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ACCESS TO COUNSEL IN IMMIGRATION COURT, REVISITED

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Access to Counsel in Immigration Court, Revisited

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ABSTRACT: In this Article, we analyze almost 8 million deportation cases to provide a comprehensive understanding of the state of access to counsel for immigrants in removal proceedings. Our findings, which revisit and extend our 2015 national study on representation in U.S. immigration court, reveal considerable strides toward improved access to counsel over the past decade. While only 37% of immigrants in completed removal cases found counsel in our initial study (from 2007 to 2012), just over half found counsel (52%) in the subsequent years (from 2013 to 2024), including 62% of unaccompanied children. Making use of a never-before-analyzed administrative database, we document that the number of legal representatives practicing in immigration courts has nearly doubled since 2006, fueled by a more active deportation defense bar, increased pro bono interest in immigration representation, and nonprofit funding from private philanthropy and government. There are now higher representation rates in small cities and in detained immigration courts, and almost two-thirds (64%) of immigrants who found counsel succeeded in avoiding deportation, such as with a grant of asylum or termination of their case.

Despite these advances, our revisiting project makes clear that there is still a severe crisis in accessing counsel in U.S. immigration courts. Showing serious signs of strain, the representation rate for nondetained immigration courts declined from 66% in our initial study to only 57%. Similarly, representation

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[*] Professor of Law, UCLA School of Law. We thank the Transactional Records Access Clearinghouse ("TRAC") at Syracuse University for providing us access to some of the EOIR data used in our analysis, in our capacity as TRAC Fellows. Hailey Salmonsen provided stellar research assistance, with the support of UCLA Law's Hugh & Hazel Darling Law Library. We also acknowledge the talented team that assisted in coding and researching the attorneys analyzed in this Article: Joshua Behrens, Leah Bishop, Sara Broukhim, Rachael Denny, Antonio Escobar, Tess Joseph, Rubina Karapetyan, Jason Lee, Bianca Torres Murray, Deborah Nosrati, Christina Panossian, Shail Patel, Michael Paz, Marissa Rosenberg-Carlson, and Zahrah Siddiqui. For extremely helpful comments on earlier drafts, we thank Michael Danielson, David Hausman, Laila Hlass, Eisha Jain, Philip Kretsedemas, Jay Krishnan, Sue Long, Stephen Manning, Hiroshi Motomura, Lindsay Nash, Emily Ryo, Noelle Smart, and Juliet Stumpf. Finally, we are grateful to the student members of the *Iowa Law Review* for their superb editorial review.

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among the ballooning number of pending cases decreased from 47% in 2012 to only 31% in 2024. Deportation defense practitioners are now stretched to the breaking point: In fiscal year 2024, only 16,976 representatives provided counsel for just over 1.4 million immigrants facing removal, leaving almost 2.9 million immigrants unrepresented. When combined with recent developments at the federal level—such as cuts in funding for representation programs, pressure placed on law firm pro bono programs to decline immigration court representation, and a stepped-up deportation campaign—the looming representation deficit may soon eclipse the headway made in the last decade.

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INTRODUCTION

Although immigrants have a right to be represented by counsel at a removal hearing in the United States, there is no requirement that counsel be

provided at government expense.[1] Because immigration court proceedings are classified by the courts as civil, the protections of the Sixth Amendment requiring appointment of counsel in criminal cases do not apply.[2] As a result, if free or low-cost legal services are not available, those without the wealth to hire an immigration attorney must go without.[3]

In a 2015 article published in the *University of Pennsylvania Law Review*, we reported our findings from the first ever national study on access to counsel in immigration court.[4] We discovered dismal rates of representation: Only 37% of immigrants had an attorney to represent them in their deportation case.[5] Inside detention, representation was even more scarce: Only 14% of persons who were detained were able to secure representation, compared to 65% of persons who were released, and 71% of persons who were never detained.[6] We also found that represented immigrants, when compared to immigrants who proceeded pro se, "fare[d] better at every stage of the court process."[7]

The findings of our national study remain relevant and are frequently relied on by legal and nonprofit organizations, policymakers, and government agencies in developing publicly funded programs that provide counsel for

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1. Immigration and Nationality Act § 240(b)(4)(A), 8 U.S.C. § 1229a(b)(4)(A) (2018). *See generally* Beth J. Werlin, *Renewing the Call: Immigrants' Right to Appointed Counsel in Deportation Proceedings*, 20 B.C. THIRD WORLD L.J. 393 (2000); Lucas Guttentag & Ahilan Arulanantham, *Extending the Promise of* Gideon*: Immigration, Deportation, and the Right to Counsel*, 39 HUM. RTS. 14 (2013).

2. Hannah v. Larche, 363 U.S. 420, 440 n.16 (1960) ("Although the respondents contend that the procedures adopted by the Commission also violate their rights under the Sixth Amendment, their claim does not merit extensive discussion. That Amendment is specifically limited to 'criminal prosecutions,' and the proceedings of the Commission clearly do not fall within that category." (citation omitted)); 8 U.S.C. § 1229a(b)(4)(A) ("[T]he alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien's choosing who is authorized to practice in such proceedings.").

3. One important exception has been the government's funding of an appointed representative for persons with serious mental disabilities in detained removal proceedings pursuant to a class action lawsuit and subsequent injunction under the Rehabilitation Act. Franco-Gonzalez v. Holder, No. CV 10–02211, 2013 WL 3674492, at *3 (C.D. Cal. Apr. 23, 2013) (concluding that "Section 504 of the Rehabilitation Act does require the appointment of a Qualified Representative as a reasonable accommodation"). In April 2025, the Department of Justice terminated funding for the program in all states other than Arizona, California, and Washington where the injunction remains in force. Press Release, Acacia Ctr. for Just., Trump and DOGE Continue Attack on Immigrants by Stripping Away Legal Representation for Those with Cognitive Disabilities and Significant Mental Health Needs (Apr. 28, 2025), https://acaciajustice.org/trump-and-doge-continue-attack-on-immigrants-by-stripping-away-legal-representation-for-those-with-cognitive-disabilities-and-significant-mental-health-needs [https://perma.cc/GE72-BUS6].

4. *See generally* Ingrid V. Eagly & Steven Shafer, *A National Study of Access to Counsel in Immigration Court*, 164 U. PA. L. REV. 1 (2015). We also partnered with the American Immigration Council in 2016 to publish a companion report. *See* INGRID EAGLY & STEVEN SHAFER, AM. IMMIGR. COUNCIL, ACCESS TO COUNSEL IN IMMIGRATION COURT (2016), https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court [https://perma.cc/9AUC-WFU5]. In this Article, we are joined by a new co-author, Renee Moulton.

5. Eagly & Shafer, *supra* note 4, at 7.

6. *Id.* at 32, 34 fig.8.

7. *Id.* at 9, 32 & fig.6, 50 fig.14, 53 & tbl.3, 57, 72.

low-income individuals in immigration court proceedings.[8] Yet, given the important legal and political shifts over the past decade, an enlarged analysis is needed. This Article fills that gap by bringing our earlier analyses up to date, while also extending our research to address new questions that allow for a more contextualized understanding of how legal representation in U.S. immigration courts has shifted over time. In doing so, we make use of our extensive coding of an administrative database of all immigration attorneys and nonlawyer practitioners that have handled cases in U.S. immigration courts that has not been previously analyzed by researchers.[9]

Although the frequency with which immigrants must proceed in immigration court without a lawyer remains a subject of significant public import, the past decade has seen a decline in the availability of public information on the topic. After Donald Trump first became President in 2016, the U.S. Department of Justice ("DOJ") abruptly removed its reporting on how many immigrants obtained counsel from the immigration court's annual statistical reporting.[10] As of 2018, the DOJ stopped publishing annual statistical reports altogether.[11] In its place, the DOJ began to produce one-page information sheets on "current representation rates" that provide only a limited snapshot of the presence of counsel in immigration court cases.[12]

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8. *See, e.g.*, Letter from Immigrant & C.R. Orgs. to S. & H. Comms. on Appropriations, Request for Funding for Legal Representation and Due Process Protections for Individuals Facing Deportation, at 2 n.2 (Apr. 22, 2024), https://drive.google.com/file/d/1kHwXe3UhveCl2m38937voNCq8SaDTwfy/view [https://perma.cc/F3MG-LRTD]; GREG CHEN & JORGE LOWEREE, POLICY BRIEF: THE BIDEN ADMINISTRATION AND CONGRESS MUST GUARANTEE LEGAL REPRESENTATION FOR PEOPLE FACING REMOVAL 1 (2021), https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the_biden_administration_and_congress_must_guarantee_legal_representation_for_people_facing_removal.pdf [https://perma.cc/ZAU9-YT4B]; *Invest $150M in Immigration Legal Services in FY25 and Pass the Access to Representation Act (S999/A170) to Guarantee a Right to Counsel for Immigrants Facing Deportation*, CARE FOR IMMIGRANT FAMS., https://www.nyic.org/wp-content/uploads/2024/01/CARE_Pass-the-ARA-One-Pager-FY25-1.pdf [https://perma.cc/2GHB-5DBC].

