

Congress of the United States

Washington, DC 20515

July 20, 2022

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

Dear Attorney General Garland:

We write about your decision to terminate the employment of multiple immigration judges who were hired during the Trump Administration. If true, your termination of these immigration judges because of their political ideology suggests that the Department of Justice (DOJ) acted in violation of the Civil Service Reform Act (CSRA),¹ which specifically prohibits discrimination on the basis of political affiliation.² We request your full cooperation with our inquiry.

According to a recent press report, “[t]he Biden administration has been quietly packing the nation’s immigration courts, ousting Trump-hired judges and installing judges deemed to be friendlier to the immigrants whose cases they hear”³ While such a purge is reprehensible and potentially illegal, it is no surprise in light of the Biden-Harris Administration’s commitment to open borders, pro-illegal immigration policies. The Biden-Harris Administration has rescinded several policies implemented by President Trump that enhanced U.S. border security and returned the rule of law to U.S. immigration policy.

As a result of President Biden’s radical immigration policies, the southwest border of the United States is the most insecure and dangerous of any time in modern history. Since President Biden took office, U.S. Customs and Border Protection has reported over three million encounters with illegal immigrants along the southwest border.⁴ A record monthly high of 239,416 encounters occurred in May,⁵ which resulted in 95,318 individuals simply being

¹ See, e.g., Dep’t of Justice, Office of Inspector General, Management Advisory Memorandum, *Recommendations Regarding the Immigration Judge and Board of Immigration Appeals Member Hiring Process* (Mar. 2022) (22-061) (“The positions of [immigration judges] and Board Member are career attorney positions subject to the CSRA.”).

² 5 U.S.C. § 2302(b).

³ Stephen Dinan, Exclusive: “Unprecedented” Upheaval in Immigration Courts From Biden’s Bid To Reshape the Agency, WASH. TIMES (Jun. 20, 2022) <https://www.washingtontimes.com/news/2022/jun/20/doj-engaged-court-packing-steroids-immigration-jud/>.

⁴ U.S. Customs and Border Protections, Southwest Land Border Encounters, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

⁵ *Id.*

released into the U.S. interior.⁶ In addition, nearly a million known “gotaways” have successfully crossed the border undetected during the Biden-Harris Administration.⁷

Due to the Biden-Harris Administration’s open-borders policies, the number of cases in U.S. immigration courts continues to rise. As of May 2022, there were over 1.8 million cases in the backlog,⁸ before a total of “approximately 600 immigration judges.”⁹ The Biden-Harris Administration requested funding for “100 new immigration judges” in its fiscal year 2023 budget knowing that its far-left policies would continue to fuel mass illegal immigration, and thus continue to increase the immigration court backlog.¹⁰

Press reports indicate that the Department has terminated the employment of multiple immigration judges who were appointed by President Trump.¹¹ At least some of these terminations appear to have been the result of a coordinated effort between the Biden-Harris Administration and far-left immigration advocates. In fact, in tweeting about two of the terminations, one such advocate commented: “I’m immensely proud to have participated in this campaign.”¹²

One terminated immigration judge has alleged that the Administration’s firings were politically motivated.¹³ According to that judge, the immigration advocacy groups were intent—from the beginning of his tenure—on having him removed from the bench.¹⁴ Despite the groups’ attempts to smear his reputation, the judge received only positive feedback from his superiors regarding his work product and was told his performance was satisfactory.¹⁵

The Department’s termination letter provided to that judge does not state any specific reason for the dismissal, rather it simply indicates that the judge will “no longer be employed by DOJ, EOIR [the Department of Justice, Executive Office of Immigration Review], effective June

⁶ *Texas v. Biden*, Case No: 2:21-cv-00067-Z (N.D. Texas Jun. 15, 2022) (Defendants’ Monthly Report For May 2022).

⁷ Adam Shaw, Bill Melugin, *Migrant Encounters at Southern Border Hit New Record in May, as Numbers Keep Rising*, FOXNEWS (Jun. 16, 2022) <https://www.foxnews.com/politics/migrant-encounters-southern-border-record-may>.

⁸ Syracuse University, Transactional Records Access Clearinghouse (TRAC) Data Research, Immigration Court Backlog Tool, Pending Cases and Length of Wait by Nationality State, Court, and Hearing Location, https://trac.syr.edu/phptools/immigration/court_backlog/.

⁹ Executive Office for Immigration Review, Office of the Chief Immigration Judge, <https://www.justice.gov/eoir/office-of-the-chief-immigration-judge-bios>.

¹⁰ Dep’t of Justice, FY 2023 Budget Summary, 4.

