

GAO Highlights

Highlights of [GAO-18-469T](#), a testimony before the Subcommittee on Border Security and Immigration, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

DOJ'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 and regulations.

This statement addresses (1) scenarios that experts and stakeholders have proposed for restructuring EOIR's immigration court system and the reasons they offered for or against these proposals; and (2) how EOIR manages and oversees the immigration courts, including hiring and performance assessment, among other things.

This statement is based on a report GAO issued in June 2017, with selected updates conducted through April 2018 to obtain information from EOIR on actions it has taken to address the report's recommendations. GAO's report incorporated information obtained by reviewing EOIR documentation, analyzing EOIR data, and interviewing agency officials and immigration court experts and stakeholders. For the selected updates, GAO reviewed EOIR documentation.

What GAO Recommends

In its June 2017 report GAO made 11 recommendations to improve EOIR's hiring process and performance assessment, among other things. EOIR generally concurred with the recommendations, has implemented 1, and reported actions planned or underway to address the remaining 10.

View [GAO-18-469T](#). For more information, contact Rebecca Gambler, (202) 512-8777, gambler@gaio.gov.

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IMMIGRATION COURTS

Observations on Restructuring Options and Actions Needed to Address Long-Standing Management Challenges

What GAO Found

In June 2017, GAO reported that some immigration court experts and stakeholders have recommended restructuring the Executive Office for Immigration Review's (EOIR) administrative review and appeals functions within the immigration court system—immigration courts and Board of Immigration Appeals—to improve its effectiveness and efficiency. The 10 experts and stakeholders GAO interviewed stated that they generally supported one of the following scenarios for restructuring the immigration court system, all of which would require a statutory change to implement:

- a court system outside of the executive branch to replace EOIR's immigration court system, including both trial and appellate tribunals;
- a new, independent administrative agency within the executive branch to carry out EOIR's quasi-judicial functions with both trial-level immigration judges and an appellate level review board; or
- a hybrid approach, placing trial-level immigration judges in an independent administrative agency within the executive branch, and an appellate-level tribunal outside of the executive branch.

Six of the 10 experts and stakeholders GAO interviewed supported restructuring the immigration court system into a court independent of the executive branch. Experts and stakeholders offered several reasons for each of the proposed scenarios, such as potentially improving workforce professionalism and credibility. They also provided reasons against restructuring options, including that restructuring may not resolve existing management challenges, such as difficulties related to hiring immigration judges.

GAO also reported in June 2017 that EOIR could take several actions to address management challenges. EOIR has since taken some steps to address these challenges, but additional actions are needed. For example, GAO found that EOIR did not have efficient practices for hiring immigration judges, which contributed to judges being staffed below authorized levels. EOIR hiring data showed that on average from February 2014 through August 2016, EOIR took more than 21 months to hire an immigration judge. GAO recommended that EOIR assess the immigration judge hiring process to identify opportunities for efficiency. As of January 2018, EOIR had increased the number of its judges but remained below its authorized level for fiscal year 2017. Hiring additional judges is a positive step; however, to fully address GAO's recommendation, EOIR needs to assess its hiring process to identify opportunities for efficiency.

In June 2017, GAO also reported on ways EOIR could enhance its video conferencing (VTC) program, through which judges conduct hearings by VTC. GAO found that EOIR had not, in accordance with best practices, established a mechanism to solicit feedback and comments about VTC from those who use it regularly to assess whether it meets user needs. GAO recommended EOIR develop and implement such a mechanism. EOIR concurred and implemented this recommendation in December 2017 by establishing a mechanism on its public website to solicit feedback from respondents regarding their satisfaction with VTC hearings. This effort should help EOIR ensure VTC hearings it conducts meet all user needs.