9. See *infra* Part III and Appendices C, D, and E discussing our coding and analysis of individual attorney data.

10. *See generally* EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., STATISTICS YEARBOOK FISCAL YEAR 2017, https://www.justice.gov/eoir/page/file/1107056/download [https://perma.cc/Q87X-FBRM]. Fiscal year 2016 was the last year that the Executive Office for Immigration Review ("EOIR") reported on representation status of individuals in EOIR proceedings. *See generally* EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., FY 2016 STATISTICS YEARBOOK (2017), https://www.justice.gov/eoir/page/file/fysb16/download [https://perma.cc/MDK4-BGNS].

11. *See Statistics Yearbook*, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T JUST. (Aug. 30, 2019), https://www.justice.gov/eoir/statistical-year-book [https://perma.cc/C9SJ-RVAY]. TRAC and the Vera Institute have sought to fill this gap by providing timely snapshots of current immigration court representation rates based on EOIR data. *See Immigration Court Legal Representation Dashboard*, VERA INST. JUST., https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative/immigration-court-legal-representation-dashboard [https://perma.cc/PZG4-YASM]; *Too Few Immigration Attorneys: Average Representation Rates Fall from 65% to 30%*, TRAC IMMIGR. (Jan. 24, 2024), https://tracreports.org/reports/736 [https://perma.cc/DQ8W-KGB2].

12. *See, e.g.*, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., ADJUDICATION STATISTICS: CURRENT REPRESENTATION RATES (2024), https://www.justice.gov/eoir/media/1344931/dl?inline [https://perma.cc/H2A8-LL9D].

Revisiting our 2015 national study on access to counsel is particularly relevant at the current moment because of Trump's reelection to the presidency. Throughout his campaign, Trump vowed to initiate the largest mass deportation of immigrants in U.S. history.[13] In his first week in office, he signed an Executive Order titled "Protecting the American People Against Invasion" ordering full enforcement of the immigration laws.[14] In service of the new Executive Order, the Department of Homeland Security ("DHS") threw aside the decades-old policy of not conducting immigration arrests in sensitive locations such as schools, hospitals, and churches.[15] Adding further fuel to the fire, the Trump Administration attempted to stop federal funding for legal representation for unaccompanied minors and persons not competent to represent themselves, moves that have been challenged in court.[16] The Administration also terminated contracts with nonprofit service organizations

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13. For example, during a campaign speech in Michigan, Trump declared: "On day one, we will begin the largest domestic deportation operation in American history." Marina Villeneuve, *"This Is the Secret": Away from the Stage, Trump Allies Plot Project 2025 Agenda at His Convention*, SALON (July 17, 2024, 12:01 PM), https://www.salon.com/2024/07/17/this-is-the-secret-away-from-the-stage-allies-plot-project-2025-agenda-at-his-convention [https://perma.cc/K6LD-XFFM]. For a legal analysis of Trump's deportation plans, see Ahilan Arulanantham, *Trump's Immigration Agenda: A Closer Look*, JUST SEC. (June 26, 2024), https://www.justsecurity.org/97146/trumps-immigration-agenda [https://perma.cc/SVT3-38CJ].

14. Exec. Order No. 14,159, 90 Fed. Reg. 8443 (Jan. 20, 2025) [hereinafter Invasion Executive Order].

15. Press Release, U.S. Dep't of Homeland Sec., Statement from a DHS Spokesperson on Directives Expanding Law Enforcement and Ending the Abuse of Humanitarian Parole (Mar. 21, 2025), https://www.dhs.gov/news/2025/01/21/statement-dhs-spokesperson-directives-expanding-law-enforcement-and-ending-abuse [https://perma.cc/V3P2-BYAK]. This type of interior enforcement would certainly increase the number of persons facing removal in immigration court. At the same time, the Trump Administration has made clear it hopes to bypass the due process protections of immigration courts entirely. These efforts include expanding a process known as expedited removal and relying on the Alien Enemies Act of 1798, initiatives that have been met with many legal challenges in the courts. *See generally* Designating Aliens for Expedited Removal, 90 Fed. Reg. 8139 (Jan. 24, 2025) (allowing for deportation without immigration judge review in cases where persons cannot prove they have resided in the United States for more than two years); Proclamation No. 10,903, 90 Fed Reg. 13033 (Mar. 14, 2025) (directing that "all Alien Enemies" are "subject to immediate apprehension, detention, and removal").

16. *See generally* Press Release, Acacia Ctr. for Just., Acacia Center for Justice Decries Administration's Termination of Representation for Unaccompanied Children (Mar. 21, 2025), https://acaciajustice.org/ACACIA-DECRIES-ADMINISTRATIONS-TERMINATION-OF-REPRESENTATION-FOR-UNACCOMPANIED-CHILDREN [https://perma.cc/64V3-Y3KU]; Press Release, Nat'l Immigr. Just. Ctr., Nonprofits Sue to Stop Trump Termination of Program that Provided Attorneys for People in ICE Detention Deemed Mentally Incompetent (May 5, 2025), https://immigrantjustice.org/press-release/nonprofits-sue-to-stop-trump-termination-of-program-that-provided-attorneys-for-people-in-ice-detention-deemed-mentally-incompetent [https://perma.cc/TL2M-2N4N]. Advocates' challenges to the Trump Administration's funding freeze have so far been successful. *See* Associated Press, *Judge Orders White House to Restore Legal Aid to Unaccompanied Migrant Children*, NPR (Apr. 2, 2025, 4:07 AM), https://www.npr.org/2025/04/02/nx-s1-5348831/judge-trump-administration-legal-aid-to-migrant-children [https://perma.cc/G6QD-W85S]; Quinn Wilson, *DOJ Must Keep Giving Immigrant Legal Aid to Mentally Incompetent*, BLOOMBERG L. (July 21, 2025, 2:03 PM), https://news.bloomberglaw.com/litigation/doj-must-keep-giving-immigrant-legal-aid-to-mentally-incompetent [https://perma.cc/6U44-WFZ3].

providing pro se support services and referrals to representation.[17] The President has even sought to discourage a long tradition of private law firm pro bono service[18] on asylum cases by signing agreements with major law firms that purport to require them to instead dedicate their pro bono hours to Trump's preferred causes.[19] At the same time, Trump has alleged that "the immigration bar" perpetuates "rampant fraud and meritless claims" and directed his "Attorney General to seek sanctions against attorneys and law firms who engage in frivolous, unreasonable, and vexatious litigation."[20]

Anything approaching Trump's threatened millions of deportations would place unprecedented pressure on the already overwhelmed U.S. immigration courts, including on the lawyers who practice within them and the judges that preside over them.[21] Our findings on access to counsel are therefore more important than ever in establishing the baseline for current immigration representation—and in exposing deficiencies that, in the absence of a federal right to counsel,[22] could be alleviated by government funding, private philanthropy, and law firm pro bono involvement.

Interest in our revisiting project is also heightened because our initial study only covered 2007 to 2012,[23] and much has transpired in the realm of deportation defense since that time. In 2013, the first publicly funded legal representation program opened its doors—the New York Immigrant Family

17. These programs include the Legal Orientation Program, Family Group Legal Orientation Program, Legal Orientation Program for Custodians of Unaccompanied Children, Immigration Court Helpdesk, and Counsel for Children Initiative. Memorandum of Points and Authorities in Support of Plaintiffs' Renewed Motion for a Temporary Restraining Order at 2, Amica Ctr. for Immigrant Rts. v. U.S. Dep't of Just., No. 1:25-cv-00298-RDM (D.D.C. Apr. 14, 2025), https://amicacenter.org/app/uploads/2025/04/53-1.pdf [https://perma.cc/SP2P-G2PF].

