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## DOJ OIG Releases Report Examining EOIR's Response to the Coronavirus Pandemic

Department of Justice (DOJ) Inspector General Michael E. Horowitz announced today the release of a limited scope review of the Executive Office for Immigration Review's (EOIR) response to the coronavirus disease 2019 (COVID-19) pandemic. EOIR faced difficult and sometimes conflicting challenges while responding to the COVID-19 pandemic. The DOJ Office of the Inspector General (OIG) found that while EOIR took some actions to address these challenges and mitigate the risks of COVID-19 for staff and parties to immigration proceedings, various factors limited the efficacy of these efforts. Some, but not all, of these factors were within EOIR's control, and we identified shortcomings in certain decisions and protocols that hindered EOIR's response.

The OIG's findings included the following:

- **Hearing Postponements.** EOIR issued a blanket postponement of hearings for cases on the non-detained and Migrant Protection Protocols dockets in March and April 2020, but EOIR proceeded with hearings for cases on the detained docket for both adults and juveniles. EOIR officials said they proceeded with detained hearings because of due process considerations and statutory adjudication deadlines. As a result, some staff and parties had to appear at EOIR's spaces in person. EOIR progressively started using video teleconferencing platforms to allow parties to attend hearings remotely in some immigration courts.
- **Inconsistent Approach.** While individual immigration judges had discretion to postpone hearings, waive in-person appearances, and take other actions to minimize in person interactions, they did not always exercise this discretion. The variation in discretion exercised by immigration judges resulted in a landscape of inconsistent decisions and practices across immigration courts and at times uncertainty for respondents and other individuals regarding the status of hearings. In some cases, individuals reported to court only to learn that their hearings had been canceled.
- **Electronic Filing.** Prior to the pandemic, EOIR had limited electronic filing capability, relying primarily on in-person paper filings. In March 2020, electronic filing was only an option in 14 of 69 immigration courts. EOIR expanded its electronic filing system to additional immigration courts over the course of 2020. EOIR used email option as a stopgap measure, though as of April 2021 approximately 40 immigration courts still did not have EOIR's formal electronic case and filing system.
- **Staff Experiences.** EOIR moved quickly in March 2020 to increase the number of staff teleworking. However, this effort was initially hindered by a lack of telework equipment and supply chain limitations. In addition, many support staff remained unable to telework because of the need to

process paperwork in the office. Furthermore, EOIR was initially limited in its efforts to provide PPE to staff due to supply chain limitations.

- **Communications.** EOIR created a headquarters-level task force to address COVID-19 related concerns, set up a COVID-19 “incident” email box, and issued communications from the then EOIR Director to the entire agency about the pandemic. Nevertheless, many parties the OIG interviewed found EOIR’s initial communication about the pandemic to be untimely, unclear, and inconsistent, which led to confusion and anxiety for staff and parties to immigration proceedings.

As the pandemic continues, EOIR will likely continue to face challenges in its ability to acquire necessary supplies, reconfigure work arrangements to increase telework or allow for more social distancing in office spaces, and reduce risks posed in office and court settings. The OIG encourages EOIR to continue to be innovative in finding ways to lessen the number of individuals who conduct EOIR work or participate in immigration hearings in person. EOIR also must prepare to reopen immigration courts in areas that DOJ has determined will move through reopening phases. As EOIR implements improvements, EOIR should keep in mind long-term continuity of operations planning so that it is prepared for future public health crises and other unexpected events that may impact its operations.

To assist EOIR in addressing the COVID-19 pandemic and preparing and planning for other emergencies or pandemics in the future, the OIG made nine recommendations to EOIR. EOIR generally agreed with all nine of the recommendations.

**Report:** Today’s report is available on the OIG’s website at the following link:

<https://oig.justice.gov/reports/limited-scope-review-executive-office-immigration-reviews-response-coronavirus-disease-2019>

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