



U.S. Commission on Civil Rights Denounces Imposition of Immigration Judge Quotas

April 20, 2018

The U.S. Commission on Civil Rights, by majority vote, strongly objects to what amounts to an annual 700 case closure quota on immigration judges imposed by the Department of Justice.¹ The Commission is aware that the backlog of immigration cases itself poses substantial due process concerns, however, placing limitations or ill-considered pressures on immigration judges to resolve cases impedes fair access to justice, endangers the due process rights of immigrants, and is a startling attack on the independence of immigration judges. As Judge Ashley Tabaddor, president of the National Association of Immigration Judges (NAIJ) notes: the recent DOJ action marks a “crisis point.”²

Immigrants are entitled to have their immigration cases carefully adjudicated by judges who do not base their decisions on factors beyond the merits of each case.³ Moreover, because immigrants only have the right to counsel in immigration proceedings at their own expense, most have no attorneys which places additional responsibilities on the judges to ensure that due process is provided and that cases are correctly decided under our laws.⁴

The immigration court system faces a large backlog, and immigrants—including those seeking refuge or fighting deportation—often wait years for their cases to be decided.⁵ Although addressing these issues is critically important, imposing quotas is the wrong approach and will do little to address the problem. Congress has recently appropriated funds that enable the Administration to add 100 judges to the approximately 350 judges already on the bench. This addition of jurists who can exercise their judgment in the fair administration of justice is an appropriate response to the backlog. Quotas will

¹ DOJ, EOIR PERFORMANCE PLAN: Adjudicative Employees <https://assets.documentcloud.org/documents/4429792/PWP-Element-3-New.pdf> (2018). A satisfactory annual performance rating requires an immigration judge to close 700 cases, with less than 15% of those cases remanded, and to meet a variety of timing benchmarks.

² Nina Shapiro, Trump Orders Judges to Hurry Up; Here’s What the Public Rarely Sees in Seattle and Tacoma Immigration Courts, *Seattle Times* (Apr. 6, 2018) <https://www.seattletimes.com/seattle-news/northwest/immigration-courts-out-of-public-sight-face-new-criticism-as-trump-ramps-up-pressure/>.

³ See 8 C.F.R. §1003.10(b) (“In deciding the individual cases before them, and subject to the applicable governing standards, immigration judges shall exercise their independent judgment and discretion and may take any action consistent with their authorities under the Act and regulations that is appropriate and necessary for the disposition of such cases.”).

⁴ See <http://trac.syr.edu/phptools/immigration/nta/> (select “represented” category).

⁵ See http://trac.syr.edu/phptools/immigration/court_backlog/.

negatively affect the quality of immigration decisions and increase judicial errors that have life-or-death consequences and will only create inefficiencies on the appellate level. Separately, measuring judges by the number of cases they close rather than the quantum of justice they deliver and the soundness of their decisions badly misses the mark for actual access to justice in this country.

For decades, the Commission and its state advisory committees have investigated and reported on the often negative civil and human rights implications of our nation's immigration laws and policies.⁶ We strongly urge the Department of Justice to rescind the quota system.

Chair Catherine E. Lhamon stated: "The fair administration of justice requires that each individual who comes before a judge has the assurance that his or her case is not hastily judged, merely to meet a quota requirement. Anything less is an attack on the necessary independence and impartiality of the judiciary."

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The U.S. Commission on Civil Rights, established by the Civil Rights Act of 1957, is the only independent, bipartisan agency charged with advising the President and Congress on civil rights and reporting annually on federal civil rights enforcement. Our 51 state Advisory Committees offer a broad perspective on civil rights concerns at state and local levels. The Commission: in our 7th decade, a continuing legacy of influence in civil rights. For more information about the Commission, please visit <http://www.usccr.gov> and follow us on [Twitter](#) and [Facebook](#).

⁶ See USCCR, U.S. Commission on Civil Rights Commends President Obama on Issuance of Immigration Accountability Executive Action (Nov. 21, 2014), http://www.usccr.gov/press/2014/Immigration_letter.pdf (summarizing history of USCCR immigration investigations).