

SENATOR CORNYN QUESTIONS FOR THE RECORD
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Questions Julie Myers Wood

Removal Proceeding Dismissals

Last year, the press reported that immigration courts in Houston were dismissing cases across the country, including cases involving criminal aliens. According to the reports, Houston was not the only location where cases were being dismissed or terminated in large numbers.

(1) Were you aware these reports?

A: Yes, I was aware of these reports.

(2) Did the Attorney General issue any directives or guidelines to Immigration Judges regarding case termination?

A: I do not have any knowledge regarding whether the Attorney General issued any directives regarding case termination or dismissals in 2010 and/or the spring of 2011.

(3) Do you have any statistics on the numbers of cases that have been dismissed in all immigration courts and the reasons for such dismissals?

A: No.

(4) [If no] Please provide a response to my staff as soon as possible.

Immigration Caseloads in State Courts

Recently, Judge Minton Murray, a state judge in Cameron County, Texas indicated that his court (as well as the county probation officers, U.S. attorneys, and mandatory psychiatrists) are drowning in workload from juvenile offenders who are illegal aliens.

Most of the kids are 15-16 years old and acted as drug mules. Many of the kids have come in multiple times after being "round-robin'd" by CBP. Judge Murray said he can detain some juveniles and even get the U.S. Attorney to prosecute but in most cases they either plead out and get probation or are simply let go and returned over the border by CBP. Judge Murray says state courts like his desperately need resources to handle the workload.

(1) Have any of you heard similar complaints from other state courts?

A: I have not personally heard any similar complaints, although I am aware of the issue.

(2) How often do state courts refer cases to ICE or DOJ for removal proceedings?

A: ICE would be in the best position to provide specific numbers in terms of referrals.

Article I Courts

One recommendation from the ABA is that we create an Article I court for immigration proceedings. This view is supported by some immigration judges who think it would give them more autonomy and more time to render decisions in cases.

I have drafted a bill to create an Article I court using the bankruptcy and tax courts as a model.

(1) What do you think of creating an Article I court?

A: The bankruptcy and tax courts certainly provide a useful, and successful model when considering the appropriateness of Article I courts for the immigration system. There could be many positive benefits to enhancing the immigration court system in this manner, and such a move could help underscore that immigration courts and judges should be taken seriously, and their orders followed. It is certainly possible that a move to an Article I court system could further encourage high quality applicants to seek positions on the immigration bench, which would help strengthen the system. That being said, it is not clear to me that the systemic problems inherent in our current immigration system would be transformed merely with court re-organization. It would be important to assess the overall expected costs and benefits of such a dramatic move before moving forward.

When reviewing court statistics for the last several years, for example, it is clear that a large percentage of IJ time is taken up addressing motions for continuances or other routine motions. Merely creating an Article I court system will not reduce this IJ time. If court re-organization is considered, it also might be worth looking at whether something akin to magistrates could be created to address these routine motions and allow IJs to spend more time focusing on their core duties resolving immigration cases.

(2) How long would it take for DOJ to transition its attorneys and board members to such a system?

A: DOJ is in the best position to answer this question.

Legal Orientation Program

It seems like there is agreement that the legal orientation program is one way we could streamline court proceedings. However, there is some opposition to using taxpayer money to fund the program.

(1) What do you think about using a portion of the fees collected from applications and petitions and using the revenue to fund expansion of the Legal Orientation Program nationwide?

A: In my view, such a proposal makes good sense, and would help ensure that the program is not under-funded.

(2) How much would it costs to expand the program nationwide?

A: DOJ would be in the best position to respond to this question.