

The Washington Post

Sessions's plan for immigration courts would undermine their integrity



Attorney General Jeff Sessions speaks at the Executive Office for Immigration Review in Falls Church, Va., on Oct. 12. (Sait Serkan Gurbuz/AP)

By [Editorial Board](#)

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October 22

ATTORNEY GENERAL Jeff Sessions decried the state of the immigration courts in [remarks](#) Oct. 12 before the Justice Department's Executive Office for Immigration Review, lamenting "rampant abuse and fraud" in asylum applications. As part of Mr. Sessions's push for an overhaul of the immigration system, the department also plans to begin evaluating immigration judges on

the basis of how many cases they resolve. This proposal would do little to fix the United States' backlogged immigration courts and much to undermine their integrity.

The Trump administration hinted at the plan in a [wish list of immigration policies](#), alongside commitments to constructing President Trump's promised border wall and withholding federal grants from so-called sanctuary cities. According to [reporting](#) by The Post, government documents [show that the Justice Department](#) "intends to implement numeric performance standards to evaluate Judge performance." Such a metric would probably involve assessing judges based on how many cases they complete or how quickly they decide them — a plan that the National Association of Immigration Judges has [called](#) a "death knell for judicial independence."

Unlike other federal judges, immigration judges are technically Justice Department employees. Currently, the collective bargaining agreement between Justice and the judges' association forbids evaluating judges based on quotas. But the association says the Executive Office of Immigration Review is working now to remove that language from the contract.

The administration aims to speed up the work of immigration judges, who now face a massive workload: The immigration court system is weighed down with a record backlog of 600,000 pending cases, and the average case takes roughly two years to resolve. Yet pushing judges to resolve cases quickly to meet performance standards could put judges in the position of choosing between keeping their jobs and the interests of fairness. Judges would end up rushing through complex cases that require more time to reach a quota. If the hurry were extreme enough, a judge's brisk handling of a case might not meet the minimum standards for constitutionally required due process.

In fact, implementing quotas could actually have the effect of jamming up the court system further. Immigrants ill-served by judges struggling to meet

quotas would be more likely to battle the judges' rulings, glutting federal appeals courts. The same glut took place after a **restructuring** of the immigration appeals court in 2002 lowered the quality of judging and led to a greater number of contested cases.

Alongside its call for quotas, the Trump administration **also requested** that Congress set aside funding for 370 more immigration judges, almost double the currently allotted number. While it's not clear whether an increase of that level is realistic, providing more resources to immigration courts would be a much more effective means of tackling the backlog — which both immigration hard-liners and **immigrants' advocates** agree should be addressed. A swifter process is in everyone's interests. The solution is not to set the requirements of justice aside.

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