

Court reform is still on the docket

DA: County needs resources to add another jury session

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FALL RIVER — Drunk drivers and others are sidestepping prosecution because Bristol County has the state's largest backlog of district court jury cases, prosecutors and others say.

Although Plymouth and some other counties with less serious crime have up to three jury-of-six sessions, Bristol County limps along with one, despite years of promises that another session would be started.

That means a victim in Plymouth County waits only one or two months before a jury trial is held, but a victim in Bristol County waits at least 11 months and often much longer.

"I'm very mad about it," said Bristol District Attorney Paul F. Walsh Jr. "I don't care about politics or pursestrings, it all generates into the fact that Bristol County is getting screwed."

The regional administrative judge says his hands are tied: because of a statewide court employee hiring freeze and rules that prohibit transferring employees among courts, he has been unable to staff a second jury session.

Others, including Mr. Walsh, think it's a matter of Bristol County taking low priority.

"They told me, when I first got into office, that it's a matter of no resources, but since then, they've opened new jury sessions" in other

counties, Mr. Walsh said. "This county is getting abused."

The jury-of-six offers the district court defendant charged with a misdemeanor or minor felony an opportunity to have his or her case tried before a jury of six peers. It also serves as an appeals court following a conviction by a judge in district court.

Bristol County, with a population
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Jury ✓

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of 106,325, has one district court jury session.

The county's 1,597-case backlog means that the victim of a misdemeanor or minor felony can wait years before a case is resolved. Sometimes cases are dropped because witnesses disappear or forget important testimony, and defendants often are arrested on new crimes while awaiting trial.

A recent report from the state Office of Commissioner of Probation said repeat drunken-driving cases have dropped in Massachusetts, but a speedy trial is essential to preventing subsequent drunken driving crimes.

Defendants whose cases were resolved in two months or less had a repeat offender rate — a recidivism rate — of 4.1 percent. In cases that took more than nine months to resolve, there was a recidivism rate of 9.1 percent.

"We need three jury sessions going at once, not one," said Thomas M. Quinn, an assistant district attorney who recently left his post as supervisor of the jury-of-six session to join the Superior Court prosecution staff.

New jury-of-six cases in Bristol County — most of which are on appeal to the jury session after a defendant is first convicted by a judge, in the state's trial de novo system — now are scheduled for trial 11 months after they come into the jury session.

By comparison, Plymouth County, with a population of 431,177, has three jury sessions. The jury session in Wareham District Court has 244 cases pending, and cases are set for trial one to two months after the office gets them.

The same waiting period exists in Hingham District Court, which has 533 cases pending, and in Stoughton District Court (a Norfolk County court that takes Plymouth County cases), where there are 260 jury-of-six cases pending.

In Barnstable County, with a population of about 180,000, there is one jury session with 599 cases pending, or one-third the caseload Bristol must handle with a single session.

"In Barnstable, I sat with a victim where the trial took place within the past month, and now the jury session is set for this week," said Linda Facheo, chapter administrator of the Bristol County Mothers Against Drunk Driving. "That's a pretty big difference between that county and this one."

Regional Administrative Judge Charles E. Black, who runs the district courts in Bristol, Plymouth and Barnstable County and in part of Norfolk County, says he doesn't have the personnel now to staff a second jury-of-six session for Bristol County.

A second session was set to start in Attleboro last year, and a court officer was about to be hired when the

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hiring freeze was instituted. Since then, the Attleboro Court has lost several clerical workers essential to running a jury session, Judge Black says.

The administrative judge says the problem is that the state court system doesn't authorize him to transfer personnel from a court where there are many workers — the Quincy District Court, for example, has 100 employees — to a needy court such as Attleboro, which has only 21 employees.

"To be honest, it's been the same issue for three or four years, and that's the availability of court officers and other staffing requirements," Judge Black said.

But Mr. Walsh is very frustrated.

"Judge Black keeps telling us it can't get done, but in the meantime Quincy has opened a jury session, and Plymouth has three jury-of-six sessions; but Plymouth has only two-thirds of our case load, and we have much more crime — and much more serious crime," Mr. Walsh said.

Judge Black started a jury session at Quincy District Court about 18 months ago.

Part of the problem is that Bristol County, as residents have long insisted, just doesn't get its fair share of resources, Mr. Walsh said.

"The regional administrative justice doesn't come into our county," Mr. Walsh said of Judge Black. "If they say it's money, I'll hire a court officer for them."

Judge Black says that he is concerned about the "crisis situation" in Bristol County but that the Attleboro session cannot start up until five employees, including a court officer, are hired. Until two weeks ago, there was a hiring freeze on new court employees.

"Telling someone we can't hire anybody doesn't ease the concern on a victim's part," said Michael G. Chadinha, regional coordinator for the area's district courts. "It's been a very frustrating couple of years for all of us."

Now there may be help on the way, Judge Black says.

The statewide hiring freeze was, to some extent, lifted Sept. 17 when John E. Fenton, chief administrative justice of the state's trial courts, announced \$1.8 million in funds for hiring court employees throughout the state.

Mr. Chadinha says starting a second jury session in Bristol County is at the very top of Judge Black's

priorities as he makes hiring requests to Judge Fenton.

Attleboro also has a \$50,000 budget surplus that could be used to hire clerks, now that the hiring freeze is thawing, Mr. Chadinha said.

Mr. Walsh says the new jury session had better be up and running by the start of the new year.

If it isn't, Mr. Walsh said, "I'm going to scream long and loud about what's going on down here, and if I don't get what I want, I'm going to start playing hardball."

Added Robert Goodale, second assistant district attorney who administers the district courts for Mr. Walsh, "If you tell me there's \$1.8 million, I hope there's some left by the time it gets to Bristol.

"The number one priority in this county is additional jury sessions: one in Attleboro, and another one someplace else," Mr. Goodale said.

The practical effect of delayed trials can be devastating to victims and others.

On Wednesday, for example, there were 10 cases set for trial in the Fall River jury session, and prosecutors were ready to try them, Mr. Goodale said.

Because the courtroom was occupied with a jury trial that began Tuesday, all but one of Wednesday's matters were postponed for another 11 months. The other matter was partially disposed of by plea agreement, he said.

"We accomplished precious little today," Mr. Goodale complained.

Among the matters postponed were two cases of open and gross lewdness involving three young girls who missed school to testify. Now they won't return for close to a year, with no guarantees the case will be tried then, said Mr. Goodale.

One reason Bristol County is so far behind in trying the cases is that it was shut down for 10 weeks in early 1991.

Judge Black shut the Fall River session down for security reasons when there was only one court officer to handle the session. He said he had no extra court officers to loan from other district courts.

The state's administrative judge in Boston finally stepped in and ordered a Bristol County Superior Court officer sent to help the beleaguered jury session.

"Ever since this session got closed down, we'll never recover from that without at least one, and better, two more jury sessions," said Mr. Goodale.

Technically there are two judges assigned to run two jury sessions in Fall River, but there is usually only one courtroom available for jury trials — the courtrooms also are used for civil and non-jury criminal matters — which is why the Attleboro session is so important, those involved agree.

Mr. Walsh said he wants a new jury session by January. Otherwise, he predicted, there will be wholesale dismissals of cases for violation of the speedy trial rule.