

Congress of the United States
Washington, DC 20515

January 12, 2015

The Honorable Gene L. Dodaro
Comptroller General
U.S. Government Accountability Office
41 G Street, NW
Washington, D.C. 20548

Re: Request for a GAO Study on the Costs and Cost-Effectiveness
of an Article I Immigration Court

Dear Mr. Dodaro:

We are writing to request that the Government Accountability Office (GAO) conduct a study into the costs and cost-effectiveness of converting the current immigration court system into an Article I court. Such a study would inform ongoing policy debates regarding the ability of the current immigration court system to adequately handle its growing caseload. The number of removal cases pending before the court has been steadily increasing for well over a decade with more than 400,000 Immigration Court cases now pending. Case adjudication backlogs have been growing and lawmakers and stakeholders are in search of a solution.

The nation's immigration court system is located within the Executive Office for Immigration Review (EOIR), a component of the U.S. Department of Justice (DOJ). In addition to raising concerns that the placement of EOIR within the DOJ may jeopardize the ability of the agency to get adequate funding, many organizations have expressed concerns about the judicial independence of a court operating pursuant to delegated authority of the Attorney General. A pending federal court lawsuit filed by an Immigration Judge of Iranian heritage who is challenging an order indefinitely recusing her from all cases involving Iranian nationals raises related questions about the appropriateness of disciplinary procedures for Immigration Judges.¹

In an effort to address these and other concerns, numerous organizations, such as the American Bar Association, the Federal Bar Association, the American Judicature Society, Appleseed and the National Association of Immigration Judges have endorsed the creation of an Immigration Court system independent from the DOJ. Such a proposal is not new. In 1981, the Select Commission on Immigration and Refugee Policy proposed the idea of an Article I Immigration Court. Several legislative proposals also have been introduced, though none have been enacted into law.

We therefore request that the GAO review and assess:

- 1) the existing operations and performance of immigration courts within EOIR;

¹ Associated Press, *Immigration Judge Sues over Recusal from Cases*, Aug. 13, 2014, available at <http://bigstory.ap.org/article/immigration-judge-recused-iranian-cases-sues>.

- 2) the extent to which DOJ and EOIR have examined the operations and performance of the courts, identified any challenges, and taken steps to respond to any identified challenges; and
- 3) options to improve immigration court operations and performance, including possible structural changes to transition to an Article I court with particular focus on whether the federal bankruptcy court model could serve as a useful model.

With respect to the costs and cost-effectiveness of transitioning to an Article I court, we request that GAO review and assess:

- 1) the start-up and transition-related costs of establishing an Article I immigration court system; and
- 2) the ongoing operational costs of operating an Article I Immigration Court as compared to the ongoing operational costs of the current structure.

Thank you for your attention to this matter. We look forward to working with you on this study.

Sincerely,



Trey Gowdy
Chairman
Subcommittee on Immigration and Border Security



Zoe Lofgren
Ranking Member
Subcommittee on Immigration and Border Security