STATE OF THE JUDICIARY
IN SAN DIEGO COUNTY
2015 UPDATE

The Report on the State of the Judiciary in San Diego County is published by the San Diego County Bar Association.

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Budget Reduction Overview

San Diego Superior Court
Total Revenues vs. Total Expenditures
FY 07-08 thru FY 15-16 (Est.)
(in millions)
Introduction

Restoration of court services is critical to the wellbeing of the citizens and businesses in San Diego County.

Over the last seven years, cuts to California’s Judicial branch have amounted to nearly $1.2 billion dollars. This astronomical number represents a cut of nearly 30% of the branch’s former operating budget, and unequivocally means that justice for our citizenry has been denied. Without adequate funding for our courts, cases “compete” to be processed by fewer staff and heard by fewer judges. Even after a decision has been made, extreme backlogs delay judgments from being entered into the system in a timely manner, and settlements can be compromised by the time it takes for a court to codify the agreement.

In 2013, a new funding formula was adopted for California’s courts – the Workload Allocation Funding Methodology (WAFM). WAFM boosts funding for some of our “sister” courts, and reduces funding for others based on need. However, it is unclear whether or not San Diego will see services restored under this model, as WAFM is being phased in over a five year period and there is a discrepancy of $41.4 million between what WAFM estimated for San Diego and what has been received. The model has not been utilized long enough for San Diego to truly understand what its net effect will be on our judiciary.

The state’s approved 2015-2016 budget provides for some reinvestment in our courts ($90.6 million over two years) as part of Governor Jerry Brown’s strategy for stabilizing court funding. However, it is unclear whether that increase is intended to resolve services cut in the last few years or whether that increase is meant to serve another purpose. The current budget does include funding to address the disparity between the budget allocation and a shortfall caused by a decrease in fee revenues to the Trial Court Trust Fund. However, the amount allocated (up to $66.2 million) is intended to fill a corresponding loss, and does not increase the total amount of funding for operations.
Reinvestment in our courts does not take away from public safety issues – it is a public safety issue.

Families in crisis who cannot resolve their disputes put stress on other local and publically funded community resources, including law enforcement. Without adequate access to justice, citizens will resort to “self help,” which is defined in a legal sense as “redressing or preventing wrongs by one’s own action without recourse to legal proceedings.” The court’s ability to resolve cases efficiently has a direct and immediate impact on other government and community services since all of the deferred cases - in one way or another - must be resolved by the courts in the long run.

Businesses in our community are also suffering. Reduced court services means that cases are delayed, capital is tied up in lawsuits, and matters are not resolved in a timely manner, leaving San Diego businesses, particularly smaller ones, extremely vulnerable.

While it seems that the “bleeding” of funds from the courts has slowed, the issue of restoring the critical services that were cut over the past seven years remains paramount to the general health of our community. The citizens and businesses of San Diego cannot and should not wait any longer.

For the last two years, the San Diego County Bar Association, through our Court Funding Action Committee (CFAC), has met with our local legislators to advocate for greater funding for our judiciary and to discuss the impacts reduced services have on the community. We have polled our members about the effects of reduced services on their clients and issued an annual “State of the Courts” report detailing the current state of affairs.

All of our work, all of our research, and all of the information we have gathered from our community brings us to the same conclusion: Restoration of court services in San Diego is imperative.
What services have been cut or reduced?

Throughout the state, cuts mean drastically reduced services. Currently:

- Funding shortages have forced the closure of 52 courthouses and 202 courtrooms.

- Throughout the court system, staff has been decreased 19%, which equates to nearly 4,000 eliminated positions.

- Positions for 50 new trial court judges, authorized by the Legislature in 2007, remain unfunded and unfilled, despite a 2014 study showing that 270 new judgeships are needed statewide to reduce the current backlogs.

Throughout San Diego County:

- Regional business offices, which process all of the paperwork for civil cases, have been closed in East County (El Cajon) and South County (Chula Vista), with all work being consolidated into the the Central Division in downtown San Diego. This means that more work is being handled by less employees, and attorneys and their clients from all over the county have to go downtown to file cases.

- The Civil Independent Calendar department of the court is where civil matters are scheduled and heard. The number of these departments has been reduced from 22 to 15.

- The Small Claims Advisor, an assistant to help citizens with claim issues and procedures, has had their role drastically reduced and their hours slashed.
Lack of funding has led to historical delays in service. Service reductions, reduced operating hours, and fewer staff in our local courts delay justice. Here’s how:

- Civil Independent Calendar department caseloads have jumped from 500-600 cases to 900-1,000 cases per judge in the last two years. This means that judges are processing twice as many cases, which inevitably causes delays.

- The backlog of cases is so significant that it would take 2,572 hours (as of March 15, 2015) just to clear the backlog of work in the downtown civil business office.

