The Institutional Hearing Program: A Study of Prison-Based Immigration Courts in the United States

Appendix

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1. Introduction

The immigration court data analyzed in this article were originally collected by the Executive Office for Immigration Review (EOIR), the division of the United States Department of Justice responsible for administering the nation's immigration court system. We obtained the data for analysis directly from EOIR with data through December 11, 2019 (EOIR CASE data December 11, 2019).

In this appendix, we begin by describing the steps we took to validate and prepare the EOIR data for analysis. Below, we first describe how the EOIR data are stored and explain the steps we took to validate these data. We next discuss decisions made in developing our analytical data sets. Finally, we define key data fields used in our analysis.

2. EOIR Data Storage and Validation

Since EOIR was first established in 1983, the agency has collected court adjudication information in a management information system. Data in the EOIR's management information system also include legacy case information from cases occurring prior to 1983 when immigration judges were housed within the Immigration and Naturalization Service (INS).

The EOIR's first data system was designed to "identify nationwide caseload statistics and trends through the monthly use of uniform reporting procedures" (Office of the Attorney General 1983: 113; H. of Rep. 1984: 146). In 1983, the Office of Chief Immigration Judge also created the Uniform Docketing System which established nationwide standards for case adjudication (Office of Attorney General 1983: 113). The EOIR's early management information system, which was also known as the Automated Nationwide System for Immigration Review (ANSIR), served as a comprehensive data storage system to track cases throughout the 1980s, 1990s, and early 2000s (Office of Management and Budget 1993: 226; H. of Rep. 1987: 216). During these years, the EOIR regularly relied on its data system to make reports to Congress on caseload statistics, particularly for IHP cases. ANSIR was critical to the IHP because the immigration judges relied on it to carefully coordinate and plan their hearings at prisons (H. of Rep. 1994: 183–84). Data in the ANSIR system were verified

in virtually every field on a daily, weekly, and monthly basis. The agency also regularly conducted random checks of the automated data against judges' hard copy case files (H. of Rep. 2001: 125).

In 2006, EOIR transferred its court data to a new electronic system, the Case Access System for EOIR (CASE). The CASE system featured additional data elements so as to allow "EOIR to provide more information about its process to Congress and the public" (EOIR 2006: 2).

Before beginning analysis, we reviewed the EOIR data for completeness and accuracy. We began by performing reliability checks against official government reporting of detailed statistical information on the early years of the IHP (*e.g.*, GAO 1989: 9; H. of Rep. 1994: 183; U.S. Senate 1994: 63; U.S. Senate 1995: 17; H. of Rep. 1995b: 22, 25; H. of Rep. 1997: 40; H. of Rep. 2001: 16; H. of Rep. 2002: 21). We were able to validate our data against these statistical reports dating back to the 1980s.

EOIR has also published annual statistics reports containing data on the IHP dating back to fiscal year 1996 (*e.g.*, EOIR 2001: U1; EOIR 2018: 21). We were also able to successfully validate our IHP data against these reports.

Additionally, we compared our data to IHP proceeding measurements published by Syracuse University's Transactional Record Access Clearinghouse (TRAC) (TRAC 2017). We are grateful to TRAC's co-director, Dr. Sue Long, for her pioneering work analyzing EOIR data.

Finally, in order to further understand the coding used in the EOIR database, we reviewed EOIR's publications and internal document, including data coding lookup tables, data management training manuals, and court operating policies and procedures (*e.g.*, EOIR 2010; EOIR 2018b).

3.   EOIR Data Structure, Data Tables, and Lookup Tables

The immigration court data made publicly available by EOIR contained two types of data files: substantive data and lookup tables. The substantive data tables included information regarding immigration cases, proceedings, and hearings, including case and respondent characteristics. (A "respondent" is the term used to describe an immigrant who is subject to immigration proceedings, *i.e.*, the individual who is responding to the government charges of deportability.) The lookup tables provided value labels for codes in the substantive data. For example, the B_TblProceeding.csv substantive data table includes a three-letter hearing location identifier ("hearing_loc_code"). This code can be used in conjunction with the same code in the tblLookupHloc.csv lookup table to identify the hearing location name ("hearing_loc_name"), along with other associated information (*e.g.*, address, city, etc.). Connecting the codes in the substantive data to values labels in the lookup table was critical to understand the meaning of certain variables.

Figure 1 provides a broad overview of this EOIR data structure. The publicly available data contained twenty substantive data tables and seventy-eight lookup tables, with hundreds of data fields. However, not all were relevant to our analysis.

