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Population in local immigration jails swells, more judges assigned to handle cases

The Otay Mesa Detention Center is housing more unauthorized immigrants than a year ago.

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Almost six months into the Trump administration's stepped-up enforcement against illegal immigration, the two local immigration jails are holding more people in detention and the number of judges assigned to hear their cases has more than doubled.

Both are the latest signs that the crackdown on unauthorized immigration promised by Trump and being carried out along the border and in the interior of the country are rippling through the nation's immigration system.

The average daily population at the Otay Mesa Detention Center and the Imperial Regional Detention Facility in Imperial County increased nearly 15 percent over the same time last year. Both jails are run by private companies under a government contract.

While the detained population has swollen, the Executive Office of Immigration Review in the Justice Department that runs the immigration court system has staffed up the courts inside those two jails.

There are now five judges assigned to the Otay Mesa court. At the start of the year, there were two.

Imperial has two assigned judges. Before, no judges were assigned there. Cases were processed via a video hookup with courtrooms in San Diego and Otay Mesa.

Lawyers who represent unauthorized immigrants held in jails said with the increase in arrests and in judges, there is now an emphasis on resolving those cases quickly.

“There is a lot of push by the judges to keep these cases moving,” said Tammy Lin, a San Diego immigration lawyer who is the president of the local chapter of the American Immigration Lawyers Association.

Lawyers are increasingly concerned that the growing dockets and quick pace threatens the due process rights of some held in detention. Many people in immigration detention don’t have lawyers and, because immigration cases are civil violations and not criminal cases, are not entitled to one. They often represent themselves.

For those that can get lawyers while in detention, judges are hewing to tighter case times — not granting continuances for as long as they did previously, Lin said.

“When we have quick turnaround times, we can’t advocate to our fullest,” she said.

Immigration courts have always prioritized cases of people who are held in detention, but that has now taken on a larger meaning in the wake of Trump administration policies outlined in Executive Orders in January.

The orders gave Immigration and Customs Enforcement (ICE) officers much broader authority to arrest and detain people who are in the country illegally. Previously enforcement focused on those with criminal records who were here illegally, but now ICE is empowered to arrest a wider array of people, including those who otherwise have been law abiding.

That increased authority has led to more arrests, locally and nationwide.

From Oct. 1 through July 1 the two jails held on average 1,896 people each day, according to the Immigration and Customs Enforcement (ICE) agency. At the same time last year the average population was 1,640.

A spokeswoman for ICE attributed the increase to both an “overall uptick in immigration arrests made by ICE Enforcement and Removal Operations officers and an increase in the number of individuals transferred to ICE custody by U.S. Customs and Border Protection at the border.”

While immigration lawyers chafe at the quickened pace in court, Peter Nunez, a former U.S. Attorney in San Diego and chairman of the board of the Center for Immigration Studies, which advocates for tougher restrictions on legal and unauthorized immigration, said it makes sense in an era of increased arrests of unauthorized immigrants.

“The faster you can move the detained cases, the more detained cases you can handle,” Nunez said.

Though the Trump administration wants to add more detention facilities, space is limited now. Processing cases quicker opens up space, Nunez said, because “you can actually detain more people for a shorter period of time.”

At the same time, the emphasis on processing cases of people detained in immigration jails along the border is having a knock-on effect on courts elsewhere, where dockets are growing longer because judges from those courts are being transferred to work the border courts.

And that may worsen a growing problem with the nation's immigration courts. The courts already have a backlog of nearly 600,000 cases, according to a Government Accountability Office report in June. That's more than twice as much as the backlog the courts faced a decade ago.

Judges are feeling the strain, said Dana Leigh Marks, a San Francisco immigration judge who is also the president of the National Association of Immigration Judges.

"By putting more into the system, and not having a reasonable number of judges on staff to handle the number of cases that come in just creates problems," said Marks.

"A judge's job is to make sure people are given due process, and have their day in court, and fair day in court," she said. "There is only so fast you can push."

There are about 325 immigration judges nationally and while the administration wants to increase that to more than 400, no funds have yet been allocated and the arduous hiring process could take time.

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