**In civil cases:**

- A demurrer is a pleading to challenge an opposing party’s initial filing. These matters should be heard quickly as they can sometimes resolve an entire case or clarify key issues. Currently, demurrers are being scheduled for hearing as far out as nine months after filing, leaving parties in limbo for that entire time. Before the recent budget cuts, demurrers typically were only scheduled 35 days out.

- The law and motion calendar consists of pretrial motions (such as a motion to compel the other side in a civil case to answer discovery requests) or other legal requests not directly connected to a trial. Heavy motions are being set anywhere from eight to twelve months out from filing. Currently, routine law and motion matters are being scheduled for hearing six to seven months after filing. Historically, the same types of motions used to be scheduled and heard in as little as 16 days.

- A default judgment is a binding judgment in favor of a party based on another party’s failure to take action. They should be a simple and quick. Processing a default judgment used to take only two weeks when the court was fully staffed. Now it can take more than eight months.

- An unlawful detainer is a lawsuit in which a landlord seeks to evict a tenant because according to the landlord, the tenant no longer has the right to occupy the property. If a landlord cannot file an eviction in a timely manner, or an unlawful detainer case is delayed because the court is backlogged, the landlord is losing revenue and missing out on other opportunities every single day the case is delayed.
In family court:

- Spousal support orders now take up to 10 weeks to process, often leaving the receiving party in a dire financial position. When the court was fully funded, spousal support orders were often processed in a period of days.

- Parties in a divorce have to wait approximately three to four months for a Request for Order, for visitation or support while a case proceeds and is heard by the court. This previously took about three to four weeks.

- All Family Court judgments currently are backlogged by approximately four months.

What does this really mean for San Diego businesses?

- Businesses are caught up in lawsuits for longer periods of time than ever before. The delays in moving a case through the court system, as noted above, can mean many things including difficulty securing a loan or additional credit when a lawsuit is pending. This particularly stresses smaller companies, which tend to have more limited resources, and which may need to clear up a lawsuit to allow their day-to-day business operations to proceed.

- It is now more expensive to access court services – fines and court service fees were increased in 2012, and are not set to be reduced anytime soon – making it cost prohibitive for many businesses to bring a case to trial.

- Meritorious cases may not get filed because of concerns over legal costs and time delays. If businesses fear litigation because of these concerns, then there is no method of righting wrongs and protecting intellectual property and other assets.

What does this really mean for San Diego families?

- The significant reduction in court clerks delays the scheduling of custody hearings, sometimes up to three months. Both parents and children must suffer prolonged domestic turmoil without a timely resolution.

- Delays mean that adoption proceedings, custody decisions, and reunification of families is delayed. Our most vulnerable citizens – families in crisis – are forced to put their lives on hold while they wait for their “day in court.”

- Spousal support is sometimes the only financial resource for single parents. Having to wait more than two months to receive what they are owed can be catastrophic to a family.
CUTTING FUNDS

BUDGET CUTS

From 2007-2012

30%

of California’s court budget was cut, totaling

$1.2 billion

REDUCTION IN SERVICES

LOCAL COURT CLOSURES
All civil business offices in the East and South County Divisions have been closed and consolidated into the Central Division downtown

IMPACTS TO THE PUBLIC ACROSS THE STATE
31 courthouses closed
208 courtrooms closed
30 courts with reduced public service hours
37 courts with reduced self-help/family law facilitator service

INCREASED WORKLOADS

The San Diego Central Division caseload went from 500-600 to 900-1,100 cases per judge

Only 1 downtown independent calendar department is able to hear motions in the minimum time allowed by code

Civil independent calendar departments have been reduced from 22 to 15

2,572 hours it would take (as of March 15, 2015) to clear the backlogged work in the downtown civil business office

STAFF REDUCTIONS

Throughout San Diego, court reporters have been reduced by 38%

The Small Claims Advisor (SCA) has been reduced to a telephone bank and 1 attorney for the entire county

Counselors serving through the Family Court Services program have been cut by 23%

170+ permanent staff positions eliminated
TIME & TRAVEL BURDENS

Court users must travel downtown – up to 40 miles for some citizens – to file and prosecute civil and unlawful detainer (landlord/tenant) cases.

DELAGES

In civil cases, demurrers are now being scheduled as far as 9 months out.

Heavy motions are being set anywhere from 8 to 12 months out.

Routine law and motion matters are being scheduled 6 to 7 months into the future; they used to be scheduled and heard in as little as 16 days.

IMPACT ON BUSINESS

HOUSEHOLDS IN JEOPARDY

Spousal support orders can take up to 10 weeks – a wait time that can be detrimental to a family.

Parties must to wait approximately 3-4 months to have a Request for Order heard. This includes custody, visitation and support.

Families with custody evaluations experience 12-16 weeks of processing time.

Family Court judgments are backlogged approximately 4 months.

Delays threaten the safety and stability of vulnerable children and families.

