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NEWS RELEASE

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Judicial Emergency Declared in District of Arizona

SAN FRANCISCO – The chief judge of the United States District Court for the District of Arizona has taken the rare step of declaring a judicial emergency that will temporarily suspend a time limit set by federal statute for bringing accused criminals to trial.

Chief District Judge Roslyn O. Silver made the declaration to head off possible dismissal of criminal cases for failure to meet requirements of the Speedy Trial Act. The law requires a federal criminal trial to commence within 70 days of a complaint or indictment being brought. During a judicial emergency, the time limit may be extended to a maximum of 180 days.

The Arizona federal court has the third highest criminal caseload in the nation driven by illegal immigration and drug smuggling across the U.S. -Mexico border. Criminal cases have increased 65 percent since 2008, when the federal government greatly expanded its law enforcement efforts along the border. The bulk of the criminal caseload is assigned to the court's Tucson division, where three judges currently handle approximately 1,200 cases each.

Judge Silver declared the emergency after discussing the matter with the Judicial Council of the Ninth Circuit at a special meeting held January 20, 2011, in San Diego. Her declaration took effect immediately and will have a duration of 30 days, expiring February 19, 2011. In addition, at Judge Silver's request, the Judicial Council agreed to exercise its authority under federal law to extend the judicial emergency by one year. Complaints and indictment brought during this combined 13-month period will not be subject to the 70-day trial requirement.

The emergency declaration does not affect another Speedy Trial Act provision requiring filing of an indictment within 30 days of an arrest, nor does it affect the time limits for defendants in custody solely because they are awaiting trial.

“The need to suspend the time limits is of great urgency due to a heavy criminal caseload, a lack of adequate resources, and the tragic death of Chief Judge John Roll on January 8, 2011,” Judge Silver wrote in [an order](#) announcing the emergency, which was filed in her court on January 21, 2011.

The late Judge Roll, who was among those killed in the recent mass shooting in Tucson, had initiated the process used to declare a judicial emergency last year.

The Arizona federal court is authorized 13 judgeships and currently has three vacancies, two of them in the Tucson division. Based on its caseload, the court is eligible for as many as five additional judgeships.

Criminal filings rose sharply in Arizona after implementation of Operation Streamline, a Department of Homeland Security program that requires criminal prosecution and imprisonment of anyone unlawfully crossing the border. While the government has expanded law enforcement resources, including doubling the number of federal prosecutors working in the Tucson office, no additional judicial resources have been authorized to the court by Congress. Visiting judges from other courts are currently assisting the district but such aid is not seen as a long term solution.

Chief Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit, who chairs the Judicial Council of the Ninth Circuit, was hopeful that the declaration of a judicial emergency would prompt action by Congress.

“The district court in Arizona urgently needs additional resources. Judicial vacancies need to be filled and new judgeships should be given strong consideration. There is also a need for more court staff and facilities,” Judge Kozinski said.

Judicial emergencies are declared rarely. Within the Ninth Circuit, an emergency was declared by the Southern District of California in 2000 based on lack of sufficient resources. However, the court did not actually suspend the 70-day requirement for any cases during the emergency and did not seek an extension from the Judicial Council of the Ninth Circuit. Also, the Ninth Circuit Court of Appeals approved a suspension of the time limit for at least one criminal case in the Eastern District of Washington following the Mount St. Helens volcanic explosion in 1980.

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