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## Immigration Case Backlog Still Growing, But Less Rapidly

By Kyle Jahner

Law360, Washington (September 1, 2017, 8:58 PM EDT) -- The backlog of immigration cases continues to mount under the Trump administration, with a record 617,527 cases pending as of the end of July, though the still-precipitous growth rate has slowed somewhat amid a prolonged immigration judge hiring spree, according to data from Syracuse University researchers announced Thursday.

Even though an increase of 7,000 pending cases over the **preceding month** lags the year's average growth rate, data collected by Transactional Records Access Clearinghouse indicates that the backlog that more than doubled in eight years under President Barack Obama continues to outpace growth from those years. An average immigration case now takes 677 days, or nearly two years, to resolve, another growing figure.

"They've been hiring judges for two years. So judges are slowly improving, but they just haven't been adequate to keep up with the workload," said Susan Long, TRAC director and managerial statistics professor at Syracuse.

Obama took office after more than a decade of a stable pending caseload below 200,000, and during his eight years that number grew about 42,000 per year, according to TRAC data. The pending caseload has already grown more than 100,000 in fiscal year 2017, or since Sept. 30, 2016, while average case duration has lengthened to 677 days from 670 **since May**.

The Executive Office for Immigration Review has been addressing the problem with a hiring spree since the fall of 2015. In August it announced the swearing in of nine more immigration judges to bring the total to 334, about 95 more than two years ago, a nearly 40 percent jump. The hiring can continue as the agency currently has authorization for 384 immigration judges, but a June Government Accountability Office **report expressed doubt** over the EOIR's handling of hiring and the backlog.

An EOIR spokesman declined to comment on "third-party reporting of EOIR data" and did not immediately respond to more general questions about the backlog.

Despite President Donald Trump's strong anti-immigration rhetoric, filings for removal proceedings in immigration court have not increased since Trump took office, according to Long. But she also said his administration has discontinued Obama-era closings of many

low-priority cases to clear resources to prioritize and fast-track those with criminal records, those who are deemed national security threats and those who have made recent border crossings.

But other factors can contribute to the backlog, Long said. Trump's Justice Department has shifted immigration court resources to border states, but Long said that can ultimately merely shift the problem and hurt efficiency during the transitions of judges with cases pending to new jurisdictions.

The data from TRAC, largely acquired through Freedom of Information Act requests, covers a lot of different aspects of immigration, including the heavy caseloads in states like California, Texas and New York, and the declining proportion of cases involving Mexican immigrants, which now account for just one in four cases. Long noted that the data has limits for suggesting policy prescriptions, but at least offers a clearer, more accurate view of the issue.

"There are obviously a lot of questions the data don't resolve. They do provide the context so that one can discuss alternatives and options against a backdrop of what's going on as opposed to speculation," Long said. "Often speculation turns out to not be accurate."

--Editing by Jack Karp.

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