¹¹ Adam Shaw, *Immigration Judge Hired During Trump Era Accuses Biden Admin of Ousting Conservative Appointees*, FOXNEWS (Jun. 25, 2022) <https://www.foxnews.com/politics/immigration-judge-trump-era-biden-conservative-appointees>.

¹² Hassan Ahmad, @HMAesq, Twitter (Jun. 17, 2022, 6:57 PM), (the tweet has since been deleted).

¹³ Adam Shaw, *Immigration Judge Hired During Trump Era Accuses Biden Admin of Ousting Conservative Appointees*, FOXNEWS (Jun. 25, 2022) <https://www.foxnews.com/politics/immigration-judge-trump-era-biden-conservative-appointees>.

¹⁴ Information provided by The Hon. Matthew J. O’Brien, to Committee Staff.

¹⁵ *Id.*

29, 2022” based on “performance and/or [*sic*] conduct.”¹⁶ The Department’s refusal to state a reason for termination has raised concerns with the National Association of Immigration Judges, which stated:

We are concerned about the complete lack of transparency and lack of notice provided to these judges. The Agency should but has failed to provide meaningful feedback to probationary judges throughout their probationary period so that they have an opportunity to address any Agency concerns. To the contrary, it is our understanding that the judges were given satisfactory performance evaluations.

To assist us with our continued oversight of federal immigration policy and procedures, we ask that you please provide the following information and material:

1. The number of immigration judges whose employment was terminated during or at the end of their probationary period between January 20, 2021, and the present.
2. The number of immigration judges who resigned during or at the end of their probationary period between January 20, 2021, and the present.
3. The number of immigration judges whose employment was terminated during or at the end of their probationary period, each fiscal year for FY 2007 through to-date FY 2022.
4. The termination letter provided to each immigration judge whose employment was terminated during or at the end of their probationary period between January 20, 2021, and the present.
5. The termination letter provided to each immigration judge whose employment was terminated during or at the end of their probationary period between October 1, 2006, and January 20, 2021.
6. All documents and communications referring or relating to the decision(s) to terminate the employment of each immigration judge whose employment was terminated during or at the end of their probationary period, between January 20, 2021, and the present, sent or received by the following individuals:
 - a. Attorney General Merrick Garland;
 - b. Deputy Attorney General Lisa Monaco;
 - c. Principal Deputy Assistant Attorney General Brian Boynton;
 - d. Director of the Executive Office for Immigration Review David Neal;
 - e. Deputy Director of Executive Office for Immigration Review Mary Cheng;

¹⁶ Letter from Daniel H. Weiss, Principal Chief Deputy Immigration Judge, to Matthew J. O’Brien, Immigration Judge, (Jun. 14, 2022).

- f. Chief Immigration Judge Tracy Short;
 - g. Principal Deputy Chief Immigration Judge Daniel Weiss;
 - h. Senior Counsel to the Deputy Attorney General Margy O'Herron;
 - i. Assistant Chief Immigration Judge Rebecca Walters;
 - j. Assistant Chief Immigration Judge David Cheng; and
 - k. Former Acting Deputy Director of the Executive Office for Immigration Review Charles Adkins-Blanch.
7. All documents and communications referring or relating to the decision(s) to terminate the employment of each immigration judge whose employment was terminated during or at the end of their probationary period, between January 20, 2021, and the present, sent or received by the then-Assistant Chief Immigration Judge for the immigration court at which the terminated immigration judge worked.
 8. All documents and communications referring or relating to the decision(s) to terminate the employment of each immigration judge whose employment was terminated during or at the end of their probationary period, between January 20, 2021, and the present, between or among Department employees and immigration-related non-governmental groups, including but not limited to the American Immigration Lawyers Association, the Capital Area Immigrants' Rights (CAIR) Coalition, Ayuda, and the Immigration and Human Rights Clinic at the University of the District of Columbia.
 9. All documents and communications referring or relating to the decision(s) to terminate the employment of each immigration judge whose employment was terminated during or at the end of their probationary period, between January 20, 2021, and the present, between or among Department employees and any private bar immigration attorney, immigration law professor (full-time or adjunct), immigration author, and immigration blogger.

Please provide this information as soon as possible, but no later than 5:00 p.m. on August 3, 2022.

If you have any questions, please contact Committee staff at (202) 225-6906 or (202) 224-5225. Thank you for your attention to this matter.

Sincerely,



Jim Jordan
Ranking Member
House Committee on the Judiciary



Charles Grassley
Ranking Member
Senate Committee on the Judiciary

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cc: The Honorable Jerrold Nadler, Chairman, House Committee on the Judiciary
The Honorable Dick Durbin, Chairman, Senate Committee on the Judiciary