

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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WASHINGTON, DC 20515-6216

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September 1, 2023

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

The Committee on the Judiciary is conducting oversight of the Biden Administration's implementation of immigration authorities. As a part of this oversight, we require basic data and information from the Department of Justice's Executive Office for Immigration Review (EOIR). We expect your cooperation with our inquiry.

Since the beginning of the 118th Congress, the Committee has sought basic data from the Department relating to its implementation of relevant immigration authorities. On January 11, 2023, Committee staff requested information from the Department about how EOIR handles certain venue and jurisdictional questions.¹ After nearly a month went by with no response, on February 2, 2023, Committee staff reiterated this request.² On February 7, 2023, the Department acknowledged that it was working on a response.³ On February 17, 2023, after another week and a half with no response, the Committee again reiterated our initial request and inquired further about EOIR's procedures and operations, including requesting additional data and reports.⁴

On February 23, 2023, the Department provided an insufficient, single-paragraph response to the January 11, 2023 request, but did not provide any response to the Committee's other requests.⁵ On February 27 and February 28, 2023, Committee staff reiterated the outstanding requests.⁶ The Department did not provide the data or information. On June 12, 2023, Committee staff requested additional case data.⁷ After the Department yet again failed to respond to the Committee's requests, Committee staff followed up with the Department on June

¹ Email from H. Comm. on the Judiciary staff to Dep't of Justice (Jan. 11, 2023).

² Email from H. Comm. on the Judiciary staff to Dep't of Justice (Feb. 2, 2023).

³ Email from Dep't of Justice to H. Comm. on the Judiciary staff (Feb. 7, 2023).

⁴ Email from H. Comm. on the Judiciary staff to Dep't of Justice (Feb. 17, 2023).

⁵ Email from Dep't of Justice to H. Comm. on the Judiciary staff (Feb. 23, 2023).

⁶ Emails from H. Comm. on the Judiciary staff to Dep't of Justice (Feb. 27, 28, 2023).

⁷ Email from Dep't of Justice to H. Comm. on the Judiciary staff (June 12, 2023).

15, 26, and 30, 2023; July 17, 20, and 31, 2023; and August 7 and 16, 2023.⁸ The Department has provided no response.

Despite the Committee's repeated requests, to date, the Department has not provided any substantive responses to the majority of our requests for data and information. Accordingly, we write to reiterate our outstanding requests, which are noted below:

1. A breakdown of the decisions mentioned in the "other" and "other rate" categories in certain EOIR reports on adjudication statistics, such as footnote two in EOIR's reports on Asylum Decision Rates⁹ and Asylum Decision and Filing Rates in Cases Originating with a Credible Fear Claim¹⁰ and footnote three in EOIR's report on Asylum Decision Rates by Nationality.¹¹
 - a. Specifically, provide a separate breakdown (by both total number and percentage) of the cases that were (1) abandoned, (2) not adjudicated, (3) withdrawn, and (4) other for overall asylum decision rates, asylum decision and filing rates in cases originating with a credible fear claim, and asylum decision rates by nationality.
 - b. Please provide an explanation of what cases qualify as "other" in the footnotes described above, including a breakdown (by number and percentage) of the "other" cases for the categories mentioned above.
2. All data from the immigration judge performance dashboard from January 20, 2021, until the present.
3. All reports and data on the number of "dark courtrooms" from January 20, 2021, until the present.
4. All data about the current number of EOIR's outstanding Freedom of Information Act (FOIA) requests and processing of those requests, including, but not limited to:
 - a. The average completion time for a FOIA request, and
 - b. The number of completed FOIA requests from January 20, 2021, until the present.
5. All data about current EOIR workload and case rates, including, but not limited to:

⁸ Emails from H. Comm. on the Judiciary staff to Dep't of Justice.

⁹ Executive Office for Immigration Review, Adjudication Statistics: Asylum Decision Rates (last accessed Aug. 17, 2023), <https://www.justice.gov/eoir/page/file/1248491/download>.

¹⁰ Executive Office for Immigration Review, Adjudication Statistics: Asylum Decision and Filing Rates in Cases Originating with a Credible Fear Claim (last accessed Aug. 17, 2023), <https://www.justice.gov/eoir/page/file/1062976/download>.

¹¹ Executive Office for Immigration Review, Adjudication Statistics: Asylum Decision Rates by Nationality (last accessed Aug. 17, 2023), <https://www.justice.gov/eoir/page/file/1107366/download>.

- a. EOIR employee telework and remote work participation rates,
- b. The number of available EOIR courtrooms and the usage of at-home hearing equipment for immigration judges,
- c. Data on the number of immigration judges conducting hearings outside an EOIR courtroom,
- d. Monthly court reports from January 2021 until the present, and
- e. EOIR adjournment codes.

In addition, please produce the following material for the period January 20, 2021, to the present:

6. All documents and communications referring or relating to plans to use additional immigration judges and other EOIR employees to conduct credible fear reviews, including, but not limited to, the mandatory detailing of EOIR employees for such reviews.
7. All documents and communications sent to assistant chief immigration judges, immigration judges, judicial law clerks, and/or attorney advisors referring or relating to choice of law, venue, and jurisdiction.
8. All documents and communications referring or relating to televideo hearings, internet hearings—alternate location, internet hearings—court, and telephonic hearings.
9. All documents and communications referring or relating to required trainings for EOIR employees, including judicial law clerks, attorney advisors, immigration judges, and assistant chief immigration judges.
10. All documents and communications referring or relating to the Key Performance Indicators and Key Performance Indicators Report.
11. The number of cases (broken down by category) administratively closed, dismissed, or terminated, including a breakdown of cases dismissed or terminated in circumstances other than when the Department of Homeland Security could not sustain its burden to establish removability.

Finally, as the Chief of EOIR's Planning, Analysis, and Statistics Division, Michael Tennyson has information that is relevant and necessary to our oversight of the Executive Branch's enforcement of federal immigration law. Accordingly, we request that you make Mr. Tennyson available for a transcribed interview with the Committee.

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Please produce all requested documents and data and contact Committee staff to schedule Mr. Tennyson's transcribed interview as soon as possible but no later than 5:00 pm on September 15, 2023.

The Judiciary Committee is authorized to conduct oversight of federal immigration law pursuant to the Rules of the House of Representatives.¹² If you have any questions, please contact Committee staff at (202) 225-6906. If Mr. Tennyson is represented by private counsel, please ask his attorney to contact Committee staff on his behalf.

Sincerely,



Jim Jordan
Chairman



Tom McClintock
Chairman
Subcommittee on Immigration
Integrity, Security, and Enforcement

cc: The Honorable Jerrold L. Nadler, Ranking Member

The Honorable Pramila Jayapal, Ranking Member, Subcommittee on Immigration
Integrity, Security, and Enforcement

¹² Rules of the U.S. House of Representatives, R. X (2023).