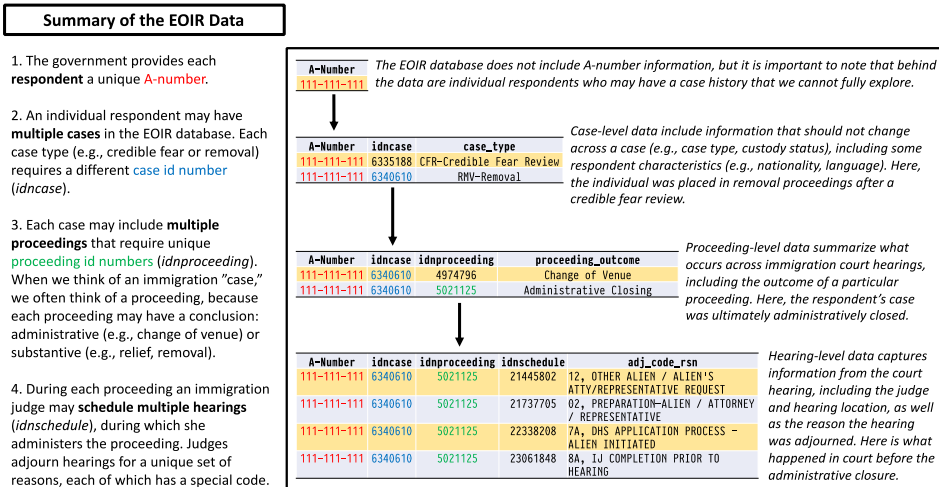## Figure 1. Summary Description of the EOIR Data Structure

Figure 1. Representation of the EOIR data structure

Table A contains the case-, proceeding-, and hearing-level data tables, data fields, and lookup tables we used to build our analytical datasets.

Table A. Data Sources and Description

Data Table	Description	Key Data Fields	Associated Lookup Tables
Case-level			
A_TblCase.csv	Case-level characteristics	idncase, casepriority_code (*e.g.*, UC), nat (*e.g.*, MX), custody (*e.g.*, D), inmate_housing (*e.g.*, OAK with FIC)	*tblLookupNationality.csv* (*e.g.*, MX = "Mexico"), *tblLookup_CasePriority.csv* (*e.g.*, AWC = "Unaccompanied Children"), *tblLookupInmate.csv* (*e.g.*, OAK with FIC = Oakdale, LA, Federal Correctional Institute)
A_TblCaseIdentifier.csv	Case-level identifier codes in long format (*i.e.*, one case may have multiple identifier codes)	idncase, case_id (*e.g.*, SR)	*tblLookUpCaseIdentifier.csv* (*e.g.*, SR = "Stipulated Removal")
tbl_CasePriorityHistory.csv	Case-level identifier codes in long format (*i.e.*, a case may have multiple identifier codes)	idncase, casepriority_code (*e.g.*, UC)	*tblLookup_CasePriority.csv* (*e.g.*, AWC = "Unaccompanied Children")

Data Table	Description	Key Data Fields	Associated Lookup Tables
tbl_RepsAssigned.csv	Case-level dates for attorney entries of appearance (EOIR-28) in long format (*i.e.*, a case may have multiple EOIR-28 dates)	idncase, e_28_date	N/A (no relevant lookup table)
Proceeding-Level			
B_TblProceedCharges.csv	Proceeding-level charge codes in long format (*i.e.*, a case may have charges). These are the charges DHS uses to as the basis for an individual's removability.	idncase, idnproceeding, charge (*e.g.*, 212a06Ai)	*tbllookupCharges.csv* (*e.g.*, 212a06Ai = "Alien in U.S. without Admission or Paroled"). This table does not completely identify the charges. The authors have independently coded and verified these charges (available on request).
B_TblProceeding.csv	Proceeding and case-level characteristics of all kinds. It is the primary data table used to build the analytical datasets.	idncase, idnproceeding, custody, osc_date, input_date, comp_date, base_city_code (*e.g.*, LOS), hearing_loc_code (*e.g.*, ADL), case_type (*e.g.*, RMV), dec_code (*e.g.*, X), dec_type (*e.g.*, C), other_comp, absentia, ihp, nat (*e.g.*, MX)	*tblLookupBaseCity.csv* (*e.g.*, LOS = Los Angeles, CA), *tblLookupCaseType.csv* (*e.g.*, RMV = Removal), *tblLookupCourtDecision.csv* (uses case_type, dec_code, and other_comp to create proceeding-level outcome, *e.g.*, Removal), *tblLookupHloc.csv* (*e.g.*, ADL = Adelanto), *tblLookupNationality.csv* (*e.g.*, MX = "Mexico")
tbl_Court_Appln.csv	Applications for relief filed in a proceeding.	idncase, idnproceeding, appl_code (*e.g.*, ASYL)	*tblLookUp_Appln.csv* (*e.g.*, ASYL = "Asylum")
tbl_JuvenileHistory.csv	Proceeding-level indicator of a variety of juvenile case codes.	idncase, idnproceeding, idnjuvenile (*e.g.*, 1)	*tblLookup_Juvenile.csv* (*e.g.*, 1 = "J" "Juvenile Case")
Hearing-Level			
tbl_schedule.csv	Data for scheduled hearings.	idncase, idnproceeding, hearing_loc_code (*e.g.*, LOS), base_city_code (*e.g.*, ADL),	*tblLookupBaseCity.csv* (*e.g.*, LOS = Los Angeles, CA), *tblLookupHloc.csv* (*e.g.*, ADL = Adelanto, CA), *tblAdjournmentcodes.csv*

