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DOJ issues new immigration court policies, addressing Obama-era caseload backup



By Brooke Singman | Fox News

[video]

Justice Department issues guidance for courts on immigration

Doug McKelway reports

The Justice Department issued new measures on Wednesday that will prioritize certain immigration cases in an effort to streamline a system that nearly tripled the caseload of judges during the Obama administration.

A memo listing guidelines for all new cases filed and an order that all immigration court cases that are reopened must establish case priorities was sent by John McHenry, the director of the Justice Department's Executive Office for Immigration Review, to the Office of Chief Immigration Judge, all immigration judges, all court administrators and all immigration court staff.

"In 2010, immigration court benchmarks for non-detained cases were abruptly abandoned, and since that time -- perhaps non-coincidentally -- the caseload has tripled," Justice Department spokesman Devin O'Malley said in a statement to Fox News, noting that the reintroduction of court-based goals and benchmarks would "assist in properly managing cases, increase productivity, and reduce the pending caseload."

"Some policies implemented in the immigration court system in recent years have contributed to a three-fold increase of the courts' pending caseload," O'Malley said to Fox News, noting that certain "prioritization practices" made the caseload "worse" by continuing cases that could be resolved more quickly in favor of cases that often took longer to complete.

It was "the immigration court equivalent of fiddling while Rome burned," O'Malley said.

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- Devin O'Malley, DOJ spokesman

McHenry's memo is part of a larger push led by Attorney General Jeff Sessions, who issued a broader memo late last year outlining principles to ensure that the "adjudication of immigration court cases serves the national interest," and gave McHenry the "authority" to set time frames for the resolution of cases, and to evaluate the performance of immigration judges and "take corrective action where needed."

Currently, less than 10 percent of immigration cases pending meet the definition of "priority," according to McHenry, leading him to address "confusion" and "clarify" the department's priorities. That statistic, however, conveys a "potentially mistaken impression" of the

importance of completing the other 600,000-plus pending cases that do not bear a "priority" designation, according to McHenry.

"All cases involving individuals in detention or custody, regardless of the custodian, are priorities for completion," McHenry wrote, but noted that "the designation of a case as a priority is not intended to mandate a specific outcome in any particular case."

Other measures McHenry ordered were new benchmarks for courts, and for immigration judges.

The new measures require that 85 percent of all non-status detained removal cases be completed within 60 days of filing; 85 percent of all non-status non-detained removal cases be completed within 1 year of filing; and 85 percent of all motions adjudicated within 14 days of the request.

McHenry also required 90 percent of custody redeterminations to be completed within 14 days of the request, and 95 percent of all hearings to be completed on their initial scheduled hearing date.

Another new rule requires 100 percent of "all credible fear reviews" to be completed within seven days.

Fox News' Jake Gibson contributed to this report.

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