

Study Finds Immigration Courtrooms Backlogged

The New York Times

June 18, 2009 Thursday, Late Edition - Final

Copyright 2009 The New York Times Company

Section: Section A; Column 0; National Desk; Pg. 20

Length: 550 words

Byline: By JULIA PRESTON

Body

Nearly three years after the Justice Department **found** that the nation's **immigration** courts were seriously overburdened and recommended hiring 40 new judges, only a few hirings have taken place and the case **backlog** is at its highest point in a decade, according to a **study** released Wednesday.

The report, by the Transactional Records Access Clearinghouse, a nonpartisan group that analyzes data about federal government performance, **found** that the shortage of judges had contributed to a 19 percent increase in the **backlog** of cases since 2006 and a 23 percent increase in the time it takes to resolve them.

As of April 12, Justice Department officials said, there were 234 active **immigration** judges, an increase of 4 judges since August 2006. At that time a review by the attorney general, Alberto R. Gonzales, determined that **immigration** courts were struggling with their case burden and recommended that 40 judges be brought on board.

"It's a system at its breaking point," said Dana L. Marks, an **immigration** judge in San Francisco who is president of the National Association of **Immigration** Judges. "How can a system function properly when it is starved from the critical basic resources it needs?"

The number of cases soared after the Bush administration hired thousands of new **immigration** agents and stepped up raids in factories and communities. Last year the **immigration** courts received 351,477 cases, also a record in the last decade.

"Promises were made and promises weren't kept, and there is real hurt," said David Burnham, a co-director of the clearinghouse, also known as TRAC.

Many thousands of immigrants have been affected by the delays because the authorities have started to hold many more of them in detention while the immigrants challenge deportation orders or seek political asylum through the courts.

Each judge in the **immigration** courts is sharing a law clerk, on average, with three other judges, the report **found**. In federal district courts, by contrast, each judge normally is assigned more than one clerk. In one week last year that the clearinghouse examined, an **immigration** judge typically handled 69 hearings. Yet according to the report, 186,342 cases were pending in the **immigration** courts at the end of the 2008 fiscal year, the highest number in a decade.

The courts that decide **immigration** matters have generally had lower visibility than the federal courts because they are not part of the judiciary. Instead, they are run by an agency, the Executive Office for **Immigration** Review, which is part of the Justice Department. Judges are appointed by the attorney general.

Study Finds Immigration Courtrooms Backlogged

A spokesman for the Justice Department, Charles Miller, said the increased time to resolve cases did not mean that the courts were overwhelmed or inefficient. "For example, the case may involve significant legal or unusual issues," Mr. Miller said.

But he said the department was hiring 19 new immigration judges and had requested 28 more judges and 28 clerks for 2010.

Unlike criminal defendants, immigrants in court do not have a right to be represented by a lawyer. In many cases, the judge is expected to explain basic rights and procedures. But according to the TRAC report, 78 percent of the immigrants that came before the courts since 2006 required a translator.

<http://www.nytimes.com>

Classification

Language: ENGLISH

Publication-Type: Newspaper

Subject: JUDGES (92%); IMMIGRATION (91%); LAW ENFORCEMENT (90%); IMMIGRATION LAW (90%); JUSTICE DEPARTMENTS (90%); US FEDERAL GOVERNMENT (89%); RESEARCH REPORTS (89%); ATTORNEYS GENERAL (89%); DEPORTATION (78%); LAWYERS (78%); POLITICAL ASYLUM (78%); ASSOCIATIONS & ORGANIZATIONS (76%); LAW COURTS & TRIBUNALS (73%)

Organization: US DEPARTMENT OF JUSTICE (90%)

Industry: LAWYERS (78%)

Person: ALBERTO GONZALES (58%)

Geographic: CALIFORNIA, USA (79%); UNITED STATES (79%)

Load-Date: June 18, 2009