Data Table	Description	Key Data Fields	Associated Lookup Tables
		adj_date, adj_rsn (*e.g.*, 01), adj_medium (*e.g.*, V), schedule_type (*e.g.*, II), eoirattorneyid	(*e.g.*, 01 = "Alien to Seek Representation", *tbllookupSchedule_Type .csv* (*e.g.*, II = "Individual)

4. Data Preparation

The data we analyzed contained common and correctible errors in data formatting (*e.g.*, extraneous tabs in the tab-delimited data files). Beyond that, we identified one reliability issue in the data for fiscal year 2019 (through December 11, 2020) regarding applications for relief. At the beginning of fiscal year 2020, TRAC discovered deficits in the EOIR's monthly reporting (TRAC 2019). Specifically, TRAC found that the new data releases were missing data that was previously disclosed to the public, especially applications for asylum (TRAC 2020a). EOIR has reassured TRAC that it does not delete data and has corrected the technological error that occurred in the extractions at issue (McHenry 2020). Subsequently, EOIR has fixed some of these problems, and TRAC has recently released data regarding asylum applications on its website, but cautioned that care must be used when analyzing data published after October 2019 (TRAC 2020b).

We found the same reliability issues with applications for relief, specifically the disappearance of applications for withholding of removal and protection under the Convention Against Torture (CAT). Due to this unreliability, we did not use the more recent data for any analysis of applications for relief. Instead, we drew on EOIR data made public before these application-reliability issues emerged. Specifically, we used EOIR data through November 2, 2018—encompassing all cases through fiscal year 2018—and excluded fiscal year 2019 from analyses that involved applications for relief (*i.e.*, Tables 1–4, Figure 8) (EOIR CASE data November 2, 2018).

After cleaning all relevant data and lookup tables, we started with the cleaned B_TblProceeding.csv data table as the basis for constructing our analytical datasets. We then merged in relevant variables for analysis from the various data tables and associated lookup table values, both described in Table A.

5. Creating the Analytical Datasets: IHP and Non-IHP Detained

To construct our samples for analysis, we began with proceedings that had an initial case completion or started in or after fiscal year 1980. An initial case completion is operationalized as the first proceeding completed in a case, including initial immigration decisions regarding removal, as well as administrative closures, but excluding transfers and changes of venue. The start date of a case is operationalized as the earliest input date in a case (*i.e.*, Notice to Appear (NTA), or scheduled hearing).

In total, we began with 9,031,862 proceedings. We next limited our sample to exclusion, deportation, and removal case types, leaving 8,884,914 proceedings. Proceedings initiated prior to the effective date of the Illegal Immigration Reform and

Immigration Responsibility Act of 1996 are either deportation or exclusion proceedings. Exclusion referred to the process that applied to those who were not admitted to the United States, while deportation applied to those who were admitted but now subjected to possible expulsion. After 1996, both types of cases were categorized as "removal" proceedings.

We then removed any case coded by EOIR as involving a juvenile or unaccompanied minor, leaving 8,205,859 proceedings, which represented 6,207,139 unique immigration cases.

The IHP Sample. To create the IHP Analytical Sample, we narrowed the 8,205,859 proceedings to only those proceedings associated with the IHP during our study period. To do this, we relied on a proceeding-level identifier "IHP" in the B_TblProceeding data table. *See* Table C. This identifier consists of three values, "F," "M," or "S," which signify both that a case is part of the IHP and whether the respondent was being held at a "S" (state), "F" (federal), or "M" (municipal) correctional facility during the immigration court process. In total 252,594 IHP proceedings appeared in the data.

