

CBS NEWS

Government shutdown claims immigration judge paychecks as morale hits a "historic low"

BY KATE SMITH

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The nation's roughly 400 immigration judges are getting hit hard by the government shutdown:

- They're about to miss their second paycheck.
- About three-quarters have been furloughed and unable to work, which means their case backlog is growing.
- The result: Morale is at a "historic low," said Ashley Tabaddor, the president of the National Association of Immigration Judges and a Los Angeles-based immigration herself, in an interview with CBS News.

The immigration court docket is split into two categories: Hearings for immigrants who have been detained represent about 5 to 10 percent of the docket. These cases have been uninterrupted during the shutdown and have been overseen by approximately 100 judges who aren't getting paid.

But the vast majority of the immigration court docket is made up of immigrants who have been released but being monitored, or "non-detained" cases. Those cases case been postponed during the showdown. Judges who oversee these cases are completely barred from working, even on their own time to get ahead on administrative issues.

"I've been using the words 'unprecedented' and 'surreal,' and yet it keeps becoming more unprecedented and more surreal," said Tabaddor. "It's so unfortunate that we've reached this level of dysfunction."

Adding to the low morale is a the massive backlog of cases, which has risen by nearly 50 percent since President Trump took office. As of November 30 the backlog stood at just over 800,000 cases, but if the shutdown continues through February it could break one million.

Worse still for the judges is a new quota system announced in October by the Department of Justice. It said that all judges would be required to complete 700 immigration cases in the following year; if they fall behind, their job security could be on the line.

"It's so disconnected from reality," said Tabaddor. "Those cases just can't be completed in the timeframe that the administration is demanding. Frankly, it's laughable."

Given that many judges haven't been able to work for more than a month, will the quota be waived? DOJ hasn't given any guidance, said Tabaddor.

"It's not like if you miss a day of work, they work just goes away," Tabaddor said. "Everyone knows that they minute the shutdown is over, what awaits them is 10 times worse than what they left behind."

"Judges jobs are on the line if they don't meet these arbitrary number," Tabaddor said. "People are very concerned."

A call and email to the Department of Justice were not returned, but the agency's website said that press inquiries may not be returned because of the government shutdown.

Currently, most non-detained judges have four to five thousand hearings scheduled through 2021 and in some cases 2022, Tabaddor said, noting that "every single day on their calendar is booked." Immigrants who had hearings originally scheduled during the shutdown will most likely be forced to wait years before they're able to get in front of a judge.

Forcing judges to rush through their quotas could have a devastating impact on immigration hearings, said Kate Voigt, the associate director of government relations at the American Immigration Lawyers Association. When forced to choose between their own job security and a thorough understanding of an individual's case, many judges have gone with the former, pushing through cases without giving immigrants their due process, Voigt said.

The Department of Justice has "increased pressures on judges to churn out cases at lightning speeds, at the expense of due process and case-by-case determinations," Voigt said in an email to CBS News.

In Charlotte, North Carolina some judges have refused to hear testimony from female asylum seekers from Central America, citing an now-overturned policy statement from former Attorney General Jeff Sessions that removed domestic and gang violence from admissible asylum criteria, said Jeremy McKinney, an immigration attorney who serves clients in North Carolina and South Carolina, in an interview with CBS News. In one asylum hearing McKinney had last year prior to the government shutdown, Judge Barry Pettinato refused to let his client testify, instead denying her asylum case outright because it dealt with gender-based violence, according to McKinney.

"My client didn't think she was going to win her case, but she certainly didn't think we were going to be in and out in 45

minutes," McKinney said. "If the asylum seeker never gets to take the stand under oath, never gets to tell their story, that's a fundamental due process problem right there."

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<https://www.cbsnews.com/news/government-shutdown-day-21-immigration-court-cancel-thousands-migrant-asylum-hearings-2019-01-11/>

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