18. For the essential history of big law pro bono, see Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 3–41 (2004). *See also* Jayanth K. Krishnan, Megan Riley & Vitor M. Dias, *Big Law's Immigration Advocates*, 2024 U. ILL. L. REV. 447, 452–53 (examining the work of big law in appealing the decisions of federal immigration judges).

19. As Scott Cummings explains, the "law firms targeted by the Trump administration's executive orders" are among those recognized for their work on asylum cases. Scott Cummings, *There's a Darker Reason Trump Is Going After Those Law Firms*, N.Y. TIMES (May 15, 2025), https://www.nytimes.com/2025/05/15/opinion/trump-law-firms-attacks.html (on file with the *Iowa Law Review*).

20. Memorandum on Preventing Abuses of the Legal System and the Federal Court, 2025 DAILY COMP. PRES. DOC. 387 (Mar. 21, 2025); *see* Cummings, *supra* note 19.

21. The American Immigration Council estimates the EOIR would need to hire an additional 181 judges per year to "fully process 10.6 million cases within 11 years." AM. IMMIGR. COUNCIL, MASS DEPORTATION: DEVASTATING COSTS TO AMERICA, ITS BUDGET AND ECONOMY 17 (2024), https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/mass_deportation_report_2024.pdf [https://perma.cc/MWZ2-KY56]. Yet, rather than immediately hire more immigration judges, the DOJ fired a group of recently appointed judges. *See* Ximena Bustillo, *Trump Fires More Immigration Judges Even as He Aims to Increase Deportations*, NPR (Apr. 22, 2025, 2:15 PM), https://www.npr.org/2025/04/22/nx-s1-5372681/trump-immigration-judges-fired [https://perma.cc/3HFX-BZUP].

22. *Fairness to Freedom: The Campaign for Universal Representation*, VERA INST. JUST., https://www.vera.org/fairness-to-freedom [https://perma.cc/8WYR-F6TM].

23. Eagly & Shafer, *supra* note 4, at 6.

Unity Project—with support from the City of New York and private donors.[24] Since then, a movement to expand access to counsel spread across the United States, energizing the creation of new legal aid programs to represent noncitizens facing deportation proceedings.[25] By the end of 2022 there were deportation defense legal services programs supported by states, cities, and private donors spread across twenty-two states and the District of Columbia.[26] Reinforcing these programs is the Immigrant Justice Corps, founded in 2014 by the late Judge Robert Katzmann of the U.S. Court of Appeals for the Second Circuit, that funds and trains recent law school graduates to work as deportation defense lawyers for two years.[27] Additionally, some public defender offices that handle the cases of indigent defendants charged with crimes have begun removal defense practices to assist their immigrant clients.[28]

Representation of immigrants has also been supplemented by law firm pro bono work.[29] Although pro bono projects for asylum seekers have existed since the 1980s,[30] the past decade has witnessed an increased institutionalization of law firm pro bono practice, often including immigration cases.[31] Representing immigrants on asylum and other claims is attractive to law firms not just for "social impact," but also because immigration court practice provides essential skills training in areas such as client interviewing, legal research, drafting briefs, and presentation of evidence in court.[32] Nonprofit organizations such as the

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24. Lindsay Nash, *Universal Representation: Systematic Benefits and the Path Ahead*, 7 J. ON MIGRATION & HUM. SEC. 103, 104 (2019). For powerful, up-close accounts of the New York program by lawyers who formerly practiced within it, see generally J.C. SALYER, COURT OF INJUSTICE: LAW WITHOUT RECOGNITION IN U.S. IMMIGRATION (2020); and Talia Peleg & Ruben Loyo, *Transforming Deportation Defense: Lessons Learned from the Nation's First Public Defender Program for Detained Immigrants*, 22 CUNY L. REV. 193 (2019).

25. Michael Kagan, *Toward Universal Deportation Defense: An Optimistic View*, 2018 WIS. L. REV. 305, 305–06. As Michael Kagan explains, the "gamechanger" in the access to counsel movement was Trump's first presidency, "which spurred immigrant rights activists and local governments to search for ways to protect local immigrant communities from a hostile federal government." Michael Kagan, *In Defense of Deportation Defense*, 56 U.C. DAVIS L. REV. ONLINE 1, 6, 8 (2022) (calling the growth of deportation defense "one of the best treatments that we have for the disease of mass deportation and detention of immigrants").

26. *The Movement for Deportation Defense: Information Hub*, VERA INST. JUST. [hereinafter *Information Hub*], https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative [https://perma.cc/4YPE-2RLG].

27. Jojo Annobil & Elizabeth Gibson, *Improving Lawyers & Lives: How Immigrant Justice Corps Built a Model for Quality Representation While Empowering Recent Law School and College Graduates and the Immigrant Communities Whom They Serve*, 92 FORDHAM L. REV. 823, 853, 864 (2023).

28. Ingrid Eagly, Tali Gires, Rebecca Kutlow & Eliana Navarro Gracian, *Restructuring Public Defense After* Padilla, 74 STAN. L. REV. 1, 8–9 (2022).

29. *See generally* Krishnan et al., *supra* note 18, at 452 (comparing Big Law representation to non-Big Law representation in appellate deportation proceedings).

30. *See, e.g.*, Eleanor Acer, *Making a Difference: A Legacy of Pro Bono Representation*, 17 J. REFUGEE STUD. 347, 347–51 (2004); Jill E. Family, *Pro Bono in Action: An Immigrant's Need for Representation*, 19 BUS. L. TODAY, Jan.–Feb. 2010, at 42.

31. *See generally* Scott L. Cummings & Deborah L. Rhode, *Managing Pro Bono: Doing Well by Doing Better*, 78 FORDHAM L. REV. 2357, 2385 (2010) (surveying law firm pro bono programs and finding that one-third of "signature" pro bono programs involved "some aspect of immigration, particularly matters involving asylum, refugees, juveniles, and domestic violence").

32. *Id.* at 2427.

Innovation Law Lab,[33] Human Rights First,[34] and Kids in Need of Defense[35] have mobilized thousands of volunteer attorneys at private law firms to represent people who would otherwise have gone without counsel. Pro bono volunteers include not just lawyers at large firms, but also small and solo practitioners, with some using a "collaborative" pro bono model that shares case responsibility across a group of volunteers.[36]

Our earlier article examined the six-year period of 2007 to 2012, while this Article focuses on the subsequent twelve years, from 2013 to 2024. Replicating our earlier analyses and extending them through the most recent decade, we explore representation rates inside and outside of detention, in urban and rural locations, and among different nationalities. At the same time, we introduce new analyses that address the changing dynamics of immigration court, such as a dramatic increase in children placed in removal proceedings, a steep rise in applications for relief such as asylum, a considerable growth in the number of deportation defense lawyers, and a looming court backlog.[37]

We document that considerable strides toward broader access to counsel have occurred over the past decade. The number of immigration court practitioners has nearly doubled since the time of our initial study, showing how increasing public funding has yielded a larger and more experienced deportation defense bar.[38] More legal representatives and larger caseloads has meant higher representation rates: Whereas only 37% of immigrants in completed removal proceedings found counsel between 2007 and 2012, in the subsequent years from 2013 to 2024, just over half found counsel (52%).[39] Moreover, legal representation has become more available in smaller cities outside major urban areas.[40]

As developed in this Article, these rising representation rates deserve extra appreciation because they have occurred in the context of a huge increase in removal cases, which has required much more attorney involvement to achieve a proportional increase in representation. In fiscal year 2024,

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33. *Big Immigration Law Project*, INNOVATION L. LAB, https://innovationlawlab.org/big-immigration-law-project [https://perma.cc/T4ES-BELF].

34. *Pro Bono Attorneys and Volunteers*, HUM. RTS. FIRST (June 1, 2012), https://humanrightsfirst.org/library/pro-bono-attorneys-and-volunteers [https://perma.cc/2Y36-UWJR].

