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Why wheels of justice roll slowly in Tucson

Reasons are numerous for lengthy trial delays

By Kim Smith

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When Francisco Arriaga's family learned his killer had been arrested, and had confessed, they figured justice would be served in short order.

They waited 15 months for Vernon Bullock Jr. to be sentenced to 20 years in prison for second-degree murder.

As long as that may seem to victims, family members and defendants, legal experts in Pima County say it's typical. What's more, they say many other jurisdictions are much slower.

Arriaga, 25, was talking on his cell phone in the parking lot of a local nightclub when several fights broke out, police say. Shots rang out and Arriaga was hit twice in the chest and died.

For three months, no one knew who was responsible.

Finally, police received a tip and Bullock was arrested.

"We were all scared and we were numb and we were angry," said Virginia Valenzuela, Arriaga's mother. "We kept thinking, 'Who could it be?'"

Frustrated, the family thought at the time that the police weren't doing enough to solve the case. Now, Valenzuela said, they realize they were doing the best they could.

For 15 months following the arrest, Valenzuela and her other children made the two-hour trip from Safford to attend nearly every one of Bullock's court appearances.

They wanted to know every detail of the case and offer input to prosecutor Lewis Brandes whenever possible.

"I wanted everyone to know Frankie was loved, that he had a family, that he wasn't someone who had no one who cared for him," said sister Anna Arriaga.

They were there for countless evidence hearings, tactical maneuvering, and ultimately, Bullock's trial, conviction and sentencing.

They came away with plenty of ideas to improve the system.

Number one, they want the process to be faster.

There are a lot of reasons cases take so long to resolve, though, Michael Cruikshank, Rick Unklesbay and Robert Hooker agree.

Cruikshank is the presiding judge of Pima County Superior Court's criminal division. Unklesbay is chief trial counsel for the Pima County Attorney's Office, and Hooker is the Pima County public defender.

Arrests and prosecutions can be slowed by defense investigations, backlogs getting lab work done and scheduling

issues, the three officials agreed.

The myth about defense attorneys stalling to gain an advantage for their client just isn't true, Hooker said.

"Everyone points the finger at the defense for delays, delays, delays, but every one of those continuances is granted by a judge," who wouldn't agree if there wasn't a good reason, Hooker said.

Many cases are delayed because defense teams need to do their own investigations.

"These are mostly complex cases and you can't just wing it," Hooker said. "No one will want to wing it when someone can go away for life or even get the death penalty. Isn't it better to take the time upfront than deal with it on appeal when there are claims the lawyers didn't do an adequate job?"

Every witness interviewed by the state must be found and re-interviewed by a defense investigator, Hooker said. In addition, sometimes new witnesses come to light and they, too, must be found and interviewed.

The need to call expert witnesses can bog down both sides.

Experts in fingerprints, handwriting, blood spatter, ballistics, pathology, psychology and accident reconstruction must be found, provided evidence, given time to write reports and then be interviewed by both sides.

And if either side wants to exclude an expert's testimony, that means more hearings.

Arranging a time when the expert, both lawyers and the judge are available can be nearly impossible. And when it's a multiple-defendant case with multiple defense attorneys it's that much more difficult, Unklesbay said.

"A lot of times the courts are held hostage by the experts' schedules. They can't just drop everything," Hooker agreed.

Months-long delays can also be caused when defendants need to undergo psychological evaluations or be restored to competency.

Hooker also acknowledged defendants can cause delays by asking for new attorneys.

"Some of them won't have good cases and rather than accept reality, they'll try to get new lawyers by creating conflicts," Hooker said.

The sheer number of cases going through the system is also a factor, Unklesbay said.

Every year, there are approximately 6,000 felony cases filed in Pima County.

With only 65 prosecutors, 13 criminal judges and a finite number of defense attorneys, they can't all be handled swiftly, Unklesbay said.

Maricopa County has about 3 1/2 times the population of Pima County, and a comparable crime rate, but it has six times as many prosecutors and many more judges, Unklesbay said.

According to the two counties' statistics, the average number of days between arraignment and resolution in a Pima County felony case is 147. In Maricopa County, the average is 46.

Homicide and other complex cases take much longer.

As of Nov. 2, there were 83 noncapital murder cases pending in Pima County, Unklesbay said. The average age of those cases was 375 days.

"There's just a lot of cases and not a lot of people to handle them," Unklesbay said. "As the cases get old, they don't get better, either. Witnesses' memories fade and witnesses move and are harder to find."

Cruikshank said he thinks it's the lack of attorneys, not judges, that slows the process.

"No cases are being continued because there aren't enough judges, but the lawyers are stretched thin," he said.

The judges do what they can to move the cases along, Cruikshank said. They often schedule three or four trials for the same day in the hope one of them will actually move forward.

Judges try to give cases priority based on whether there are victims, the age of the case and how long defendants have been in jail, Cruikshank said.

"Overall, I think we have a very high level of productivity in Pima County," Cruikshank said. "I think our lawyers work more for less money than those in Maricopa County."

Hooker said there are some jurisdictions where defendants sit in jail for six months before they even see an attorney.

"Overall, I think Pima County and Arizona are light-years ahead of the rest of the nation in terms of the quality of indigent defense," Hooker said. "But like with everything else, it comes down to money. We could speed things up here if we had more attorneys and judges.

"If we can reduce the caseloads for both prosecutors and defense attorneys, I think we'd be able to work the cases up much quicker and get them resolved much quicker. But the reaction we get from the people counting the money is we ought to just work harder when we're already working at breakneck speed," Hooker said.

Read the Star's crime blog and watch a slide show of Tucson sex offender absconders at www.azstarnet.com/crime

- *Contact reporter Kim Smith at 573-4241 or kimsmith@azstarnet.com.*

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