



United States District Court

Southern District of California
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STATEMENT OF U.S. DISTRICT JUDGE LARRY ALAN BURNS BEFORE THE HOUSE SUBCOMMITTEE ON THE COURTS, INTELLECTUAL PROPERTY, AND THE INTERNET FEBRUARY 24, 2021

Good morning Chairman Johnson, Ranking Member Issa, and Members of the Subcommittee,

My name is Larry Alan Burns and I serve as a Senior District Judge on the U.S. District Court for the Southern District of California. I have served on our Court since 1997, beginning as a Magistrate Judge in 1997, and then as a District Judge since 2003. I served as Chief Judge from 2019-2021.

The Southern District of California encompasses a wide swath of territory stretching from the Pacific Ocean to the Arizona border. The district encompasses two large counties – San Diego County on its western border, and Imperial County to the east. It is home to some 3.5 million people.

Our district includes five ports of entry contiguous to our border with Mexico, including the largest and busiest port at San Ysidro, California. Each day, over 50,000 vehicles and 25,000 pedestrians cross into the United States from Tijuana, Mexico through the San Ysidro Port. In the standard vehicle lane, it can often take more than 6 hours of waiting to get across. Our district's jurisdictional reach is also comprised of many military installations, including the Naval Air Station at Coronado, California and the Marine Base at Camp Pendleton in the northern section of the district.

Congress has authorized 13 active District Court judgeships for the Southern District of California. The last time new District Judge positions were authorized for our district was 2003. Our court is a full service U.S. District Court. By that I mean that our caseload consists of every type of criminal and civil case that is common in district courts across the country. In addition, we are one of five Southwest Border Courts – a designation that greatly impacts our caseload. While I won't bore you with tedious statistical data, I would like to provide the Subcommittee with an overview of trends in our caseload statistics, which reflect an increasing demand on our Court and our judges since 2003.

National federal court management statistics since 2003, the year of the last judgeship bill, through September 30, 2019, show the number of total cases filed in the nation has risen by 13.6 %. California, alone, handles 10 percent of the nation's caseload. During this 16-year period, the caseload in the Southern District has increased by 17 %, and we have seen weighted filings – the basic caseload assessment system that determines the average amount of time each case type takes to complete – increase by 30%. In 2019, our district's weighted caseload was 634 cases per judge – well above the national average of 535 cases per judge. From 2017 to 2019, our court's criminal filings alone rose 30% – the 4th highest criminal caseload in the nation and more than three times the national average. Based on this most recent data from before the COVID-19 pandemic, we expect weighted filings in the Southern District of California to continue to increase – which, of course, increases our need for additional judges to handle the cases.

The effects of the increase in our caseload have been profound and have inexorably led to delay in the handling of cases – particularly civil cases. In most federal districts, it takes about 2 years on average to adjudicate a civil case from filing to final judgment. But in the Southern District of California, the median time is 37 months, which is too long. As the members of this Subcommittee well know, long delays in adjudicating cases can lead litigants to conclude that the expense and the passage of time makes it impractical to continue, leaving them only the option of foregoing their “day in court.” Such outcomes lead to an erosion of trust in the judiciary and in the judicial process itself.

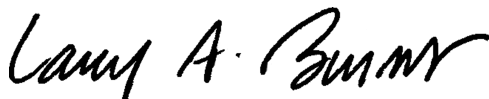
A staggering increase in our Court's criminal caseload since 2003 is the main cause of the problem. Statistics relating to just two areas of our criminal docket – immigration enforcement and cross-border drug smuggling – best illustrate why we desperately need

additional judges. In 2019, 89% of our overall criminal caseload consisted of immigration and border drug cases. Criminal immigration cases invariably involve due process challenges to the defendant's prior immigration and criminal record and are often very time consuming – even when the case does not go to trial. Similarly, cross-border drug smuggling cases typically require multiple pretrial hearings to resolve discovery and search and seizure issues. These cases predominate the workload of our District Judges, only eight of whom are current Active Judges. Thankfully, our Active Judges are assisted by nine Senior Judges, who during the one-year period ending September 20, 2020 handled 26% of the border drug cases and 32% of the criminal immigration cases. Without the assistance of our Senior Judges, it is unlikely our Court could effectively process the glut of criminal cases.

Quite simply, we need more District Judges if we are to continue to meet the demands of increasing caseloads and fulfill the guaranty of access to justice. While our Court is grateful for the assistance provided by Senior District Judges, occasional Visiting Judges, and Magistrate Judges, the problem will not be solved by relying on these judges to help shoulder the burden. Senior District Judges enjoy the prerogative to choose which cases they will handle, and their continued service on the Court is indeterminable. Similarly, while Visiting Judges generously provide “stop-gap” relief, their temporary assistance will not solve this ongoing problem. Finally, appointing additional Magistrate Judges will not help, as their jurisdiction is limited and does not generally include authority to try civil or criminal cases. To the contrary, the urgent issues I have highlighted will only be solved if Congress authorizes additional District Judge positions.

Mr. Chairman, in the time allotted, I have tried to highlight only some of the issues that impact the functioning of the United States District Court for the Southern District of California. I would be happy to address any questions that may follow.

Thank you.



Hon. Larry Alan Burns

U.S. District Judge

Southern District of California