

The Sun

City, state labor to reform a system of 'Jurassic justice'; Cooperative effort is aimed at defusing crisis in the courts

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In Baltimore's halls of justice, punishment often comes before a trial.

Suspects wait behind bars for months, sometimes years, for their cases to reach juries. Indigent defendants have been denied the right to lawyers. One man openly pleaded for a trial, only to be told by judges he had to stay in jail and wait some more.

In the past year, a series of people suspected of committing serious crimes, even murder, have been released because of bungling by court officials and prosecutors who were simply unable to get together and try them.

"If it wasn't so damn serious, it would be laughable," said Abe Krash, a Georgetown University law professor who helped argue *Gideon vs. Wainwright*, the landmark 1963 U.S. Supreme Court case that established a defendant's right to an attorney.

How did it get so bad in Baltimore?

Felony drug cases have tripled in seven years, and the number of publicly paid defense lawyers, judges and prosecutors hasn't kept up. For years, pleas for more money have gone unanswered.

Few officials are assigned to fast-track minor cases when suspects are arrested, clogging the jail and courthouse with "junk" charges that will eventually be dismissed or shelved by prosecutors.

A decade after computers became commonplace in most courthouses, judges and clerks in Baltimore still rely on hand-written records to keep track of thousands of criminal cases.

There have been territorial disputes and next to no communication between the key players in the city and state justice systems. Infighting has erupted over the simplest things, such as whether a judge should be stationed at the Baltimore City Central Booking and Intake Center to quickly move cases.

Progress has been made to attack the crisis in the courts since it first surfaced in December. Lawyers and judges are working at breakneck speed to resolve cases, many of which have languished for years.

Still, fundamental problems threaten the system.

"Essentially, the process becomes the punishment, and we need to be looking at whether justice is possible," said Faye S. Taxman, a University of Maryland professor who has been studying some of the problems.

Taxman's recent study showed that nearly half the suspects held in jail between 1996 and 1997 were not prosecuted for their alleged crimes.

Moreover, nearly 70 percent of the suspects released on bail or their own recognizance were not prosecuted, according to the study, conducted for the state Department of Public Safety and Correctional Services, which tracked nearly 6,700 cases from beginning to end.

With the courts' dirty laundry aired -- possibly harming the state's public image -- the governor and his lieutenant have stepped in to try to update what is jokingly called "Jurassic justice" in Baltimore.

Judges are cracking down on trial delays. More courtrooms are being constructed. Languishing cases involving violent crimes are being targeted for trials. Retired judges have been brought back to hear cases. Money has been set aside to hire more public defense lawyers and prosecutors.

After years of not talking to each other, key players in Baltimore and Annapolis have formed a "coordinating council," meeting monthly to try to solve the problems. While noting that progress has been made, Lt. Gov. Kathleen Kennedy Townsend, a member of the council, said that "a lot more needs to be done."

The father of victim Shawn L. Suggs -- whose suspected killers were set free in January because the state took too long to bring their cases to trial -- said he hopes lasting changes are made soon.

"They can't do anything to bring my son back, but why should other families have to go through what my family went through?" Sedric Suggs said. "I hope to one day have the satisfaction that this will never happen again."

The chaos surfaced in December, when the state's Court of Special Appeals dismissed the sex case against James T. Brown Jr., convicted of molesting a 12-year-old Baltimore girl. The court found that Brown's trial was postponed nine times over 16 months, violating his right to a "speedy trial."

Under Maryland law, defendants must be tried within 180 days of their arraignments, or the charges can be dropped, unless the suspects specifically waive the right. Brown never did, and city judges approved seven of the nine postponements after the 180-day deadline had expired.

The reason for many postponements: No judge was available to preside over Brown's trial.

It has been a frequently cited excuse. Last year, there were 13 Circuit Court judges assigned to handle 24,733 felony cases and

requests by defendants facing misdemeanor charges to have their cases heard by juries. Most of those cases never went to trial because they ended in guilty pleas, the charges were dropped, or the cases were placed on the inactive docket.

Still, the cases tied up prosecutors, public defenders and judges.

The state's attorney's office has about 75 lawyers to handle felony and misdemeanor jury cases. The Office of the Public Defender, which represents the vast majority of defendants, has about 40 lawyers for such cases.

The result was a postponement culture at the courthouse. Prosecutors, judges and defense lawyers began to expect that their cases would not be heard by juries because of the clogged court docket.

With the trials postponed, the suspects, many of them unable to post bail, remained behind bars at a cost of \$55 a day per person. In effect, the suspects became prisoners of the state for months, sometimes years -- without confronting the witnesses against them and without jurors deciding their cases.

"It means that justice can't be served," Taxman said. "It means that no one is satisfied with the outcomes, whether it be police, prosecutors, judges or Joe Citizen."

For many in Baltimore, the breakdown came as no surprise. As far back as 1990, the Bar Association of Baltimore City warned in a report that drug cases would overwhelm the jail and criminal docket.