35. *Our Pro Bono Attorneys*, KIDS NEED DEF., https://supportkind.org/who-we-are/our-pro-bono-attorneys [https://perma.cc/TFZ2-RP6C].

36. Stephen Manning and Juliet Stumpf call this approach "big immigration law." Stephen Manning & Juliet Stumpf, *Big Immigration Law*, 52 U.C. DAVIS L. REV. 407, 412 (2018).

37. *See infra* Figure 4 and accompanying text. In addition to the growing backlog in immigration court, the Board of Immigration Appeals ("BIA"), which provides appellate review of removal cases, also has seen its backlog swell. EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., ADJUDICATION STATISTICS: ALL APPEALS FILED, COMPLETED, AND PENDING (2024), https://www.justice.gov/eoir/media/1344986/dl?inline [https://perma.cc/99VX-WNEP] (citing 160,098 pending appeals at the end of the second quarter of 2025). This backlog is likely to worsen further after a move by the Trump Administration to shrink the size of the appellate body from twenty-eight to only fifteen members. Reducing the Size of the Board of Immigration Appeals, 90 Fed. Reg. 15525 (Apr. 14, 2025) (to be codified at 8 C.F.R. pt. 1003).

38. *See infra* Figure 1, Tables 3 & 4 and accompanying text.

39. *See infra* Figures 3 & 8 and accompanying text.

40. *See infra* Figure 9 and accompanying text.

lawyers represented more than 1.4 million immigrants facing removal in completed or pending cases, compared to only 224,177 in 2012.[41] This constitutes a more than six-fold increase in attorney involvement.

Furthermore, even with these higher representation rates, our updated analysis confirms that immigrants represented in removal were still more likely to succeed in their cases. Since 2013, immigrants represented by counsel were 4.6 times more likely to have their cases terminated or dismissed, or to have relief such as asylum granted.[42] This achievement is particularly notable given the intensifying complexity of immigration law and constantly shifting executive policies affecting immigration courts.[43]

As with our prior paper, while we continue to show robust and statistically significant correlations between representation and case outcomes, we do not argue that representation caused these results.[44] It remains the case that these patterns may reflect that attorneys select cases that have a greater likelihood of success or that individuals with a higher likelihood of success are more likely to seek out a lawyer.[45] Furthermore, although our focus is on representation, we do not contend that simply finding a lawyer means that immigrants will necessarily attain a just outcome in their individual case. As other researchers have found, there are great inequities in court outcomes based on, for example, the judge assigned[46] and the skill of the lawyer chosen.[47] And, while we show that nearly two-thirds (64%) of immigrants who were represented in their

41. *See infra* Figure 5 and accompanying text.

42. *See infra* Figure 12 and accompanying text. Since 2013, unaccompanied children were 7.5 times more likely to succeed in their case. *See infra* Figure 13 and accompanying text.

43. *See generally* Nancy Morawetz, *Representing Noncitizens in the Context of Legal Instability and Adverse Detention Precedent*, 92 FORDHAM L. REV. 873, 874 (2023) (highlighting a shifting landscape and arguing that "[l]awyers representing those facing removal need to be nimble, well-resourced, and able to think creatively about where the law might be as a case winds its way through the system"); Catherine L. Crooke, *Frustration and Fidelity: How Public Interest Lawyers Navigate Procedure in the Direct Representation of Asylum Seekers*, 58 LAW & SOC'Y REV. 270, 288 (2024) (showing how the increased "politicization of the immigration bureaucracy" requires attorneys to harness "their procedural expertise to ensure that people navigate the system without becoming ensnared"); Laila L. Hlass & Mary Yanik, *Studying the Hazy Line Between Procedure and Substance in Immigrant Detention Litigation*, 58 HARV. C.R.-C.L. L. REV. 203 (2023) (detailing the complex habeas work done by immigration lawyers to defend their clients against unlawful and prolonged detention).

44. Eagly & Shafer, *supra* note 4, at 48.

45. *See infra* notes 206–08 and accompanying text.

46. *See, e.g.*, Jaya Ramji-Nogales, Andrew I. Schoenholtz & Philip G. Schrag, *Refugee Roulette: Disparities in Asylum Adjudication*, 60 STAN. L. REV. 295, 301–02 (2007) (revealing large disparities in immigration judge asylum grant rates); Emily Ryo & Ian Peacock, *Represented but Unequal: The Contingent Effect of Legal Representation in Removal Proceedings*, 55 LAW & SOC'Y REV. 634, 635 (2021) (finding that female judges and experienced judges were more receptive to cases with lawyers); David Hausman & Jayashri Srikantiah, *Time, Due Process, and Representation: An Empirical and Legal Analysis of Continuances in Immigration Court*, 84 FORDHAM L. REV. 1823, 1834 (2016) (finding that some judges were "more likely to order immigrants deported [and] also grant[ed] shorter and fewer continuances" to find counsel).

47. *See, e.g.*, Banks Miller, Linda Camp Keith & Jennifer S. Holmes, *Leveling the Odds: The Effect of Quality Legal Representation in Cases of Asymmetrical Capability*, 49 LAW & SOC'Y REV. 209, 210 (2015) ("[N]ot being represented by legal counsel is actually better than being represented by a poor [quality] lawyer.").

case since 2013 successfully avoided removal,[48] no lawyer can possibly dull the cruel and inhumane "torture" of deportation that can result even when an experienced lawyer takes the case.[49]

Despite these advances in access to counsel, our revisiting project makes clear that there is still a crisis in access to counsel in U.S. immigration courts. Representation in the busiest urban courts—like New York City and Dallas—has declined since our last study, and 69% of immigrants in detention have gone without representation.[50] We also continue to see wide geographic disparity in the availability of counsel.[51] Showing signs of a system cracking at the seams, representation for those with pending cases that have not yet been decided has plummeted: Whereas 47% of pending cases had secured counsel in 2012, only 31% had in 2024.[52] When combined with recent developments—such as cuts in federal funding for legal representation, pressure placed on law firm pro bono programs to decline immigration court representation, and an expanded federal deportation campaign—the looming deficit in access to counsel may soon grow even larger.[53]

These and other findings highlight the urgent need for more immigration lawyers—as well as trained nonlawyers—to meet the escalating demand for legal aid in immigration court. Expanded funding by private philanthropy, support of state and local governments, and increased investments by volunteers and law schools will all be essential to ensuring the protection of noncitizens placed in removal proceedings.

I. MEASURING REPRESENTATION OVER TIME

Removal proceedings seek to deport immigrants from the United States who lack permission to enter the country or violate a term of their lawful admission.[54] Removal proceedings can be initiated at the border or in the interior of the United States.[55] Removal proceedings not only involve immigrants without lawful status, but also can include "lawful permanent residents (LPRs, or green card holders), refugees, and people who entered legally on visas."[56]

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48. *See infra* Figure 12 and accompanying text.

49. Anja Bossow, *Deportation as Torture*, 58 N.Y.U. J. INT'L L. & POL. (forthcoming) (manuscript at 11–16) (on file with the *Iowa Law Review*) (demonstrating how the process of deportation inflicts violence and human suffering).

50. *See infra* Figure 6 and accompanying text.

51. *See infra* Figures 10a & 10b.

52. *See infra* Figure 3 and accompanying text.

53. *See generally* Edgar Sandoval, *A New Challenge for Asylum Seekers: Lawyer Shortages*, N.Y. TIMES (May 19, 2024), https://www.nytimes.com/2024/05/19/us/migrants-lawyer-shortages.html (on file with the *Iowa Law Review*).

54. For more on the grounds for removal and possible defenses, see IMMIGRANT LEGAL RES. CTR., REMOVAL DEFENSE: DEFENDING IMMIGRANTS IN IMMIGRATION COURT 10, 15, 17 (4th ed. 2024).

55. *See* Ingrid Eagly & Steven Shafer, *Detained Immigration Courts*, 110 VA. L. REV. 691, 694 (2024) [hereinafter *Detained Immigration Courts*].