Our IHP Sample contained a total of 7,479 exclusion proceedings, 84,508 deportation proceedings, and 160,607 removal proceedings. Because a given immigration case may contain multiple proceedings, we note that these 252,594 IHP proceedings in our study period comprised 229,329 unique immigration cases with at least one IHP proceeding.

The Non-IHP Detained Sample. For purposes of some analyses in our paper, we compared the IHP cases to other cases that were adjudicated in detention outside of the IHP. To do so, we constructed the "Non-IHP Detained Sample."

EOIR classifies each proceeding in the B_TblProceeding data table with one of three case-level codes for custody status. A respondent never detained during the case is coded as "N." A detained respondent is coded as "D." Respondents who are initially detained but later released—on bond or some alternative type of condition—are coded as "R." Of the 8,205,859 proceedings from our initial cut, 2,521,393 were detained proceedings.[1]

We operationalized "non-IHP detained" proceedings as those detained proceedings with (i) no history within the IHP and (ii) no history of a non-detained case custody status. In total the Non-IHP Detained Sample comprised 2,077,692 proceedings and 1,997,318 unique cases.

Table B provides a provides descriptive statistics of these two analytical samples, across relevant variables.

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[1] We note that in a small number of cases, custody status varied between proceedings (2%, n = 139,978 of 6,207,139). These were excluded from our analytical samples.

Table B. Descriptive Statistics of Analytical Samples

	Non-IHP Detained		IHP	
	Freq.	Prop.	Freq.	Prop.
Proceedings (*n*)	2,077,692		252,594	
Detained	2,077,692	1.00	245,885	.97
Nationality				
Mexico	1,276,928	.61	125,753	.50
Cuba	28,267	.01	13,510	.05
Haiti	17,009	.01	4,698	.02
Jamaica	23,807	.01	12,865	.05
Dominican Republic	40,386	.02	22,307	.09
Northern Triangle	377,750	.18	14,624	.06
Colombia	21,490	.01	13,009	.05
Nigeria	7,614	.00	2,701	.01
Other	284,441	.14	43,127	.17
Pending	19,225	.01	1,428	.01
Initial Case Completion	1,978,434	.95	197,483	.78
Represented[a]	328,069	.17	20,386	.10
Applied for Relief[a]	198,910	.10	16,314	.08
Failure[a]	1,647,673	.83	183,230	.93

Note.–All differences are significant at $p < .001$ difference of proportions test;
a.–Among initial case completions. Failure is operationalized as a removal order (*i.e.*, removal, deportation, or exclusion).

6.   Other Coding Decisions

Our analyses relied on a number of codes within the EOIR data. Table C provides information on these variables.

Table C. Detailed Description of Variables

Variable	Description	Coding
IHP	Participation in the Federal, Municipal, or State Institutional Hearing Program. This variable is defined by the "ihp" data field from B_TblProceeding.csv data table	F = Federal IHP; M = Municipal; S = State

Variable	Description	Coding
IHP Facilities and IHP Hearing Locations	IHP facilities are prisons and jails participating in the IHP. In some cases, the hearing location, which we define as where the judge was sitting at the time of the hearing, was also the facility location where the respondent was housed. Facilities are jointly defined by "base_city" and "inmate_housing" codes from the A_TblCase.csv, with labels identified in the tblLookupInmate lookup table. Hearing location ("hear_loc") is defined at the proceeding-level B_TblProceeding.csv data table.	
Custody Status	Respondent custody status. Custody is defined from the "custody" data field from B_TblProceeding.csv data table.	D = Detained; R = Released; N = Never Detained
Proceeding Outcome[2]	The decision that closes a proceeding, including on-the-merits decisions (*e.g.*, Removal), other completions (*e.g.*, Administrative Closure) or other dispositions that move the case to another jurisdiction (*i.e.*, Change of Venue or Transfer). Proceeding outcomes are jointly—and somewhat confusingly—defined by "case_type" (*e.g.*, "RMV"), "dec_code" (decision code), and "other_comp" (other completion) from the B_TblProceeding.csv, along with "strdectype" (decision type), "strdeccode" (decision code), and "strdescriptions" (description) from the tblLookupCourtDecision.csv lookup table. The confusion revolves around the use of the similarly fields "dec_code" in the proceeding table and "strdeccode" in the lookup table, which are related by different. • The "strdectype" field in the lookup table defines decisions as either "C" on the merits conclusions or "O" other completions The "strdectype" field does not exist in B_TblProceeding.csv, but corresponds, respectively to any value in the dec_code variable (for "C" on the merits conclusions)	*e.g.*, Removal, Deportation, Exclusion, Termination