Said Mayor Kurt L. Schmoke, who served as the city state's attorney between 1981 and 1987: "What we are calling a crisis in the Circuit Court has been well known and predicted for years."

Nine years later, a Baltimore judge ruled that the chaos had to stop.

Relying on the appellate court's dismissal of the sex case, Circuit Judge Roger W. Brown dismissed the case against four first-degree murder suspects in the Suggs slaying, finding that the trial had been delayed so many times "it boggles the mind."

When the suspects were freed, television cameras were at the courthouse to record their run to freedom across Calvert Street. It was an image played to a national audience. It was an image that sickened family members of Suggs, who was gunned down in the middle of Auchentoroly Terrace during the height of rush-hour traffic in October 1995.

The case against Suggs' accused killers had languished for nearly four years. It was delayed so long, one of the suspects allegedly committed another killing while he was out on bail, and a state witness was slain in a still-unsolved homicide.

An examination of the court docket by The Sun turned up other cases that never made it into courthouse press releases. In one, charges were dismissed against two men accused of carrying out a robbery and carjacking spree along Loch Raven Boulevard in 1996. One of the suspects, Christopher Wills, pleaded for his trial to start for nearly a year.

It was postponed time and again.

A judge eventually ruled that prosecutors and other judges violated his state and federal rights to a speedy trial.

The publicity of that case and others resulted in a flood of protests from victims, the governor's office and lawmakers who control the purse strings of much of the city's criminal justice system. The release of the Loch Raven suspects so incensed the FBI that agents rearrested the pair and leveled federal charges for the same crime spree.

Wills and his accomplice, Kevin Cox, pleaded guilty Friday. Sentencing is scheduled for this summer.

The publicity also prompted calls for reforms.

Meetings were held between Townsend, Baltimore State's Attorney Patricia C. Jessamy, Attorney General J. Joseph Curran Jr., Chief Court of Appeals Judge Robert M. Bell and others.

Curran offered Jessamy as many as 30 of his lawyers to help her office move backlogged cases. Townsend and her staff located space for emergency courtrooms in the city. But the space later became unnecessary after court officials found room in the courthouse.

Lawmakers in Annapolis then issued an ultimatum: fix the problem or lose funding.

In the courthouse, Judge David B. Mitchell, the new chief of the criminal docket, cracked down on postponements, and three retired judges were brought back to hear cases fulltime.

Prosecutors and defense attorneys now find themselves in back-to-back trials, stretching them to the point of exhaustion. Clerks are working furiously to handle the paperwork.

These days, practically no excuse to postpone a trial is good enough. When a prosecutor recently asked for a delay to find witnesses in a murder case, Mitchell denied the request. The prosecutor, who had won a murder conviction against the defendant in another case, had to "stet" the pending murder case, placing it on the courthouse's inactive docket.

Mitchell's crackdown appears to be paying off. Court statistics show that the percentage of postponed cases dropped by a combined average of 10 percent in January and February. The number of defendants waiting for trials fell by more than 500, to 4,981, during the same time period.

In two new arraignment courts, cases are being resolved at lightning speed. In the first two weeks of March, dozens of defendants pleaded guilty, many of them in exchange for being sentenced to the time they already served in jail.

Court supervisors and lawmakers say they are also considering long-term solutions.

After two years of respite, Maryland District Court Chief Judge Martha F. Rasin decided to place a judge in the intake and booking facility to help move cases. A District Court judge -- who has been certified to also hear Circuit Court cases -- sat in the court for the first time two weeks ago.

Jessamy also has taken critical steps toward taking the authority to charge criminal suspects from the Police Department -- a reform long recommended but never acted upon.

The Criminal Justice Coordinating Council was re-established for key players to discuss and solve some of the problems. Still, there is distrust and tension between some members, and it occasionally surfaces in public.

With all eyes on the courts, officials of the criminal justice system are being forced to grapple with problems that have undermined

the faith of the public, leaving many to shake their heads in disbelief.

The case of Cheryl Tyndall is one example.

A single mother, she was charged with a misdemeanor for allowing her children to miss too many school days two years ago. She did not appear for her original court date in November 1997. Two months ago, she was arrested on a so-called "Failure To Appear" warrant, and she sat in jail for five days, unable to post the \$5,000 bail.

Tyndall would have been there for another month waiting for her trial. The maximum sentence for her alleged crime: 10 days in jail.

But lawyers working for a program designed to help indigent defendants were able to free her from jail. Law professor Douglas L. Colbert, who runs the program at the University of Maryland, said the time has come to reform the antiquated system of justice in Baltimore.

"A system that puts Cheryl Tyndall in jail," he said, "is acting unfairly."

Graphics:

PHOTO(S)

1. AMY DAVIS: SUN STAFF

Caption:

1. Sedric Suggs, father of homicide victim Shawn L. Suggs.

2. Murder victim: The suspected killers of Shawn L. Suggs, shown here with his son, Shawn L. Suggs Jr., were freed in January because the state took too long to bring their cases to trial.

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