56. JENNIFER STAVE ET AL., VERA INST. OF JUST., EVALUATION OF THE NEW YORK IMMIGRANT FAMILY UNITY PROJECT: ASSESSING THE IMPACT OF LEGAL REPRESENTATION ON FAMILY AND COMMUNITY UNITY 8 (2017), https://vera-institute.files.svdcdn.com/production/downloads/publications/new-york-immigrant-family-unity-project-evaluation.pdf [https://perma.cc/U4QM-E3XR].

Federal immigration judges working within the DOJ's Executive Office for Immigration Review ("EOIR") preside over removal cases. The court process begins when DHS files a charging document known as a "Notice to Appear" with EOIR.[57] Although the government is always represented by an attorney from DHS, the respondent is not guaranteed a lawyer. Instead, the respondent must hire an attorney or secure pro bono representation.

Immigrants placed in removal proceedings can contest their removability as well as seek relief from removal, such as asylum or cancellation of removal.[58] At the end of a removal case, in what we refer to in this Article as a "merits" decision,[59] the immigration judge decides whether the person will be deported or instead allowed to remain in the United States, including by granting relief such as asylum.[60] The decisions of immigration judges can be appealed to the Board of Immigration Appeals and later to a federal court of appeals.[61] Access to counsel remains an important issue at the appeal stage,[62] but this Article focuses on how often respondents obtain counsel in the administrative process before the federal immigration judge.

Our 2015 national study analyzed administrative immigration court data from over 1.2 million removal cases concluded between 2007 and 2012.[63] By revisiting our earlier study, we add to our prior analysis almost 2.9 million removal cases concluded on the merits in the intervening years, between 2013 and 2024,[64] as well as an additional 3.6 million removal cases that remained pending without a decision at the end of 2024.[65]

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57. Ingrid V. Eagly, *Remote Adjudication in Immigration*, 109 NW. U. L. REV. 933, 949–50 (2015).

58. *Id.* at 937 n.16.

59. For further discussion of what we classify as a "merits" decision, see *infra* Appendix I.

60. *See generally* EM PUHL, IMMIGRANT LEGAL RES. CTR., OVERVIEW OF THE DEPORTATION PROCESS: A GUIDE FOR COMMUNITY MEMBERS & ADVOCATES 1, 3 (2018), https://www.ilrc.org/sites/default/files/resources/overview_deport_process-20181221.pdf [https://perma.cc/8J7B-86WD].

61. *Board of Immigration Appeals*, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T JUST. (June 27, 2025), https://www.justice.gov/eoir/board-of-immigration-appeals [https://perma.cc/5XCB-THW4].

62. *See generally* David Hausman, *The Failure of Immigration Appeals*, 164 U. PA. L. REV. 1177, 1203–04 (2016) (finding that only 5.9% of appeals to the BIA were by immigrants without lawyers).

63. Each case had at least one proceeding, but some had multiple proceedings, such as one occurring in detention that ended in a change of venue to a new jurisdiction, with the proceeding in the new jurisdiction reaching a decision on the merits. Our analysis counted each case only once. Eagly & Shafer, *supra* note 4, at 6.

64. Since our 2015 article was published, the EOIR has made its court data publicly available on its website for download, and we rely on the public data made available as of October 2024 in this Article's refreshed analysis. *See FOIA Library*, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T JUST., https://www.justice.gov/eoir/foia-library-0 [https://perma.cc/63VU-EJUK]. We also rely on additional EOIR data that is not part of the public data release that we obtained through our own FOIA requests or through our appointment as TRAC Fellows. *See infra* Appendix A.

65. *See infra* Section I.A. Like our earlier article, our analysis focuses just on removal cases. Other far less common case types—deportation, exclusion, credible fear review, asylum-only proceedings, and withholding-only cases—are not analyzed. For cases initiated in immigration court between 2006 and 2024, 97% are removal cases. *See infra* Appendix A.

A. THE IMMIGRATION COURT BACKLOG

The decade since our initial study witnessed tremendous expansion of the immigration courts. The number of immigration judges has more than doubled, from approximately 265 judges at the time of our national study,[66] to 734 as of 2023.[67] To keep all of these judges busy, EOIR almost doubled the number of immigration courtrooms.[68] This growth in courtrooms also reflects an extended geographical reach of the nation's immigration courts: New court locations have opened throughout the country, including in California (Concord, Van Nuys, Sacramento, and Santa Ana), Indiana (Indianapolis), Texas (Houston), Virginia (Richmond), Maryland (Hyattsville), and Massachusetts (Lowell).[69]

Despite this development of judicial and court resources, the size of the immigration court's backlog has ballooned. By backlog, we refer to removal cases that are pending before the courts that have not yet reached an initial decision on the merits.[70] Figure 1 provides a vivid depiction of the astronomical size of the backlog. This growing backlog has further increased the amount of time that immigrants must wait to have their case decided by an immigration judge. As of the end of fiscal year 2024, cases initiated by DHS and pending with the immigration court had already been waiting an average of 649 days (SD = 693). Total wait times will likely be far longer, with some courts scheduling court hearings as far out as 2030.[71]

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66. LENNI B. BENSON & RUSSELL R. WHEELER, ENHANCING QUALITY AND TIMELINESS IN IMMIGRATION REMOVAL ADJUDICATION 3 (2012), https://www.acus.gov/sites/default/files/documents/Enhancing-Quality-and-Timeliness-in-Immigration-Removal-Adjudication-Final-June-72012.pdf [https://perma.cc/S9V6-BBJV].

67. EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., FY 2025 PERFORMANCE BUDGET CONGRESSIONAL BUDGET SUBMISSION 7 (2024) [hereinafter FY 2025 PERFORMANCE BUDGET], https://www.justice.gov/d9/2024-03/eoir_fy_2025_pb_narrative_02.29.24_final_1.pdf [https://perma.cc/8J3W-WZE8] (reporting the number of U.S. immigration judges through fiscal year 2023). During the second Trump presidency, no new immigration judges had been appointed as of April 2025, yet as many as thirty immigration judges had been fired or resigned, bringing the total down to about 700 judges. Bustillo, *supra* note 21.

68. FY 2025 PERFORMANCE BUDGET, *supra* note 67, at 21 (explaining that EOIR had "337 courtrooms at the close of FY 2016," compared "to 601 courtrooms at the end of FY 2023").

69. *Id.*; EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., FY 2024 PERFORMANCE BUDGET CONGRESSIONAL BUDGET SUBMISSION 18 (2023), https://www.justice.gov/d9/2023-03/eoir_fy_2024_pb_narrative_omb_cleared_03.14.23.pdf [https://perma.cc/R6FR-J4PF] (discussing new court locations); EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., FY 2023 PERFORMANCE BUDGET CONGRESSIONAL BUDGET SUBMISSION 21 (2022), https://www.justice.gov/d9/pages/attachments/2022/04/06/eoir_fy_2023_pb_narrative_-_3.3.22_v2_0_0.pdf [https://perma.cc/UWK2-F5XP] (discussing new court locations).

70. For additional details on how we count pending cases, see *infra* Appendix I. We also excluded cases that remained administratively closed from the backlog.

71. For background on how these extreme court delays shape the lawyering process, see Catherine L. Crooke, *US Asylum Lawyering and Temporal Violence*, 49 LAW & SOC. INQUIRY 1510, 1512 (2024).

