



Texas Monthly

News

Successful Immigration Program to End April 30

The Legal Orientation Program provides guidance to those facing deportation and is praised for saving taxpayer money.

By

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Date: Apr 23, 2018



President Donald Trump (C) at the White House on March 20, 2018 in Washington, D.C., joined by Homeland Security Secretary Kirstjen Nielsen (L) and Thomas Homan, acting director of Immigration and Customs Enforcement. Kevin Dietsch/picture-alliance/dpa/AP

This post has been updated to reflect an accurate number of detention facilities served by American Gateways.

By all accounts, the Legal Orientation Program (LOP) has been a smashing success for the federal government. The program — which provides rudimentary legal guidance to people facing deportation — saves taxpayer money, speeds the court process, and has been praised by judges, lawyers, and Immigration and Customs Enforcement. But the Trump administration has ordered the program shut down, at least temporarily, as of April 30. The administration says it's pausing the program to study its effectiveness. To

Trump critics, it is the latest in a series of changes to the immigration court system aimed at speeding up a “deportation machine.”

“It is like we are playing a game with people’s lives at stake and the rules are constantly changing,” said Ruby Powers, a Houston attorney who has practiced immigration law for a decade. “We have to constantly watch the news, talk with other attorneys on forums and at conferences, and readjust the strategy and communicate these changes to our multitude of clients. We have to work 24/7 with heavy consequences if we give the wrong advice. This is not for the faint at heart or those who don’t know how it worked beforehand.”

The immigration court system has long operated with little public attention. That began to change as the Trump administration rolled out numerous changes. On April 1, comedian John Oliver devoted 18 minutes of his half-hour HBO show to the current state of immigration courts, with much of the focus on the lack of legal representation for children and others facing deportation.

In recent months, the Trump administration has rolled out numerous initiatives around immigration. President Trump moved to end President Obama’s Deferred Action for Childhood Arrivals, or DACA, which protected from deportation hundreds of thousands of people who came to the country illegally as children. DACA remains in place as courts review Trump’s actions.

Immigration and Customs Enforcement ended a practice that generally released pregnant women while their immigration cases were going through the courts. Instead, they’ll now most likely be detained. Hundreds of National Guard soldiers are currently deploying to the border to supplement the U.S. Border Patrol. The Justice Department instituted a new performance measure that requires immigration judges to complete at least seven hundred cases a year, or face a poor performance evaluation or even termination.

“Make no mistake, the outcome this administration truly desires from mandating quotas on an understaffed adjudicatory agency with a needlessly overstuffed docket is to transform it into a deportation machine,” Jeremy McKinney, secretary of the American Immigration Lawyers Association, told reporters this month.

All of the changes are in keeping with Trump’s campaign promises to crack down on illegal immigration. The Trump administration has recently focused on a backlog of almost 700,000 cases in federal immigration courts. More than 100,000 of those cases are in Texas, according to data from the Transactional Records Access Clearinghouse at Syracuse University. Nationwide, immigration cases take an average of 718 days — almost two years — to move through the system, according to TRAC data. In Texas, the average case length is 882 days. In San Antonio immigration courts, it takes 1,081 days on average to complete a case.

Immigration attorneys and advocates say the administration's efforts to reduce the backlog are ignoring the Fifth and Fourteenth amendments to the Constitution, which guarantee due process of law to "all persons" — not simply citizens. Ashley Tabaddor, president of the National Association of Immigration Judges, has said the requirement for seven hundred completed cases a year would mean that judges would spend an average of two and a half hours on complicated asylum cases.

One of the most recent of changes, however, has drawn less public notice than previous actions by the administration. The Justice Department, which administers the Legal Orientation Program, notified grant recipients on April 10 that it was suspending the program, effective the end of the month. It gave no idea when, if ever, the \$8 million annual program might restart. A 2012 study by the Justice Department found that detained immigrants who went through the program completed their court process an average of twelve days earlier than immigrants who did not receive those services. That reduction in case length saved the government almost \$18 million in detention costs, the study said.

