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[Back to Article](#)

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## Burnout, stress plague immigration judges

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Immigration judges, who day in and day out listen to horrific personal stories of asylum seekers, suffer from significant job burnout and secondary traumatic stress, which may affect their rulings, according to [a recent study](#).

After analyzing data from 96 immigration judges who participated in the study, researchers from the Langley Porter Psychiatric Institute at the University of California, San Francisco found that the judges, especially female judges, are more burned out than hospital-based doctors who care for the gravely ill and prison wardens who oversee society's most dangerous members.

Lead researcher Dr. Stanley Lustig, assistant clinical professor of psychiatry, said in a prepared statement that he was concerned that the high levels of burnout and stress may make it difficult for immigration judges to recognize trauma in the refugees who come before them. The judges may react in two ways as a result, he said: becoming more lenient and granting asylum at a higher rate than they would otherwise, or shutting down and becoming desensitized to asylum seekers with genuine stories of persecution.

"It was surprising how unbelievably pervasive the burnout is," said Judge Dana Leigh Marks, speaking in her capacity as president of the National Association of Immigration Judges, the judges' union. "It's because we've been chronically, chronically starved of resources."

The study, which began in 2007 and was published last month in the *Georgetown Immigration Law Journal*, is the first to use traditional psychological testing instruments to measure stress and burnout levels in immigration judges, according to Lustig.

He approached the judges' union with the study proposal, Marks said, because of the high stakes in asylum cases — deportation and often torture or death — and the intense histories of the asylum seekers.

Lustig and other mental health researchers have been interested in how working with trauma victims affects certain occupations. Some victims, including asylum seekers, suffer from post-traumatic stress disorder. The researchers found that job hazards for immigration judges may include "compassion fatigue" and "secondary traumatic stress" (STS). Sufferers of STS may have physical symptoms as significant and frequent as victims of trauma themselves do.

"Symptoms of trauma are specific and identifiable," said Lustig, and they include flashbacks and nightmares; shunning activities, places or people that remind them of the trauma; and physiological symptoms, such as being overly vigilant, jumpy or easily startled — or just the opposite, becoming numb and shutting down.

The study results confirm what former practitioners who have become immigration judges have told her, said Nadine Wettstein, director of the American Immigration Law Foundation's legal action center.

"They become overwhelmed by the work and stretched to the point where they are often insensitive to the situation and perhaps say things they wouldn't otherwise say," she said. "These are often life and death decisions, and these judges need more support."

A representative for the Executive Office of Immigration Review, which oversees immigration courts, said, "We are aware of the report."

## THE STUDY

With the help of the union's leadership, the researchers contacted 212 union and nonunion judges to participate in the burnout and stress study.

Here is a quick picture of the judges who responded:

- Mean age: 53;
- Gender: 43% female, 57% male
- Mean years of experience: 10
- Fully staffed work setting: 35%
- Settings with vacancies: 65%
- Caseloads: 36% had 51% to 75% asylum cases; 31% had 26% to 50% of these cases; 17% had 76% to 100%; and 14% had 0% to 25%.

The researchers applied two tests to measure burnout and secondary traumatic stress and then, in an open response question, asked the judges about "anything else that would help explain the job challenges faced by Immigration Judges."

The burnout survey assessed the frequency of symptoms on a scale of 0 to 100, at 25-point intervals, such that symptoms experienced "always" or "to a very high degree" equaled 100; "almost always" or "to a high degree," 75; and so on. Male judges' total burnout mean was 44.9; females judges' mean was 59.9.

On the scale for measuring secondary traumatic stress, the results suggested mild to modest suffering, again with female judges having a statistically significant, higher level of stress than male judges.

Responses to the study's open question included one judge who wrote: "As an Immigration Judge, I have to hear the worst of the worst that has ever happened to any human being, particularly in asylum cases. I have to listen to the trauma suffered by individuals. I have to hear it on a daily basis. It's emotionally draining and painful to listen to such horrors day in and day out. I strive to maintain my equilibrium but it's hard."

Although Lustig and his fellow researchers voiced concern that the judges' burnout and stress may affect their decisions in asylum cases, they said they did not know whether the rates of burnout are associated with asylum grant or denial rates. But they suggested a follow-up study to address whether they are in fact related.

Marks, the union president, said the study's findings suggest that burnout and stress could well be the reason that some federal appellate judges and others have accused some immigration judges of being "intemperate" in the courtroom and of other shortcomings.

"We often describe our courts as being similar to traffic courts, and yet the cases we are deciding often are similar to death penalty cases," she said. "We render oral decisions at the end of the hearing without benefit of a written transcript. The average immigration judge is on the bench 36 hours a week. We hear asylum seekers' stories through interpreters of varying quality. Add to all of this the number of unrepresented aliens.

"Participating in this study was one way of showing people a window into our work life," she said.

## **PROFESSIONAL INPUT**

Marks and her colleague, Judge Denise Slavin, were included as co-authors of the study with Lustig and four of his colleagues.

"As an independent, blind study, we had no idea what the results would show," Marks said. "The reason that Judge Slavin and I were included as co-authors is that input was needed from legal professionals to provide context to the answers and to explore in concrete terms what shape the recommendations should take."

The recommendations focus primarily on additional resources for the judges: more support staff, law clerks, bailiffs and interpreters; improved education and training for judges; and more administrative time to research conditions in an asylum seeker's country in order to verify the alien's persecution claims.

The study also recommends that the Department of Justice, which oversees the immigration courts, create a trained support network for the judges to connect with each other and to share ways in which to deal with the stress of asylum cases.

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