Figure 1. Number of Removal Cases Decided on the Merits and Pending, 2006–2024[72]

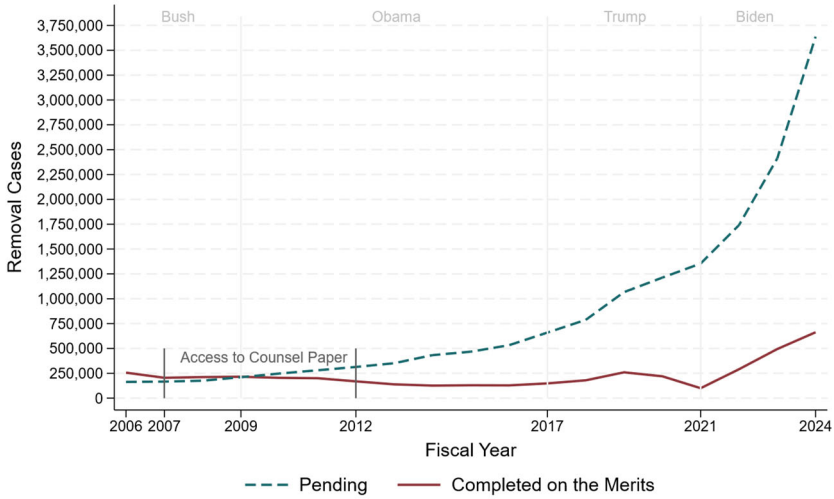


Figure 1 also shows how the immigration court backlog has outpaced the rate at which immigration judges have decided cases. The bold line in Figure 1 traces the number of cases that reached an initial merits decision each year. The number of cases decided on the merits remained relatively stable until the COVID-19 pandemic and then experienced a steep decline in 2021 before surging in the subsequent period. In 2024, immigration judges reached initial merits decisions in 662,804 cases, the highest number since the EOIR was established in 1983.[73]

Pending cases, seen in the dashed line in Figure 1, experienced a very different trajectory. During the time of our initial study, the number of pending cases increased somewhat, but hewed relatively closely to the number of completed cases. On average, there were fewer than 240,000 removal cases awaiting a decision every year during our initial study period, as low as 166,825 in 2007 and reaching 313,861 by 2012. Since 2013, however, the number of pending cases rose dramatically each year, far outpacing merits case completions. By the end of 2024 the number of pending removal cases exceeded 3.6 million.[74]

72. Figure 1 measures completed cases as of the date of the initial merits decision and pending cases—those that had not yet reached a merits decision but remained open on the court's docket—as of the last day of the fiscal year. All measurements in this Article are based on the federal government's fiscal year which begins October 1 and ends on September 30 of the following year. BILL HENIFF JR., CONG. RSCH. SERV., 7-5700, BASIC FEDERAL BUDGETING TERMINOLOGY 1 (2012), https://www.budget.senate.gov/imo/media/doc/Basic%20Federal%20Budget%20Terminology1.pdf [https://perma.cc/4U8U-3DA7].

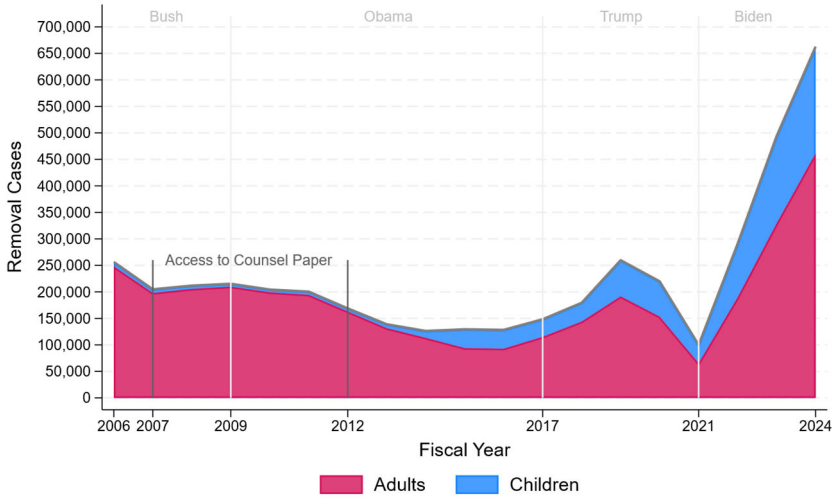
73. For further background on this early history of the EOIR, see *Detained Immigration Courts*, *supra* note 55; *Statistics Yearbook*, *supra* note 11.

74. Only 15,104 of these pending cases at the end of 2024 involved persons who were detained.

B. CHILDREN IN IMMIGRATION COURT

The number of children under the age of eighteen placed in removal proceedings has increased dramatically over the past decade.[75] From 2007 to 2012, we identified only 34,082 children with a removal case decided in U.S. immigration courts, or 2.8% of the total of 1,206,633 decided removal cases.[76] Figure 2 replicates this analysis, displaying in blue this tiny sliver of children's cases decided during the period of our original study.[77]

Figure 2. Number of Children and Adults in Removal Cases Decided on the Merits, 2006–2024



In sharp contrast, the number of completed removal cases involving children grew dramatically during the Obama and first Trump Administrations. This shift reflects a higher number of children arriving at the U.S. border: Whereas only 8,041 children were arrested at the Southwest border in 2008, by 2022 that number had reached 149,093.[78] In the last year of the Biden

75. We employed a range of strategies to measure if the respondent was a child when apprehended by DHS or entered into the EOIR court system. For a detailed discussion of how we defined and identified children in the EOIR data, see *infra* Appendix K.

76. Eagly & Shafer, *supra* note 4, at 22 & fig.2. Following a method used by researchers at the Vera Institute, we classified a case as a child if it was flagged with a juvenile case identifier. *Id.* at 87.

77. Figure 2 uses our updated analysis of children's cases, identifying 36,676 removal decisions involving children between 2007 and 2012. *See infra* Appendix K.

78. WILLIAM A. KANDEL, CONG. RSCH. SERV., R43599, UNACCOMPANIED ALIEN CHILDREN: AN OVERVIEW 5 (2024), https://www.congress.gov/crs_external_products/R/PDF/R43599/R43599.32.pdf [https://perma.cc/K76H-EFCP].

Administration, as seen in Figure 2, almost one-third of case completions—a record high of 201,670 cases—were of children.[79]

C. *Representation Rates*

These trends in completed and pending cases just presented provide essential background to understanding the central topic of this Article: representation rates. Fortunately, the EOIR data allowed us to count cases where representation by counsel occurred. In particular, to serve as the "practitioner of record" in immigration court, representatives must first file a required EOIR-28 form with the court.[80] As in our prior study, we relied on the filing of the EOIR-28 form to determine if someone was represented by counsel in the case.[81]

Before proceeding further, it is necessary to emphasize that although for simplicity we often refer to "attorneys" or "lawyers" as providing legal representation in court, not everyone whom we count as represented in immigration court was represented by an attorney licensed by a state bar agency. Immigration courts also allow for some forms of nonlawyer representation.[82] Most importantly, EOIR has a training and accreditation process for individuals known as "accredited representatives" who work at nonprofit organizations.[83] Accredited representatives who are "fully accredited" can file EOIR-28 forms and provide representation in immigration court in the same way as an attorney.[84]

Two other types of nonlawyer representatives can also file EOIR-28 forms and provide representation in immigration court. First, law students and law

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79. This finding complements an earlier study by TRAC that found that over one-third of new removal cases in immigration court were of children. *One-Third of New Immigration Court Cases Are Children; One in Eight Are 0-4 Years of Age*, TRAC IMMIGR. (Mar. 17, 2022) [hereinafter *TRAC Report on Children*], https://tracreports.org/immigration/reports/681 [https://perma.cc/XUR9-YGLA].

80. 8 C.F.R. § 1003.17(a) (2025). *See generally* EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., NOTICE OF ENTRY OF APPEARANCE AS ATTORNEY OR REPRESENTATIVE BEFORE THE IMMIGRATION COURT: FORM EOIR-28 [hereinafter EOIR-28], https://www.justice.gov/eoir/file/639746/dl [https://perma.cc/UA63-NAKN].

81. For more details on our analysis of who had counsel, see *infra* Appendix B.

82. As Rebecca Sandefur has argued, assistance by a lawyer is not always necessary to expand access to justice. Rebecca L. Sandefur, *Access to What?*, 148 DAEDALUS, Winter 2019, at 49, 52 ("This steadily growing body of evidence shows that, if the goal is creating access to justice, other services can be more effective and efficient than lawyers.").

83. *See generally* LegalEDweb, *What Is an Accredited Representative?*, YOUTUBE (Aug. 1, 2022), https://www.youtube.com/watch?v=iOHgH6tobdU [https://perma.cc/H6R6-SPW6] (featuring Professor Pistone arguing that accredited representatives are an underutilized resource and encouraging further research into the process to obtain accreditation); Douglas Smith, *Impacted Communities Leading Authentic Legal Mobilization: A Refugee-Led Access-to-Justice Story*, 36 J.C.R. & ECON. DEV. 291, 331 (2022) (uplifting the role of nonlawyers in providing deportation defense legal representation).

