

Study: Immigration judge as stressed out as emergency room doctors, prison wardens

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On any given day, Immigration Judge Dana Leigh Marks can find herself listening to a wrenching tale of an immigrant seeking asylum, fearing everything from torture to death if returned to his or her homeland. Or she could be deciding the fate of one of thousands of immigrants who find themselves facing deportation each year, some of whom have been in the United States for years, going to school, working and raising families.

In a cramped corner office in San Francisco's financial district, the case files stacked on Marks' desk show the sheer volume of her task. The roughly 215 immigration judges in the country last year decided an average of more than 1,600 cases, dwarfing the workload of a full-time federal judge, who may have about 350 cases on their docket at a time.

For Marks and other immigration judges around the country, it appears all those stories and case files are starting to take their toll. In a study released this summer by University of California-San Francisco researchers, immigration judges, it turns out, are as stressed out and burned out as emergency room doctors and prison wardens. And the study found female immigration judges far more stressed than their male counterparts.

As U.S. Department of Justice employees, immigration judges ordinarily do not speak publicly. But they didn't hold back with UCSF researchers. One judge told researchers they have to "grovel like mangy street dogs" to convince top immigration officials they need more time to deal with the crushing caseloads. Another reported a "knot in my stomach" deciding asylum cases. And another told researchers: "I can't take this place anymore. What a dismal job this is!"

The study does not entirely surprise Marks, president of the National Association of Immigration Judges. She's now using the findings to push for long-sought reforms to the system, including a proposal for the immigration courts to break from Justice Department oversight.

"The depth and the severity is what was surprising," Marks said of the study. "It's gotten a lot worse a lot faster."

Immigration courts have come under closer scrutiny in recent years as caseloads exploded across the country. The number of immigration cases jumped from more than 282,000 in 1998 to a projected 385,000 this year, with only a modest increase in the number of immigration judges. Northern California's immigration judges are based in San Francisco.

Federal appeals courts, which often review the work of the immigration courts, have grown increasingly frustrated with some of the justice dispensed. A Mercury News review three years ago found a San Francisco-based federal appeals court was regularly overturning the immigration courts in the most important immigration matters it decided.

A spokeswoman of the Executive Office of Immigration Review, which runs the immigration court system for the Justice Department, said officials are aware of the recent study and working to address its findings, which included recommendations to provide far more resources to immigration judges.

Elaine Komis, the EOIR spokeswoman, said 19 new judges are being hired this year, and the department is asking for 28 more judges in 2010. And during a weeklong training session for all the judges earlier this month in Washington, D.C., one segment included stress management.

But the findings of widespread stress and burnout in the study are cause for concern among immigration rights advocates, who worry that frustrated, overworked immigration judges are too often giving short shrift to immigrants in their courtrooms.

Experts such as Karen Musalo, a Hastings College of the Law professor and leading asylum lawyer, say there are ample numbers of judges who don't deserve sympathy because "there are judges that just shouldn't be there."

But Musalo and others say many judges are well-intentioned but overburdened. In particular, department pressure to push judges to decide immigration cases quickly and erase backlogs has aggravated the tension in the system, according to experts.

"We're driven by numbers, statistics," said Gilbert Gembacz, who retired last year as an immigration judge in Los Angeles after 12 years on his court. "The bean counters have taken over."

Bay Area immigration lawyers recently provided the San Francisco judges with a survey of their performance, and the main concern in those findings — which are not public — was ensuring judges remain patient and empathetic to the rights of the immigrants.

"A lot of these judges appear easily frustrated," said Philip Hwang, who runs the asylum program for the San Francisco Lawyers' Committee for Civil Rights and summarized the survey.

The UCSF study identified asylum cases as a leading cause of stress for the immigration judges because of the stakes involved and the limited resources to fully examine asylum claims.

"We're dealing with death penalty cases in a traffic court setting," Marks said.

On an ordinary day in immigration court, most asylum cases unfold behind closed doors, one at a time. A government lawyer shooed a reporter out of Marks' courtroom on a recent day earlier this month as the judge considered the asylum petition of an Afghan woman.

Down the hall, more routine hearings involving deportation matters unfolded in the courtroom of Judge Lawrence Di Costanzo, who plowed through a calendar of cases, speaking slowly into a microphone to produce recordings of the proceedings.

There was little sign of stress in the small, antiseptic courtroom, but most of the hearings were routine matters far from resolution. For the judges and the system, the stress comes later, when the decision is made on whether an immigrant can stay in the country or must be sent away.

"You're dealing with someone's life," said Gembacz, the retired Los Angeles judge. "I felt the stress disappear quickly when I retired."

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