

Border Crossings Slow But Immigration Courts Still Face Backlog

September 12, 2014 4:21 PM ET

Judge Dana Leigh Marks, president of the National Association of Immigration Judges, talks to Robert Siegel about how the flood of young migrants has changed the way courts prioritize immigration cases.

ROBERT SIEGEL, HOST:

The number of unaccompanied Central American children who are able to duck Mexican authorities and cross into the U.S. illegally may be down, as we just heard. But that decrease has not yet translated into a lighter caseload for immigration court judges. That's according to Dana Leigh Marks who was an immigration judge as well as the president of the National Association of Immigration Judges. We spoke with her in early July at the height of the migrant crisis. And we're going to talk again now. Welcome to the program once again.

DANA LEIGH MARKS: Thank you so much, Robert.

SIEGEL: Crossings are down, but I gather the immigration courts still have a huge backlog. Is that right?

MARKS: That's correct. It takes a long time for cases to work through our system. And even though there appears to have been a dip at the present time, we still are working on cases that had come in in the spring and the summer.

SIEGEL: Well, there was much talk in July about trying to ease the burdens on immigration courts. Is there anything different about the workflow there now

than there was in early July?

MARKS: What's happening is that the administration has decided that we should prioritize cases in terms of last in, first out, whereas in the past we would handle cases in according to the order that they came into our system. So that change has been implemented. And now we are working on more recent arrivals rather than working on cases that have been in our system for a longer period of time.

SIEGEL: So you're saying - well, let's say in the past week - cases that you've heard in your court - when did some of those people enter the U.S.?

MARKS: Well, my court is not a great example because I haven't been assigned yet to these new surge dockets. But maybe it's good by comparison. In San Francisco I'm dealing with cases that have been on my docket for three to four years before they come to a final conclusion. And some of them it goes up to five. In contrast, we are seeing cases of newly arrived, unaccompanied juveniles coming into our courts within 21 days of the filing of the charging document.

SIEGEL: You've called for more judges to be named. The administration didn't get the amount of money it wanted, but it did move around some money. Have they flooded the zone near the Mexican border to at least add more judges to lighten the docket load a bit?

MARKS: What's happened is that existing judges have been assigned in different ways to try to address the caseloads differently. But no additional judicial capacity has been added to the system. So by scheduling these newly arrived juvenile's cases sooner, they are being handled more quickly but to the detriment or delay of the cases that are left behind by the fact that a judge is taken out of their existing docket - out of their existing courtroom and assigned to a courtroom along the border.

SIEGEL: Do you think that the shift to the last in, first out schedule is intended as a deterrent to Central American immigration? That is, to send a message to people who have been coming over this year, that they will be dealt with more promptly than perhaps their relatives who came over five years ago were dealt with.

MARKS: Well, it's not really the role of the association to speculate with regard to political overtones and what messages are being sent. We do know that the administration has chosen to take this approach in response to the surge of cases at the border.

SIEGEL: And that's a shift?

MARKS: And that that is a shift. That is correct.

SIEGEL: When it's reported that the immigration court backlog is at 400,000, we're not talking about people who are sitting in immigration detention facilities, are we?

MARKS: No. That is correct that the number one priority in our system has always been the cases of detained individuals to assure that they are processed through the system as quickly as possible.

SIEGEL: Judge Marks, thank you very much for talking with us today.

MARKS: Thank you so much, Robert.

SIEGEL: Dana Leigh Marks is an immigration judge in San Francisco and president of the National Association of Immigration Judges.

Copyright © 2014 NPR. All rights reserved. Visit our website [terms of use](#) and [permissions](#) pages at www.npr.org for further information.

NPR transcripts are created on a rush deadline by [Verb8tm, Inc.](#), an NPR contractor, and produced using a proprietary transcription process developed with NPR. This text may not be in its final form and may be updated or revised in the future. Accuracy and availability may vary. The authoritative record of NPR's programming is the audio record.