



Immigration Court Case Backlog Hits Record 610,000

By [Nicole Narea](#)

Law360, New York (July 19, 2017, 4:54 PM EDT) -- The immigration court backlog jumped by about 11,000 cases in one month, reaching a record high of more than 610,000 cases in late June, according to Syracuse University researchers.

As of June 30, there were 610,524 cases backed up in the immigration courts, up from 598,943 at the end of May, according to records obtained by the Transactions Records Access Clearinghouse at Syracuse University under Freedom of Information Act requests and released on Monday. The TRAC report also identified a 9.3 percent drop in final dispositions issued in immigration court cases since President Donald Trump took office, decreasing from 84,956 over a five-month period last year to 77,085 in the same window this year.

Heather Prendergast, an immigration attorney and chairwoman of the [American Immigration Lawyers Association's Immigration and Customs Enforcement](#) liaison committee, told Law360 on Wednesday that the backlog is likely a result of ICE's updated criteria for determining which cases should be prioritized, which no longer focuses on removing individuals who pose the greatest threats to society.

"A huge part of the problem is that there are significantly more cases being added to the backlog every day," Prendergast said. "The priorities that ICE is following for these cases have changed to arguably include everyone. This isn't what people envisioned when Trump said he was getting the 'bad hombres' out."

In May, the White House proposed tackling the backlog by hiring 75 more immigration judges and about 375 additional immigration-related employees. The director of the [Executive Office for Immigration Review](#), James McHenry, said in June after he hired **11 new immigration judges** that he intended to "maximiz[e] the use and effectiveness of current adjudicatory capacity" as well as identify ways to "enhance immigration judge productivity without compromising due process."

But Monday's TRAC report found that recent shifts in judge assignments, revised case processing priorities and the termination of prosecutorial discretion in closing cases, which had

previously been used to cull the court's backlog, have slowed immigration court dispositions. ICE has even taken to reopening cases that had been closed for years because they were not previously deemed high-priority, Prendergast said.

She added that hiring additional immigration judges will likely accomplish little in terms of quelling the backlog given ICE's current broad priorities for removal, which include those convicted of a crime whether it be a traffic violation or murder, those charged with a crime and those who have committed immigration-related offenses. Additionally, she pointed out that immigration judges must be carefully vetted over months and removal proceedings can be lengthy.

"Even if they hire more people, they can't continue to put more people into removal proceedings at the current rate and reopen cases that have been closed for years," she said.

Although Prendergast said that cases in which an immigrant is detained are usually processed within a few months, Christina Fialho, executive director of the advocacy group Community Initiatives for Visiting Immigrants in Confinement, said the current backlog still poses risks to those in detention.

"Immigrants in detention do not have a right to a speedy trial and can languish in detention for months and even years awaiting a court case," Fialho said. "This increasing backlog of cases means immigrants, especially those with strong community ties, are being detained for longer periods of time."

Trump allocated an additional \$4.5 billion for [U.S. Department of Homeland Security](#) programs to strengthen border security and enforce immigration laws in his May budget proposal.

--Additional reporting by Kelly Knaub. Editing by Stephen Berg.