People in immigration court are entitled to an attorney, but because deportation is an administrative process, not a criminal one, the government has no obligation to provide lawyers to those who can't afford them. Only about a third of people facing deportation are represented by counsel. The George W. Bush administration created the Legal Orientation Program in 2003 as a way of giving detained immigrants who don't have lawyers some understanding of their rights and possible relief under U.S. immigration law.

The Justice Department provides grants to nonprofit agencies to conduct the LOP in 38 immigration detention centers, including ten in Texas. The Justice Department decided to suspend the program so that it could review its performance, said James McHenry, the director of the Executive Office for Immigration Review, in a Senate subcommittee hearing on April 18.

"We are reviewing the study from 2012. It was conducted, I would say, under some unorthodox circumstances. So we're reviewing it to see if it can replicate it. And as I've said, it's not been updated or reviewed since then," McHenry said under questioning from Senator Dick Durbin, R-Ill. He didn't answer Durbin's question about why the Justice Department didn't continue the grant program while doing the study. The American Bar Association and other groups have urged the administration to take that course.

El Paso's Diocesan and Migrant Refugee Services provides LOP services at two detention facilities in West Texas and one in southern New Mexico. Their program reaches 7,000 to 11,000 people a year, executive director Melissa Lopez said. Most of the work is done in groups, where detainees learn about the deportation process and what relief they

might be entitled to under the law. DMRS employees also provide one-on-one advice, but the Leadership Orientation Program does not provide legal representation, Lopez said.

“So having that knowledge of, ‘OK, I may qualify for this benefit or this benefit,’ or ‘You know, in looking at everything, it doesn’t sound like any of these things apply to me,’ that clarity can be really helpful for people,” she said. Many LOP participants choose to leave the country voluntarily after learning they have little to no legal chance to stay in the United States, Lopez said. That saves the government on detention and deportation costs. Without LOP, many people will stay in detention rather than return to their home country voluntarily, she said.

The Legal Orientation Program lets other detainees learn that they may be entitled to stay in the United States. “I can’t tell you how many times over the course of the 10 years that I’ve been involved with LOP that we have identified U.S. citizens, people that did not know that they were U.S. citizens and in fact were. U.S. citizens, as we all know, should not be deported from the United States,” Lopez said. She said the Legal Orientation Program grant provides 17 percent of her agency’s total budget. Losing the grant money will force her to lay off seven employees, and could threaten other programs provided by DMRS, she said.

Austin-based American Gateways provides LOP services at three Texas detention centers, reaching 6,500 detainees per year, executive director Rebecca Lightsey said. It helped an additional 1,500 people through a help desk program that has also been suspended by the Justice Department. American Gateways gets a third of its revenue from Justice Department grants for LOP and help desk services, Lightsey said. She wouldn’t say how many jobs might be eliminated by the funding cut. She worries what will happen to the detainees they’ve been serving.

“We don’t know how we’re going to continue to provide services, but we’re doing everything possible to explore our options because we feel it would just be unconscionable to leave all of these individuals without any access to legal information,” Lightsey said. Lopez and Lightsey both said they’ll look for other funding, but said it will be difficult because of the amount of money involved and the short notice before the funding is cut off.

At the Senate subcommittee hearing, McHenry said, “I can’t think of a reason why we wouldn’t” restart the program if the Justice Department study shows it is efficient and effective. But whether temporary or permanent, the funding cutoff will have life-altering consequences for many detainees, Lopez said.

“I expect that there will be a number of people who actually do qualify for a benefit that would allow them to remain in the United States lawfully, but won’t know about the benefit because LOP is not available,” she said. “They will forego applying for a benefit

and instead be deported because they never got the information to determine that they might be a United States citizen or know that they were eligible to pursue permanent resident status. Once deported, they are typically no longer eligible for the benefit that they would've been eligible for before the immigration court.”

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