

ACLU Sues Los Angeles Judges Over Their Part in Jail Crowding

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In a new twist in the problems facing the Los Angeles County jail system, the American Civil Liberties Union (ACLU) recently filed a class action suit against the Los Angeles County Board of Supervisors and 102 Superior Court judges on behalf of over 7,000 pretrial detainees. (See Elizabeth McKinney, et al., v. Ricardo Torres, et al., CV88-6506KN [JRX]). The suit alleged that the current practices of the superior court judges, particularly with regard to scheduling and continuing of cases, violate the defendant's right to effective assistance of counsel, speedy trial, and due process.

The ACLU has been supportive of the Los Angeles County Sheriffs Department and its efforts to manage

a burgeoning jail population that regularly exceeds 21,000 inmates. The Department's rated capacity is 13,464.

The superior court filed a motion to dismiss the case. The motion was heard by U.S. District Court Judge William P. Gray on April 3, 1989. Indicating that he was inclined to dismiss the case with prejudice, Judge Gray noted that the decision in **Younger v. Harris** bars federal courts from interfering with state courts.

In response, the ACLU's attorney, John Hagar, asked the judge to consider staying the case rather than dismissing it. Hagar noted that although he will continue to pursue the action in state court, he expects that he will have to return to federal court to settle it. Judge Gray said that he "recognized the substantial problem" of jail crowding and agreed to stay the case, leaving open the possibility that it will be tried in federal court if the state courts do not resolve the alleged constitutional violations.

The county's preferred methods of release remain citation release and early release. Between May 27, 1988 and January 20, 1989, the county released 33,532 defendants on citation. Between June 30, 1988 and January 20, 1989, a total of 42,543 sentenced inmates were released seven to fifteen days early.

With the jail population projected to reach 25,274 by May 1989, and the nearest jail construction project not expected to be finished until July 1989, Los Angeles county finds itself in a difficult position. If the federal court hears the McKinney case and eventually rules that superior court judges do in fact contribute to jail crowding because of their continuance policies, then a new standard will be set for jails across the United States.

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