



**Responses to Questions for the Record for Rebecca Gambler, GAO
From Senator Mazie Hirono**

1. DOJ has suspended the Legal Orientation Program, saying they need to stop it in order to study its efficiency. But, as you noted in the 2016 GAO report, the Vera Institute of Justice, which administers the program, provides EOIR with quarterly reports.

Would you advocate keeping this program running while it's being studied? It has been up and running for years and provides effective guidance to pro-se immigrants in how to navigate a complicated and confusing system.

Response: In November 2016, we reported that, according to the Department of Justice (DOJ) and the Executive Office for Immigration Review (EOIR), the Legal Orientation Program (LOP) and Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC) are key efforts to, among other things, increase the efficiency of immigration court proceedings and improve access to basic legal services for individuals in such proceedings.¹ For example, we reported that DOJ's Congressional Budget Submission for Fiscal Year 2016 noted that LOP is designed to assist detained individuals in making better informed decisions earlier in their immigration court proceedings, thereby improving access to basic legal services, especially for low income individuals, while increasing the efficiency of the court hearing and detention process.

We further reported that the contractor, the Vera Institute of Justice (Vera), which subcontracts with non-profit organizations to administer LOP and LOPC, submitted quarterly reports to EOIR with data on, for example, the number of unique individuals who attended legal orientations and the number of referrals to pro bono legal services during the prior quarter. EOIR headquarters officials stated that they reviewed information that Vera provided through the quarterly reports to check compliance with contract requirements and to monitor the programs' progress against stated objectives. In addition, according to EOIR officials, Vera and EOIR officials conducted

¹GAO, *Asylum: Variation Exists in Outcomes of Applications Across Immigration Courts and Judges*, [GAO-17-72](#) (Washington D.C.: November 14, 2016).

site visits of LOP and LOPC sites to meet with local legal service organizations to observe presentations and workshops and discuss program performance.

However, we reported that EOIR had not established a system of performance measures, including establishing a baseline, to regularly evaluate the effectiveness of LOP and LOPC to determine whether these programs are having a measurable impact in meeting program objectives. Thus, we recommended that EOIR establish such measures for LOP and LOPC. EOIR concurred with our recommendation and, in January 2017, EOIR reported that the agency was working with a contractor to redesign EOIR's performance management system consistent with the principles outlined in the Government Performance and Results Modernization Act of 2010. In addition, EOIR reported that staff from its Office of Legal Access Programs planned to participate in strategic planning training, which includes how to establish performance measurements. To fully address our recommendation, EOIR should develop and implement a system of performance measures for LOP and LOPC, including establishing a baseline, and assess program performance against such measures. Ultimately, whether to continue or end the program is a managerial decision for DOJ and EOIR.

2. The GAO Report from 2016 paints a portrait of a court system in chaos. The backlog has been rising annually for the last 8 years or so, and the schedule of hearings is backed up for years ahead and inconsistently from court to court.

Would you say that the difficulties the immigration courts are facing affects the quality of the justice delivered?

Response: As we reported in June 2017, the doubling of the immigration courts' backlog from fiscal year 2006 through fiscal year 2015 poses challenges to EOIR in meeting its mission to adjudicate immigration cases by fairly, expeditiously, and uniformly administering and interpreting federal immigration laws.² We found that the effects of the case backlog were significant and wide-ranging. Immigration judges and court staff, DHS attorneys, and other experts and stakeholders we interviewed stated that the delays caused by the backlog posed challenges to respondents, attorneys, and immigration judges and court staff.

²GAO, *Immigration Courts: Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges*, [GAO-17-438](#) (Washington D.C.: June 1, 2017).

We found that due to the backlog, some respondents may wait years to have their case heard and, during interviews, stakeholders and experts stated that these long delays could impact respondents' ability to produce witnesses or evidence or to obtain pro bono legal representation. Additionally, some experts and stakeholders noted that delays due to the case backlog may result in some respondents with strong cases for relief not obtaining the relief to which they are entitled in a timely manner. Conversely, some immigration judges, DHS attorneys, and EOIR officials stated that the case backlog may also result in respondents without sufficient claims remaining in the United States far longer than if the case had been promptly decided.

The backlog also posed challenges for DHS attorneys representing the government as well as immigration judges, and court staff. Specifically, in June 2017 we reported that DHS attorneys told us that it was difficult to assign cases to specific attorneys for the entire life of the case because they did not know which attorneys would be available when the merits hearing ultimately occurs, which can be months or years after a master calendar hearing in the case. Immigration court officials, experts, and stakeholders we spoke with cited challenges for immigration court staff, including increased workloads, limited time for administrative tasks, and decreased morale.