IMMIGRATION COURTS

Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges

Why GAO Did This Study

The Department of Justice's EOIR is responsible for conducting immigration court proceedings, appellate reviews, and administrative hearings to fairly, expeditiously, and uniformly administer and interpret U.S. immigration laws.

GAO was asked to review EOIR's management of the immigration court system and options for improving EOIR's performance. This report addresses, among other things, (1) what EOIR data indicate about its caseload, including the backlog of cases; (2) how EOIR manages and oversees immigration court operations, including workforce planning and hiring; and (3) the extent to which EOIR has assessed immigration court performance, including case continuance data. GAO analyzed EOIR's case data from fiscal years 2006 through 2015—the most current data available—reviewed EOIR documentation, interviewed agency officials, and conducted visits to six immigration courts selected to include courts with relatively large and small case backlogs, among other things. GAO also interviewed experts and stakeholders selected based upon, among other things, their published work on the immigration court system.

What GAO Recommends

GAO is making 11 recommendations to, among other things, improve EOIR's workforce planning, hiring, and analysis of continuance data. EOIR stated that it agrees with most of the recommendations, but did not specify whether it agrees with individual recommendations. GAO continues to believe that all 11 recommendations remain valid as discussed further in this report.

View GAO-17-438. For more information, contact Rebecca Gambler at (202) 512-8777 or gamblerr@gao.gov.

What GAO Found
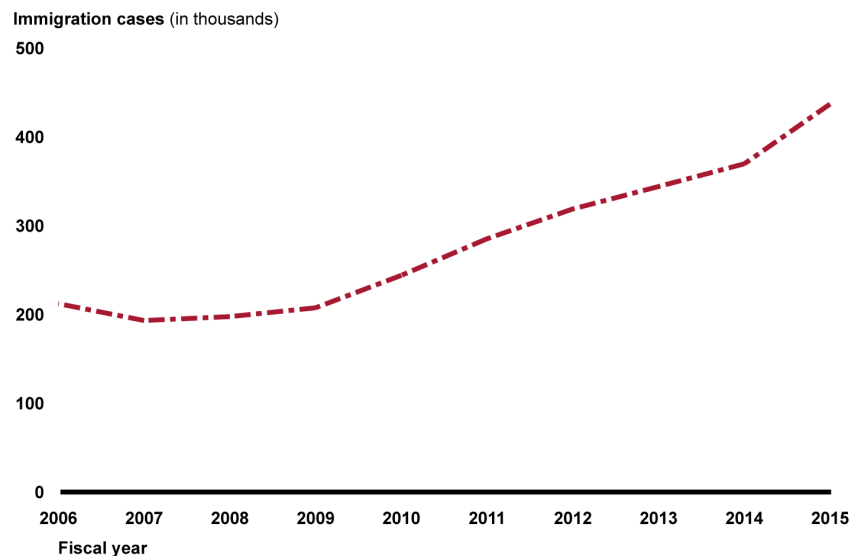
GAO's analysis showed that the Executive Office for Immigration Review's (EOIR) case backlog—cases pending from previous years that remain open at the start of a new fiscal year—more than doubled from fiscal years 2006 through 2015 (see figure) primarily due to declining cases completed per year.

Immigration Courts' Case Backlog, Fiscal Years 2006 through 2015

Source: GAO analysis of Executive Office for Immigration Review caseload data. | GAO-17-438

EOIR has taken some steps to address its workforce needs, such as entering into a contract to determine judicial staff workloads, but does not have a workforce plan that would help EOIR better address staffing needs, such as those resulting from the 39 percent of its immigration judges who are currently eligible for retirement. EOIR also does not have efficient practices for hiring new immigration judges, which has contributed to immigration judges being staffed below authorized levels. GAO found that it took an average of 742 days to hire new judges from 2011 through August 2016. By assessing its hiring process and developing a hiring strategy that targets staffing needs, EOIR would be better positioned to hire judges more quickly and address its staffing gaps.

One example of EOIR's efforts to assess court operations is the extent and reasons why judges issue continuances—temporary case adjournments until a different day or time. EOIR collects continuance data, but does not systematically assess them. GAO's analysis of continuance records showed that that the use of continuances increased by 23 percent from fiscal years 2006 through 2015. Systematically analyzing the use of continuances could provide EOIR officials with valuable information about challenges the immigration courts may be experiencing, such as with operational issues like courtroom technology malfunctions, or areas that may merit additional guidance for immigration judges.

_____ **United States Government Accountability Office**