

## **BACKGROUNDER ON EOIR STRATEGIC CASELOAD REDUCTION PLAN**

### **BACKGROUND**

- The Executive Office for Immigration Review's (EOIR) caseload has *doubled* since 2011, from less than 300,000 pending cases to 650,000 as of December 2017.
- The pace of the caseload increase has accelerated:
  - FY 2014 – FY 2015: +48,000 cases
  - FY 2015 – FY 2016: +60,000 cases
  - FY 2016 – FY 2017: +100,000 cases (projected)
- Numerous policy changes in recent years have slowed down the adjudication of existing cases and incentivized further illegal immigration that led to new cases:
  - DACA
  - Prosecutorial Discretion
  - Provisional Waivers
- Representatives of illegal aliens have purposely used tactics designed to delay the adjudication of their clients' cases:
  - Between FY 2006 and FY 2015, continuances in immigration proceedings increased 23%.<sup>1</sup>
  - As of 2012, cases averaged four continuances, which totaled 368 days per continuance.<sup>2</sup>
- Productivity of immigration judges fell by 31% between FY 2006 and FY 2015.<sup>3</sup>

### **GOAL**

- In order to reduce the pending caseload, EOIR must increase adjudicatory capacity, increase immigration judge (IJ) productivity, and manage incoming case receipts from the Department of Homeland Security. EOIR is implementing five initiatives to address these goals.

### **INCREASING ADJUDICATORY CAPACITY**

- FY 2016 authorized 384 IJs, and the total number of IJs is currently 339, up from 273 since September 2016; if approved, EOIR will be authorized to hire up to 449 IJs.
- The Attorney General announced a “new, streamlined hiring plan” in April 2017 that is showing signs of reducing the hiring process from 742 days to 6-8 months.<sup>4</sup>
- In addition to more immigration judges, EOIR is requesting funding to reduce the ratio of judicial law clerks (JLCs) for all IJs from 2:1 to 1:1, improving productivity and efficiency.
- EOIR is actively working with Government Services Administration (GSA) to identify new space and to expedite build-outs of existing space.

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<sup>1</sup> <https://www.gao.gov/assets/690/685022.pdf>

<sup>2</sup> <https://www.justice.gov/eoir/file/oppm17-01/download>

<sup>3</sup> <https://www.gao.gov/assets/690/685022.pdf>

<sup>4</sup> <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-announcing-department-justice-s-renewed>

- EOIR is planning to pilot Video Conferencing (VTC) immigration adjudication centers (IACs), where IJs will adjudicate cases from around the country.

### **MAXIMIZING THE USE OF AVAILABLE ADJUDICATORY CAPACITY**

- Every Friday, there are at least *100 courtrooms* nationwide that are not being used because of IJ alternate work schedules.
- No Dark Courtrooms policy:
  - Hiring new IJs for VTC courtrooms in Falls Church, VA
  - Utilize retired IJs to cover dark courtrooms
- Establish nationwide scheduling and docketing standards to more efficiently move cases to completion.

### **TRANSFORMING EOIR'S INSTITUTIONAL CULTURE AND INFRASTRUCTURE**

- EOIR is actively looking to replace its operations from a paper-based filing system to an electronic filing system.
- Realign the agency towards completing cases.
- Provide clear guidance to IJs about the timely adjudication of cases.
- Placing more supervisory IJs in the field to improve oversight and ensure more effective implementation of strategies to reduce the caseload.

### **ENHANCING PARTNERSHIPS WITH DHS**

- Strengthen aspects of EOIR's relationship with DHS will help improve docket efficiency and IJ productivity by managing the input of new cases and more efficiently monitoring cases that are delayed pending an adjudication before USCIS.

### **IMPROVING EXISTING LAWS AND POLICIES**

- Review of existing EOIR regulations and policies to determine changes that could streamline current immigration proceedings (e.g. the OPPM on continuances issued on July 31, 2017; regulatory changes that will allow immigration judges to deny unmeritorious cases regardless if the annual limit for relief has been met).