IMPACT ON FAMILIES

“Justice delayed, is justice denied.” – William Gladstone

2 2015 Snapshot: San Diego, Superior Court of California, County of San Diego
3 Reinvesting in California’s Justice System: A Three-Year Blueprint for a Fully Functioning Judicial Branch, California Courts, The Judicial Branch of California
4 Information provided by the San Diego Superior Court
Real-life stories about the effects of reduced services:

I was the client in a recent unlawful detainer case. I have some apartments and we’ve had a relative move into one of our units in violation of the rental agreement. He’s a convicted felon and has proceeded to threaten and intimidate several neighbors. We proceeded with a 30-Day eviction notice and the matter was set for trial as soon as possible. That’s the first problem, the shortage of courts extends the time for everyone. When we did arrive at trial, the tenants spoke only Spanish and had no interpreter and none was available. Again, the risk was a continuance to obtain an interpreter that they could not afford and with a swap out of judicial assignments there was no new judge available or known at that point. It looked like a continuance in a highly stressful piece of litigation. The other party would not negotiate and wanted to talk only to “the Judge”. I wouldn’t speculate on the long term effects of the inability to either get a trial department or an interpreter, however in the short term, this creates havoc for apartment owners and the tenants in the San Diego, Imperial Valley and Los Angeles courts. The evictions don’t go away or diminish just because of the economic downturn.

I have a case that is stalled waiting on court action. We filed for default and have yet to get a response from the court four weeks later (though the calendaring clerk stated it was granted). My client is still concerned about this matter solely because the court has not had the resources to handle our small matter efficiently. I’m affected because I have had to expend a lot of time and energy dealing with the court that cannot be compensated. Finally, the defendant has slowly been sliding off the grid... depending on how long it takes to get the default orders, we may or may not be able to find or contact the defendant to serve him.
My clients live marginally, and whether and when they get paid on a judgment that includes compensation for medical bills and lost earnings has an enormous impact on their quality of life and that of their family and their stress and anxiety level. While waiting, some of my clients have had to move and change apartments several times during the course of my representation of them just to keep a roof over their heads. It is taking 4-6 months to get a writ of execution filed. If there is an error in my form, I believe that the clock starts ticking again on another 4-6 months from the date the form is corrected. I believe that in my smaller cases, hiring a court reporter is cost prohibitive. Everything is a la carte now. There is even a fee for filing a stipulation, and no matter the amount ($5,000.00 or $500,000.00), the filing fee for minor’s compromises is $435.00 per child; no matter how many are in the same action and in the same family.

The submission of a stipulated judgment of dissolution was submitted October 15, 2014 in time to ensure entry before the end of the year for the parties’ tax consequences. The judgment package was returned May 4, 2015, nearly seven months later with a rejection notice because the Clerk had questions about the language in the Stipulated Agreement. In this case, one of the parties now wants to revisit the terms of the agreement and may not cooperate in resolving the “defects” as labeled by the clerk.

My clients have had to wait 2 months for a mere substitution of attorney form to be processed. In the meantime, the new attorney cannot conduct many activities including, post judgment, conducting debtor examinations, etc. This can be a critical time delay if defendants are trying to hide, transfer of sell their assets wherein a debtor exam order (and lien) needs to be immediately obtained to have priority over some of the transfers.

My clients (plaintiffs) have to wait approximately 8 months to get a default judgment entered and cannot obtain a lien against the defendant’s property until the judgment is entered. They then have to wait several months for the clerk to process an abstract of judgment and/or writ of execution before liens and levies can be effected. In the meantime, the defendant has almost a full year to hide, sell or transfer their property after they have already defaulted in the case, thereby depriving plaintiff of recovering on its judgment. My clients will lose the ability to promptly enforce their judgments, often resulting in the loss of hundreds of thousands of dollars to which they are entitled.

I worked on several unlawful detainer cases in 2014. It took, on average, over two months to get a trial date. That means landlords were not able to collect rent for nearly four months.
Conclusion

San Diego’s citizens rely on a stable, fully functioning court system. Delays caused by drastically reduced services continue to affect the lives and livelihoods of many in our community. While the new budget gives California’s judiciary a bit of a boost, Governor Brown has said, “the (judicial) branch needs to operate differently without the expectation of funding restorations.”

If that is the case, the lack of funding restoration means that services will not be restored – and the backlogs and delays will continue to get worse. California has the country’s largest court system serving the state’s 38 million residents. San Diego has the country’s third largest court system, serving the county’s more than 1.37 million residents. San Diego cannot operate effectively if individuals and businesses are denied their “day in court” because the system is bursting at the seams with backlogs.

A budget in the next year is a good starting point, but that will not save the day since the proverbial glass is not half full – it is just no longer leaking as dramatically as it has been. Full restoration of services to reach the point we were at seven years ago can only be accomplished if there is a full restoration of funding to address the budget cuts.

A fully functioning court system is the only way to guarantee our citizenry’s right to justice.

Please help us by sharing your stories at www.sdcba.org/courtfundingrealworldimpacts.