84. *See generally* WORLD RELIEF & CATH. LEGAL IMMIGR. NETWORK, INC., DOJ RECOGNITION AND ACCREDITATION: A STEP-BY-STEP GUIDE FOR NON-PROFIT COMMUNITY-BASED AGENCIES 2 (2023), https://www.cliniclegal.org/sites/default/files/2023-03/DOJ%20Accreditation%20and%20Recognition%20A%20Step-by-Step%20Guide%20for%20Non-Profit%20Community-Based%20Agencies.2023.03.02.pdf [https://perma.cc/9S8H-5Q9S].

graduates who have not yet been licensed as an attorney are able to appear in immigration court under attorney supervision,[85] often as part of a law school clinical program or post-graduate clerkship.[86] Second, "reputable individuals"—defined as persons of good moral character, such as a neighbor, friend, or relative—may also appear.[87] Part III of this Article analyzes our unique dataset to study how often these different types of representatives appear in immigration court. For now, we simply preview that the lion's share (99%) of representation is provided by attorneys.[88]

The dark solid line in Figure 3 displays the representation rate among cases completed by immigration judges on the merits. Representation rates in merits cases peaked in 2021, reaching an all-time high of 79%. However, that peak was reached during the COVID-19 pandemic when case numbers plummeted,[89] and cases with representation were more likely to push their way into the few open courtrooms. Since 2021, case numbers have climbed. Whereas only 100,248 cases reached a merits decision in 2021—the lowest recorded over this time frame—more than six times that number ($n = 662{,}804$) were decided in 2024. With this huge rise in case numbers, as seen in the solid line of Figure 3, the representation rate for completed cases fell to 47% in 2024, almost the same rate as in 2012 (45%), the last year of our earlier study.

The dashed line in Figure 3 presents representation rates among all pending cases—that is, cases that have not yet reached a merits decision.[90] From 2007 to 2012, representation for pending cases was consistently higher than for cases completed on the merits. Although pending caseloads have increased over time, the pending case representation rate has not kept up with the representation rate for cases completed on the merits. In particular, representation among pending cases began to dip after 2021, reaching a low of 31% in 2024.

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85. EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., IMMIGRATION COURT PRACTICE MANUAL 27 (2020), https://libguides.law.ucla.edu/ld.php?content_id=69072581 [https://perma.cc/3H2S-EHR6] (explaining that students and law graduates not yet admitted to practice "may appear before the Immigration Court if certain conditions are met and the appearance is approved by the Immigration Judge").

86. For analysis of the value of law school immigration clinics, see Kevin R. Johnson & Amagda Pérez, *Clinical Legal Education and the U.C. Davis Immigration Law Clinic: Putting Theory into Practice and Practice into Theory*, 51 SMU L. REV. 1423, 1428–30 (1998); and Jayesh Rathod, *Transformative Immigration Lawyering*, 132 YALE L.J.F. 632, 649–53 (2022).

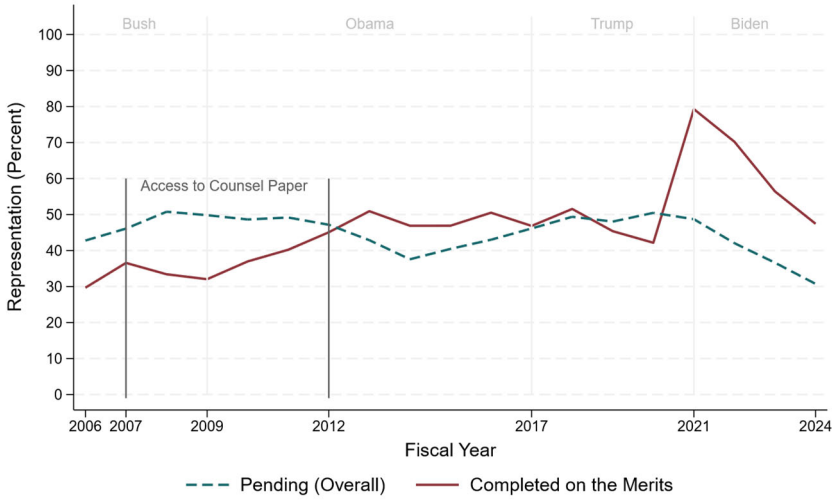
87. *See* 8 C.F.R. § 1292.1(a)(3) (2025) (providing that to appear as a "reputable individual" you must be a person "of good moral character" who is not paid for your assistance). *See generally* EXEC. OFF. FOR IMMIGR. REV., *supra* note 85, at 30 ("To appear before the Immigration Court, a reputable individual must file a paper Form EOIR-28."). Federal regulations also allow appearances for accredited officials of foreign governments or persons accredited to appear as of December 23, 1952, although we found only one entry of appearance for an individual from a foreign consulate appearing in the EOIR data. *Id.* at 31 (citing 8 C.F.R. § 1292.1(a)(5)).

88. *See infra* Table 2.

89. *See supra* Figure 1.

90. Given the relatively small size of the pending caseload at the time of our 2015 national study, we did not analyze representation among pending cases. *See supra* Figure 1.

Figure 3. Representation Rate in Completed and Pending Removal Cases, 2006–2024[91]



Given the dramatic rise in the number of children placed in removal proceedings since our last study, it is important to look separately at their representation rates. Despite special protections that are owed to children under international law, children are not guaranteed appointed counsel in the U.S. immigration system.[92] Still, in our 2015 study we found that children were more likely than adults to be represented by counsel. Whereas just over half of children had counsel, only 37% of adults had counsel.[93] Part of the reason for higher representation rates among children was that children were more likely than adults to obtain free representation from nonprofit organizations, law school clinics, or large firms providing pro bono representation.[94]

In Figure 4 we replicate our earlier analysis comparing representation between adults (seen in the dotted line) and children (seen in the solid line)

91. Figure 3 measures representation in completed cases at the time of the initial merits decision. Homing in on the time of the first merits decisions allows a consistent point of comparison across cases at the crucial time that the judge decides whether to order deportation or some form of relief. For pending cases, Figure 3 includes cases that did not yet reach an initial merits decision by the end of the relevant fiscal year, excluding cases that remained administratively closed. *See generally infra* Appendix I.

92. For foundational work on the topic of access to counsel for children, particularly those who migrate alone, see generally Shani M. King, *Alone and Unrepresented: A Call to Congress to Provide Counsel for Unaccompanied Minors*, 50 HARV. J. ON LEGIS. 331 (2013); Linda Kelly Hill, *The Right to Be Heard: Voicing the Due Process Right to Counsel for Unaccompanied Alien Children*, 31 B.C. THIRD WORLD L.J. 41 (2011); CHIARA GALLI, PRECARIOUS PRECAUTIONS: UNACCOMPANIED MINORS SEEKING ASYLUM IN THE UNITED STATES (Univ. of Cal. Press 2023); and Cecilia Menjívar & Krista M. Perreira, *Undocumented and Unaccompanied: Children of Migration in the European Union and the United States*, 45 J. ETHNIC & MIGRATION STUD. 197 (2019).

93. Eagly & Shafer, *supra* note 4, at 22 & fig.4.

94. Specifically, we found "that 29% of represented children, compared to only 6% of represented adults, obtained free representation from" these pro bono sources. *Id.* at 24 & n.99.

and extend it through 2024. In 2014, the representation rate for children dropped precipitously below the rate for adults when the number of children crossing the border and being placed in removal proceedings increased suddenly.[95] But by 2020 the representation rate for children began to closely track that of adults.[96] Overall, 51% of children (n = 411,522 of 800,758) found counsel between 2013 and 2024, compared to 53% of adults (n = 1,093,900 of 2,078,923). Remarkably, despite the explosion in the number of children in immigration court, they have maintained their representation rate since the last study.

Figure 4 also incorporates a new analysis—looking separately at representation among unaccompanied children.[97] An unaccompanied child is defined in immigration law as someone who, at the time of entry into the United States, is under the age of eighteen and not accompanied by a parent or guardian to provide care and physical custody.[98] Additionally, as in the case of family separations during the first Trump Administration,[99] unaccompanied children include those removed from the care of a parent or guardian at the border.[100] As seen in the dashed line of Figure 4, the representation rate for unaccompanied children has, since 2009, risen above the rate of representation for children overall, and generally above that of adults. From 2013 to 2024, 62% of unaccompanied children (n = 157,352 of 251,961) were represented in completed cases, compared to 51% of children overall.

