. More than 90 percent of civil cases are usually resolved before trial. One of the biggest motivators -- facing the cost and risk of going to trial in an available court -- has been removed, Riemer said.

"There is nothing like an empty courtroom to achieve a settlement," Riemer said, but criminal trials keep them full.

The Family Courts recently held Settlement Faires in Hemet and Riverside, in an effort to reduce the caseloads in that court. Judge Waters said 101 families settled their cases that week.

While cost is a concern, there is also the effect on litigants, Riemer said.

"There is a real concern that some plaintiffs will die before their cases are heard," he said. "And that is devastating. The economic issues remain, but pain and suffering do not. If they die (the heirs) have no compensation" for those issues.

### **Conviction Rates**

The Riverside County district attorney filed more than 17,600 criminal complaints in 2005 and had a conviction rate of 92.3 percent, the highest among large counties. In San Bernardino County, where more than 25,500 complaints were filed, the conviction rate was 85.6 percent.

"The simple reality is that every case we file cannot go to trial," San Bernardino County Assistant District Attorney Michael Risley said.

Risley said that he was not comparing his office with Riverside County prosecutors, or criticizing them. He said his office also has a tough-on-crime reputation.

"We will not settle a case short of trial that would be an affront to justice, or the community or the victims we serve," he said. "We will not do that."

### **Population Growth**

Riverside and San Bernardino counties each had an estimated 2005 population of more than 1.9 million, with a nearly 15 percent increase since 2000 for San Bernardino and 26 percent for Riverside.

Legislation passed in 1997 moved the control of the courts from the counties to the state. But while the counties have reacted more quickly to population growth needs, the state has not.

Riverside County increased deputy district attorneys from 144 to 255 and deputy public defenders from 94 to 150 in budgets from fiscal years 2000-01 to 2006-07.

While the increased staff for both attorneys' offices translates into more criminal cases being processed, only one additional judge was added to the county roster by the state during the same period.

The state Legislature this year approved 50 new judgeships statewide in 2007, with eight going to San Bernardino County and seven to Riverside County. A legislative plan calls for considering another 50 judgeships for the next budget and another 50 for the year after that.

If all 150 are approved, Inland courts will get 42, including 19 for Riverside County and 23 for San Bernardino County.

"We've been getting judges, but it's just an agonizingly slow process," said Riverside County Supervisor Buster. "It's particularly galling because the Riverside County courts have long been known for scheduling things in an efficient manner."

Assemblyman John J. Benoit, R-Bermuda Dunes, said he and other members of the Inland state legislative delegation will send a bipartisan plea to Gov. Schwarzenegger's office asking the governor to put the next 50 judges into the state's budget for 2007-08.

Benoit said there is no automatic formula for population growth and judges.

"We have been playing catch-up for all those years of double-digit population growth and no resources to handle all of those additional criminal and civil cases that have occurred," he said.

**Courthouse workload**

**Judges and commissioners**

**by Inland county:**

Riverside County

69

San Bernardino County

75

**Caseloads per judicial**

**officer by county:**

Statewide average

4,680

San Bernardino

6,161

Riverside

5,818

Orange

4,702

Los Angeles

4,639

San Diego

4,188

SourceS: Judicial Council of California and Riverside County courts

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