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Missing: New York Immigration Judges

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The Trump administration is assigning immigration court judges to handle detention cases near the border, exacerbating the backlog in New York.
(USAF/Creative Commons)

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Jun 6, 2017 · by [Beth Fertig](#)

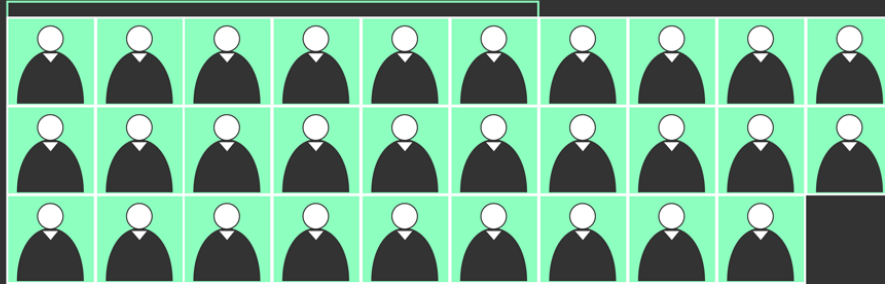
In the middle of May, paper notices were posted on the walls of the federal building in lower Manhattan announcing the absence of several immigration judges. Some were out for a week or two, while others were away for six weeks. The flyers said their cases would be rescheduled.

The Executive Office for Immigration Review, which runs the immigration courts, would not comment on the judges' whereabouts. It cited the confidentiality of personnel matters. But after WNYC asked about these missing judges, many of the paper notices were taken off the walls of the 12th and 14th floors, where hearings are held in small courtrooms.

It's no secret that President Donald Trump's administration has been [redeploying judges to detention centers near the southern border](#) to speed up the processing of cases. After contacting numerous immigration attorneys down south, as well as retired judges and others, WNYC was able to crowdsource the judges' locations. At least eight of New York City's 29 immigration judges had been sent to Texas and Louisiana since March to conduct hearings in person or by video. Six judges were out for different parts of the month of May, alone.

Two Year Wait in NYC Immigration Court, Now With Fewer Judges

6 redeployed for part of May 2017



The court has 29 judges to manage nearly 80,000 cases. The Trump administration redeployed 6 of them to hear cases in Texas and Louisiana during May.

Source: TRAC, Syracuse University; Beth Fertig, WNYC
Graphic: Clarisa Diaz, WNYC Data News Team



The federal building is [home to the nation's busiest immigration court, with a backlog of 80,000 cases](#). By redeploying so many judges in such a short period of time, immigration lawyers fear the delays will grow even longer. Meanwhile, attorneys near the border question whether these extra judges are even necessary.

Among other matters, judges at detention courts are supposed to hear cases involving people who crossed the border illegally. Yet [those numbers have declined since Trump took office](#). That's why local attorneys are cynical about the surge.

"I don't really think that they need all these judges," said Ken Mayeaux, an immigration lawyer in Baton Rouge.

Mayeaux said what's really needed there are more immigration attorneys. As federal agents arrest an increasing number of immigrants who are already in the U.S. without legal status, they're sending them to southern detention centers that are pretty isolated. The ones in Oakdale and Jena, Louisiana, are hours west of Baton Rouge and New Orleans, where the vast majority of the state's immigration advocates are concentrated, said Mayeaux.

"To ramp things up in one of the places that has the lowest representation rates in the United States, that's a due process disaster," he said.

Data from the [Transactional Records Access Clearinghouse at Syracuse University](#) confirms that immigrants may only wait a couple of months for their deportation case to be completed in these detention centers near the border. But in New York, the wait to see an immigration judge is 2.4 years.

So why move judges from a clogged and busy court system in New York to the border region, where immigration cases are already moving swiftly?

“In this particular instance, it’s a virtuous circle from the perspective of the administration,” explained Andrew Arthur, a former immigration judge.

Arthur is a resident fellow at the [Center for Immigration Studies](#). It’s a think tank that wants to limit immigration, though it’s been branded a hate group by the [Southern Poverty Law Center](#). During the Obama administration, Arthur said too many immigrants were let out of detention and waited years for their cases to be heard. He said moving more judges to the border will prevent that from happening.

“Because the quicker that you hear the cases the less likely that an individual is to be released,” Arthur said. “Therefore the less likely another group of individuals are to attempt to make the journey to the United States.”

Another former immigration judge, Paul Wickham Schmidt, said the Obama administration tried something similar by fast-tracking the cases of Central American migrants in 2014. But he said it wound up scrambling the judges’ dockets and was counterproductive. He was redeployed from his home court in Virginia and estimates he had to reschedule a hundred cases in a week.

“Nobody cares what’s happening on the home docket,” he said. “It’s all about showing presence on the border.”

Not all judges assigned to the border are physically present. Mana Yegani, an immigration lawyer in Houston, said she’s seen several judges — including a few from New York — at a detention center where cases are done by video teleconference.

“We never see the prosecutor’s face, it’s just a voice in the background,” she explained. “It’s just not a fair process for our clients and I don’t think the judges can be efficient the way they’re supposed to. They take an oath to be fair and to uphold the Constitution and due process, and I think the way the system is set up it really hinders that.”

A [new audit](#) of the immigration courts by the Government Accountability Office questioned whether video teleconferences have an impact on outcomes and said more data should be collected.

Some attorneys believe the reassignments are temporary to see if border crossings continue to ebb. The Executive Officer for Immigration Review won't comment on that, but spokesman John Martin said the agency will hire 50 new judges and "plans to continue to advertise and fill positions nationwide for immigration judges and supporting staff."

In the meantime, there’s no question that shifting judges away from New York is having an impact on real people.



Maira, with attorney Shouan Riahi, waited more than 2 years to resolve her asylum case. It happened only after a New York judge, who was reassigned to border cases, found a way to hear the woman's case in May instead of making her wait until next year.

(Beth Fertig/WNYC)

In March, a 45-year-old woman named Maira from El Salvador was supposed to have a hearing on her request for asylum. Her attorney, Shouan Riahi of Central American Legal Services, said her case was strong because she's a victim of domestic violence.

"She was with the man for about 12 years. He was severely physically, emotionally and sexually abusive towards her," he said.

Maira, who declined to give her last name to protect her privacy following the beatings, entered the country illegally in 2014. She'd been waiting to resolve her asylum case for more than two years. But a week before her court date she learned her case would be rescheduled for October of 2018 because the judge was in Louisiana.

"Waiting is an anguish for me," said Maira, adding that she's eager to get a green card and bring her four children to New York.

Thankfully for her, the judge was able to reschedule the hearing for May and Maira was granted asylum. But with so many of New York's immigration judges reassigned to the border, other immigrants are likely to wait even longer to have their cases resolved.

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