

# Removal Proceedings and the Immigration Court Backlog

Immigration court cases are adjudicated by the Executive Office for Immigration Review (**EOIR**), an agency within the U.S. Department of Justice, under authority delegated by the Attorney General. The most common proceedings are formal removal proceedings under Section 240 of the Immigration and Nationality Act (8 U.S.C. §1229a). During removal proceedings, an immigration judge (**IJ**) determines whether a foreign national is subject to removal from the United States, and if so, whether the individual is eligible for certain forms of relief or protection from removal, such as asylum.



## Case Filings

Removal proceedings commence when the Department of Homeland Security (**DHS**) charges a foreign national with an immigration violation under Title 8 of the U.S. Code and files a Notice to Appear (**NTA**) in immigration court. DHS components may charge individuals at the U.S. border or within the U.S. interior with grounds of inadmissibility (e.g., attempting to enter the United States unlawfully) or deportability (e.g., committing certain criminal offenses or violating a nonimmigrant status or condition of entry).

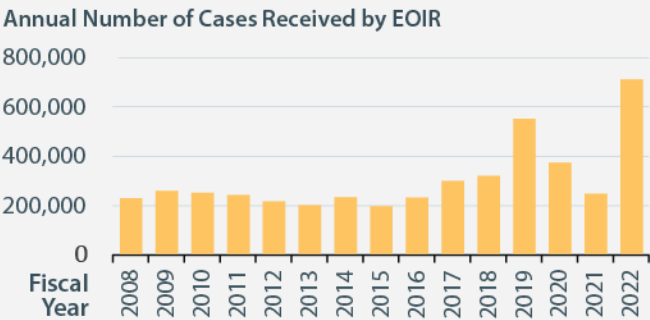
## Three Components of DHS Issue NTAs

- 1 Customs and Border Protection (CBP):** responsible for border security.
  - U.S. Border Patrol (**USBP**): between ports of entry
  - Office of Field Operations (**OFO**): at ports of entry
- 2 Immigration and Customs Enforcement (ICE):** responsible for interior immigration enforcement.
  - Enforcement and Removal Operations (**ERO**): identifies, arrests, detains, and removes foreign nationals who are subject to removal or are unlawfully present in the U.S.
- 3 U.S. Citizenship and Immigration Services (USCIS):** adjudicates applications for naturalization and immigration benefits.



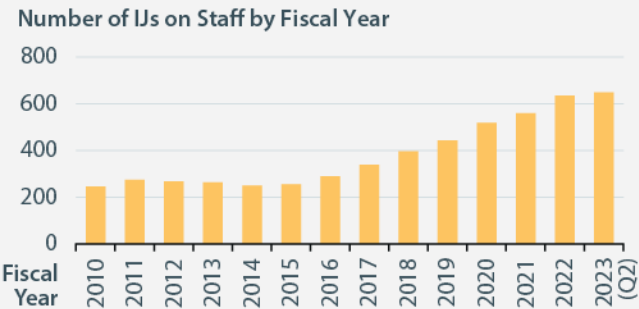
## Selected Trends

EOIR's caseload is a function of the number of cases that DHS files. In recent years, this caseload has generally increased, with a record-high number of cases filed in FY2022.



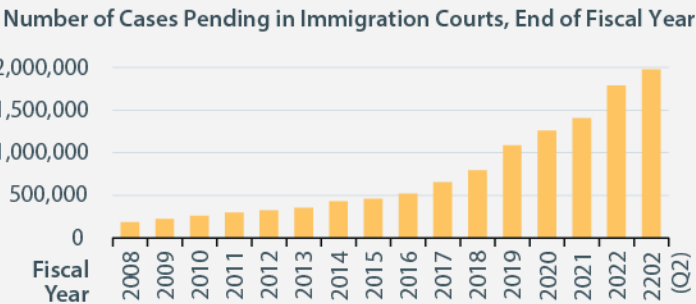
## Immigration Judges

Immigration court proceedings, including removal proceedings, are adjudicated by EOIR's immigration judges (IJs). EOIR has grown its IJ corps during the last decade.



## Pending Cases Backlog

Despite its growth, EOIR's IJ corps has been unable to keep pace with its caseload, and the number of cases pending in immigration courts has grown substantially. As a result, some individuals in removal proceedings must wait years for a court date.



Case data above include removal, deportation, exclusion, asylum-only, and withholding only cases.

Sources: EOIR, Workload and Adjudication Statistics, <https://www.justice.gov/eoir/workload-and-adjudication-statistics>, April 2023. Information prepared August 25, 2023 by Holly Straut-Eppsteiner, Analyst in Immigration Policy and Brion Long, Visual Information Specialist.

For more information, see CRS Report R47077, U.S. Immigration Courts and the Pending Cases Backlog, CRS Report R47504, Asylum Process in Immigration Courts and Selected Trends, CRS In Focus IF11536, Formal Removal Proceedings: An Introduction, and CRS Report R47637, Immigration Judge Hiring and Projected Impact on the Immigration Courts Backlog.



## **Author Information**

Holly Straut-Eppsteiner  
Analyst in Immigration Policy

---

## **Disclaimer**

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.