



Written by [Warren Mass](#) on June 8, 2017

GAO Says Immigration Courts Have Backlog of 437,000 Deportation Cases – Scheduled to 2022

A report issued by the U.S. Government Accountability Office (GAO) on June 1 revealed that U.S. immigration courts' case backlog more than doubled from fiscal years 2006 through 2015. The number of pending cases is 437,000 and at least one immigration court has scheduled hearings five years into the future – February 2022.



As we shall see, however, if immigration judges would deport more illegal aliens the first time a case comes up, instead of granting a continuance, the backlog would shrink.

The number of pending cases has increased from 212,000 cases at the start of FY 2006, when the median pending time for those cases was 198 days. In addition to the increase in the number of cases from 2006 through 2015, the median pending time increased to 404 days.

GAO found that the immigration courts' case backlog increased so dramatically “primarily due to declining cases completed per year.”

An article about the GAO's findings posted by the Center for Immigration Studies (CIS) observed: “Interestingly, however, the increase in the case backlog did not directly result from an increase in new case receipts.”

After reviewing statistics reported by the GAO, CIS noted:

While the number of new cases received fell, the number of “other” case receipts by the court, including motions to reopen, reconsider, or recalendar, and remands by the BIA [Board of Immigration Appeals], increased by 86 percent over this 10-year period, from 58,000 cases in FY 2006 to 108,000 in FY 2015.

The CIS writer, Andrew Arthur, also noted: “One of the main reasons why IJs [immigration judges] are taking more time to complete cases today than they did 10 years ago is an increase in the number of continuances that IJs have granted over that period. As the GAO noted (logically): ‘cases that experience more continuances take longer to complete.’”

If we can draw any conclusions from those findings, it is that immigration judges are hesitant to rule on a case immediately, and are reluctant to deport illegal aliens, even if deportation is justified. If they would deport more illegal aliens the first time around, instead of granting a continuance, the backlog would shrink.

There may be other factors responsible for the large and lengthy backlog of deportation case. A report in the *Washington Times* on June 1 quoted statistics and statements from the GAO report released that same day. It also cited observations from Andrew Arthur of the Center for Immigration Studies (CIS) whom we quoted earlier. Arthur, a former immigration judge who's now a resident fellow at the CIS,



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said that while aging judges and other factors play a role, the chief reason for the spike in deportation cases is the Obama administration's policies. The *Times* report stated:

Mr. Obama's 2012 deportation amnesty for Dreamers, dubbed DACA, or Deferred Action for Childhood Arrivals, created tens of thousands of cases where previously deportable illegal immigrants now had an argument to stay.

And in 2014, with Central American children and families streaming across the border, the Obama Justice Department issued a new memo shifting the priorities for immigration court cases, pushing hundreds of thousands of cases to a lower priority.

Coupled with an overall less strict attitude on enforcement, it created an impression among illegal immigrants that if they could delay their cases long enough they might be able to find a way to stay permanently, Mr. Arthur said.

The *Times* noted that President Trump has already recognized the problems with the immigration courts and called for both streamlining the process and for hiring dozens of new judges to hear cases.

The article continued:

Perhaps more important is Mr. Trump's push to crack down on illegal immigrants themselves. Fewer people are being apprehended at the border, suggesting fewer crossers in the first place, and he's been detaining more illegal immigrants caught in the interior — a key to making sure their cases are heard faster.

"The higher the likelihood that people are going to be detained, the more likely they are to just take an order or removal, just go home," Mr. Arthur said.

While the problem with overtaxed immigrations courts undoubtedly stems from the lax enforcement of our nation's immigration laws during the Obama administration, we wrote in an [article in July 2014](#) that officials in the Obama administration blamed their predecessors. They said the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, signed into law by George W. Bush, made it nearly impossible to deport unaccompanied minors crossing the border illegally back to Central America without first letting them appear before an immigration judge.

In our article, we noted that the law (S. 3061) was named after William Wilberforce — the British politician who led the parliamentary campaign against the British slave trade for 26 years until the passage of the Slave Trade Act of 1807. The act was geared to combat the trafficking of minors. It was designed, its proponents asserted, to prevent victims of child trafficking from being automatically sent back to those who had effectively enslaved them, with the court appearance designed to allow the judge to evaluate their particular situation. The law's contribution to the present crisis, though undeniable, is most likely an unanticipated consequence.

While President Bush did sign the measure, it was a bipartisan effort, and was originally written partially by Senator Dianne Feinstein (D-Calif.) and introduced in the Senate by then-Senator, and later Vice President, Joe Biden.

"It is classic unintended consequences," Marc Rosenblum, deputy director of the U.S. Immigration Policy Program at the Migration Policy Institute, told the *Los Angeles Times* in 2014. "This was certainly not what was envisioned."

While the consequences of the Wilberforce Act may have been unintended, the assertions made by Arthur — that Obama's 2012 DACA program created tens of thousands of cases where previously



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deportable illegal immigrants now had an argument to stay — could easily have been predicted.

If Trump follows through on his promise to streamline the deportation process and to hire dozens of new judges to hear immigration cases, then the federal government will be able to start reducing the immigration court backlog in earnest.

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