



STATEMENT OF

**JAMES MCHENRY
DIRECTOR
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES DEPARTMENT OF JUSTICE**

BEFORE THE

**COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE, AND
RELATED AGENCIES
UNITED STATES HOUSE OF REPRESENTATIVES**

FOR A HEARING ENTITLED

“EXECUTIVE OFFICE FOR IMMIGRATION REVIEW”

PRESENTED ON

MARCH 7, 2019

Statement of

James McHenry

Director

Executive Office for Immigration Review

Department of Justice

Before the

House Committee on Appropriations

Subcommittee on Commerce, Justice, Science and Related Agencies

March 7, 2019

Mr. Chairman, Congressman Aderholt, and other distinguished Members of the Subcommittee, thank you for the opportunity to speak with you today. As the Director of the Executive Office for Immigration Review (“EOIR”) at the Department of Justice (“Department”), I welcome this opportunity to share with you the progress that EOIR has made and to discuss the challenges it faces in the near future.

The primary mission of EOIR is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. This mission is carried out every day with professionalism and diligence by EOIR's approximately 1800 employees across seven components, including 65 immigration courts and adjudication centers, the Board of Immigration Appeals, and the Office of the Chief Administrative Hearing Officer. I am honored to lead EOIR's employees, for they are firmly committed to this mission and have performed commendably as we have sought to strengthen and improve the functioning of our adjudicatory systems. We are grateful for the support of Congress, the Administration, and the Department of Justice in undertaking those efforts, and with continued support, we expect to be able to build on these successes in the years to come.

EOIR has made considerable progress in the past twenty-one months in restoring its reputation as a fully-functioning, efficient, and impartial administrative court system capable of rendering timely decisions consistent with due process. To be sure, EOIR continues to face a significant backlog of pending cases at the immigration court level, one that nearly tripled between Fiscal Year (“FY”) 2009 and FY 2017. During that time, decreased productivity, protracted hiring times for new immigration judges, and the lack of any progress in moving toward an electronic filing systems all hindered EOIR's ability to effectively carry out its mission. Beginning in 2017, however, EOIR has aggressively confronted these challenges.

After eight consecutive years of declining or stagnant productivity between FY 2009 and FY 2016, EOIR is now in the middle of its third consecutive year of increased immigration court case completions. In FY 2018, immigration judges completed more cases than in any year since FY 2011, and at the end of the first quarter of FY 2019, EOIR was on pace to complete more cases than at any time since FY 2006. These results are a testament to the professionalism and dedication of our immigration judge corps and a direct refutation of critics who intimate that immigration judges lack the integrity or competence to resolve cases in both a timely and impartial manner as required by law.

EOIR has reduced the time it takes to hire a new immigration judge from an average of 742 days to as little as 195 days, a reduction of 74 percent. As a result, EOIR has hired more immigration judges since January 20, 2017, than it hired in the seven prior fiscal years combined. As of March 5, 2019, EOIR has 427 immigration judges on board with one additional class of new judges expected in April.

EOIR is also striving to modernize and digitize its critical information systems. The benefits of an electronic filing and case management system are undisputed. A fully electronic system will improve case scheduling and adjudication efficiency, reduce time spent on administrative tasks related to paper files, and free additional space to be used for additional staff or court expansion. EOIR's Office of Information Technology ("OIT") has worked tirelessly in the past year to finally make such a system a reality for EOIR after 16 years of little to no progress. In 2018, EOIR piloted its new electronic filing system, EOIR Courts and Appeals System ("ECAS"), at five immigration courts and the Board of Immigration Appeals with encouraging results, as nearly 8000 attorneys have registered to use ECAS so far. EOIR expects to initiate the nationwide rollout of ECAS in FY 2020.

Each of these accomplishments is critical to EOIR's continued success as it addresses the pending caseload. Nevertheless, several challenges remain which require sustained support to ensure that these successes are not undermined or wholly eroded, including challenges related to space acquisition, hiring attorneys, interpreters, transcription, data analytics, Freedom of Information Act (FOIA) requests, and training. Further challenges may also be on the horizon depending on the results of pending litigation.

Overall, FY 2019 represents a transitional year for EOIR. It has solved some of its most persistent problems of the past decade, but now it must also ensure that its recent improvements do not become ephemeral. For many years, the immigration court caseload increased due to factors primarily within EOIR's control, namely declining productivity by immigration judges, insufficient hiring, and a lack of institutional emphasis on the importance of completing cases in a timely manner. Those factors are now being successfully addressed. More recent increases to the caseload, however, have been driven largely by external factors, including increased numbers of asylum claims in immigration proceedings and increased law enforcement efforts by the Department of Homeland Security. It remains critical for EOIR to leverage available resources to ensure this increased caseload is addressed in a fair and efficient manner.

The nature and timing of the FY 2019 budget process has left EOIR short of fulfilling all of its current operational needs, and it is limited in its ability to reform programs that are not cost effective. Consequently, some of its progress—particularly in moving toward a goal of 700 immigration judges and the nationwide deployment of ECAS—will likely be slowed until the completion of the FY 2020 appropriation process or beyond. Nevertheless, EOIR remains committed to reducing the pending caseload and to fully re-establishing the agency as the home of the preeminent administrative adjudicatory bodies in the United States. With the leadership and support of the Department and the Administration, as well as ongoing congressional support, I am confident that EOIR will succeed in meeting those goals.

Again, thank you for this opportunity to speak before you today. I look forward to further discussions on these issues, and I am pleased to answer any questions you may have.