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[2] Immigration judges in the IHP can make one of several decisions at the end of the proceeding (GAO 1997: 5, n.7). First, they can issue a final order of deportation or voluntary departure, or alternatively grant relief from deportation. Second, if the judge believes that the charges are not valid, they can terminate the case. Third, a judge can order administrative closure if the judge believes that the noncitizen was not properly notified of the hearing. Fourth and finally, a judge can order a change of venue to a different jurisdiction, which typically happens if the case is not yet ended at the time that the noncitizen is released from criminal custody. After an immigration judge orders removal, a respondent generally has the right to appeal to a reviewing court, known as the Board of Immigration Appeals (BIA) (Family 2008: 502).

Variable	Description	Coding
	or any value in the other_comp variable (for "O" other completions). • The "strdeccode" also does not exist independently in the B_TblProceeding.csv data but corresponds to the combination of the values in "dec_code" for "C" "strdectype" and "other_comp" vales for "O" "strdectype" in the "dectype" field. Crossing the case type, decision type, and combined decision codes provides the proceeding outcome from the tblLookupCourtDecision.csv lookup table. • For example, a "RMV" case type and a "C" decision type with a "T" decision code yield "Termination" as the outcome, while a "RMV" case type and an "O" decision type with a "T" decision code yield "Transfer" as the outcome.	
Counsel	Respondent representation, operationalized as having an EOIR-28 form filed with the court prior to the completion of the proceeding. Where an EOIR-28 form was filed after the completion of the proceeding, the respondent was counted as represented if an attorney appeared in at least one hearing within the relevant merits proceeding. EOIR-28 is operationalized by comparing the various case-level "e_28_date" fields listed in the tbl_RepsAssigned.csv data table against the proceeding-level "comp_date" in the B_TblProceeding.csv data table. To operationalize attorney presence at a hearing (in the case of a late-filed EOIR-28), we used the appearance of the "eoirattorneyid" field at a hearing in the tbl_schedule.csv data table, excluding hearings that likely did not take place based on the adjournment reason "adj_rsn" (*i.e.*, Judicial absence: (19) Unplanned IJ leave or detail assignment; (34) Unplanned IJ Leave sick leave; (35) Unplanned IJ leave or detail assignment. Scheduling conflict: (25) to allow for scheduling of priority case; (41) reset to hear high priority case; (55) hearing deliberately advanced. Entry errors: (99) Data entry error).	1 = Represented; 0 = Pro Se
Nationality	Respondent nationality. The EOIR data do not contain a respondent's race or ethnicity, but does provide the asserted nation of origin. National origin is found in the "nat" code in the B_TblProceeding.csv data table.	*e.g.*, MX = MEXICO; CU = CUBA

Variable	Description	Coding
Initial Case Completion	The first proceeding completion in a case, including both "on-the-merits" and "other completions" but excluding transfers and changes of venue, which we do not view as substantive decisions. In cases with multiple proceedings, we chose the proceeding with the earliest completion date ("comp_date") or, where they are completed on the same day and have different outcomes, the earliest scheduled hearing date ("adj_date" from the tbl_schedule.csv data table) or input date ("input_date"). If the input date didn't resolve the impasse, we erred on the side of removal, deportation, or exclusion.	1 = Initial case completion; 0 Non-initial case completion
Stipulated Removal (SRO)	A stipulated removal order (SRO) is based on a written agreement between the immigrant and the Department of Homeland Security rather than the judge's independent analysis of the underlying facts (8 U.S.C. § 1229a(d)). We operationalized a SRO using the "SR" field in the A_TblCaseIdentifier.csv data table (which stands for "Stipulated Removal" per the tblLookUpCaseIdentifier.csv lookup table), in conjunction with a proceeding outcome of removal, deportation, or exclusion (*see* Proceeding Outcome above).	1 = Stipulated Removal; 0 = Non-Stipulated Removal
Hearing Medium	The medium through with the scheduled hearing is supposed to occur. The hearing medium is found in the "adj_medium" field in the tbl_schedule.csv data table and takes on one of three values, "in person" (P), "telephone" (T), or "televideo" (V).	P = In Person; T = Telephone; V = Televideo

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