95. *See generally* SARAH PIERCE, MIGRATION POL. INST., UNACCOMPANIED CHILD MIGRANTS IN U.S. COMMUNITIES, IMMIGRATION COURT, AND SCHOOLS (2015), https://www.migrationpolicy.org/sites/default/files/publications/UAC-Integration-FINAL.pdf [https://perma.cc/6GW3-CF68] (discussing the surge in "the number of [child] arrivals . . . during the spring and summer of 2014").

96. Like adults, children saw their representation rate surge during the pandemic as the number of decisions in children's cases declined. *See supra* Figure 2.

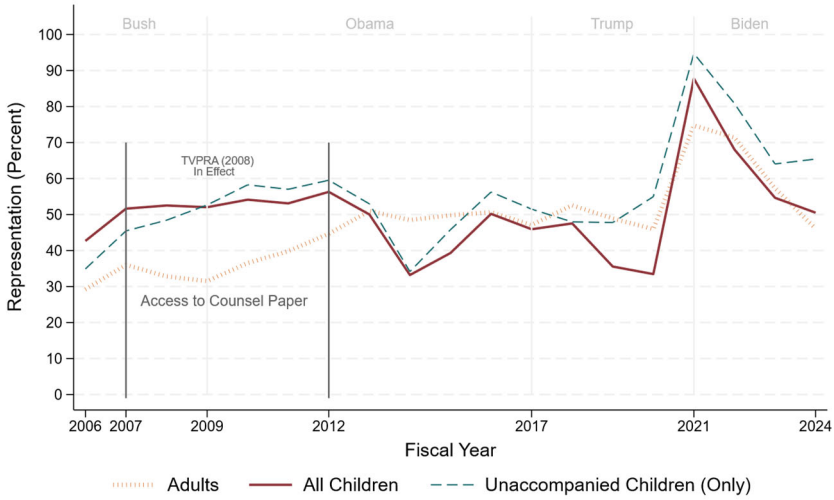
97. For a description of our method for identifying these unaccompanied children, see *infra* Appendix K. For important earlier studies on unaccompanied children relying on EOIR data, see Chiara Galli & Tatiana Padilla, *New Data on Unaccompanied Minors in US Immigration Court (2009–2023)*, INT'L MIGRATION REV., Mar. 28, 2025, at 3–4, https://journals.sagepub.com/doi/10.1177/01979183251316528 [https://perma.cc/69H7-8PND]; *Children: Amid a Growing Court Backlog Many Still Unrepresented*, TRAC IMMIGR. (Sept. 28, 2017), https://tracreports.org/immigration/reports/482 [https://perma.cc/9HVC-7EHU]; and *Detained Immigration Courts*, *supra* note 55, at 740–41.

98. Memorandum from David L. Neal, Chief Immigr. J., Exec. Off. for Immigr. Rev., U.S. Dept't of Just., Guidelines for Immigration Court Cases Involving Unaccompanied Alien Children, to All Immigr. JJ., All Ct. Adm'rs, All Jud. L. Clerks & All Immigr. Ct. Staff 3 (May 22, 2007), https://libguides.law.ucla.edu/ld.php?content_id=38074066 [https://perma.cc/ZPF2-B43L].

99. HUMAN RIGHTS WATCH, "WE NEED TO TAKE AWAY CHILDREN" ZERO ACCOUNTABILITY SIX YEARS AFTER "ZERO TOLERANCE" 1 (2024), https://www.hrw.org/sites/default/files/media_2024/12/us_familyseparation_1224web.pdf [https://perma.cc/LK8S-VRL3].

100. Memorandum from David L. Neal, *supra* note 98, at 3.

Figure 4. Representation Rate for All Children, Unaccompanied Children, and Adults in Removal Cases Decided on the Merits, 2006–2024



This higher representation rate for unaccompanied children was supported by Congress's reauthorization of the Trafficking Victims Protection Reauthorization Act ("TVPRA") in 2008, which required the Secretary of Health and Human Services to "ensure, to the greatest extent practicable . . . that all unaccompanied alien children . . . have counsel to represent them in legal proceedings or matters."[101] As of 2024, there were nearly one hundred nonprofit legal services providers around the country contracted to provide legal representation to unaccompanied children in immigration court.[102] However, within the first weeks of his new presidency, Trump attempted to cut this funding for children's counsel.[103]

D. *Number of Removal Cases with Legal Representation*

Thus far this Article has outlined the overall trend in representation since our national study was published. To summarize, whereas only 37% of immigrants found counsel in cases completed on the merits during our original study period (from 2007 to 2012),[104] in the years since (from 2013

101. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110-457, § 235(c)(5), 122 Stat. 5079.

102. *See Unaccompanied Children Program*, ACACIA CTR. FOR JUST., https://acaciajustice.org/what-we-do/unaccompanied-children-program [https://perma.cc/SB93-ZZ7G].

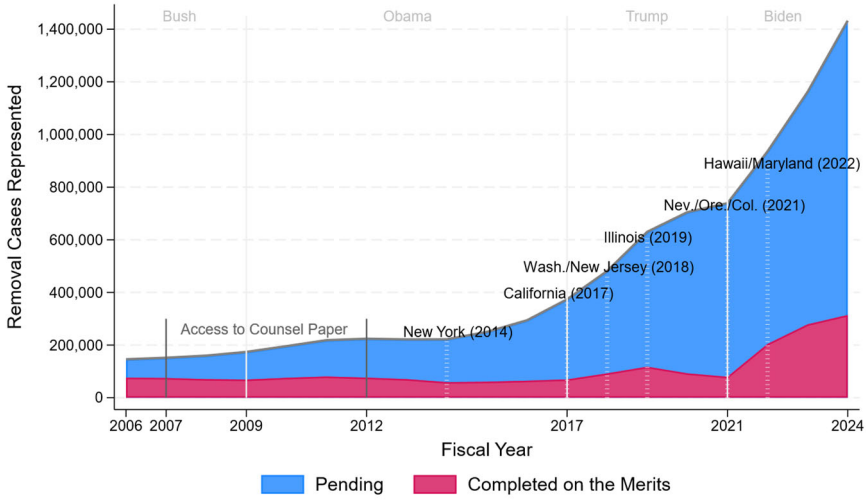
103. Jill M. Williams & Honor Brooke Gosch, *Assessing Access to Legal Representation for Unaccompanied Migrant Children: National, State, and County-Level Analysis of Free- and Low-Cost Attorney Prevalence in Relation to Children's Locations*, J. ON MIGRATION & HUM. SEC., May 20, 2025, at 1, https://journals.sagepub.com/doi/full/10.1177/23315024251339778 [https://perma.cc/WF45-5TEB] (mentioning recent federal funding cuts and finding a lack of pro bono legal representation for children).

104. Eagly & Shafer, *supra* note 4, at 7.

to 2024), 52% found counsel.[105] This rise in representation in completed cases is, however, counterbalanced by the fact that, as the number of pending cases has ballooned,[106] representation for pending cases has declined. Although 49% of pending cases during our prior study period found counsel (from 2007 to 2012), only 41% of pending cases found counsel in the years since (from 2013 to 2024). For both completed and pending cases, representation rates have experienced a decline in the post-COVID-19 pandemic period since 2021.

Given swelling court caseloads, understanding representation in immigration court also requires exploring the absolute number of individuals in removal proceedings who found counsel. Figure 5 marks in red the number of individual cases completed on the merits that found counsel each year. Marked in blue is the number of pending cases that found counsel at the end of each fiscal year. Also included on Figure 5 is the year that states such as Illinois, California, and New York established statewide funds for representing noncitizens in removal proceedings in their state.[107]

Figure 5. Total Legal Representation in Immigration Court in Pending and Completed Removal Cases, 2006–2024



As Figure 5 reveals, despite the recent decline in representation *rates*, the absolute *number* of individuals with lawyers has exploded since 2012, with the biggest gains seen since 2014. At least part of the growth in representation capacity can be credited to the new representation programs that have

105. *See supra* Figure 4 and accompanying text.

106. *See supra* Figure 1.

107. For an interactive map including not just the date of the creation of statewide programs, but also of city and county programs for universal representation, see *Information Hub*, *supra* note 26. *See generally* Lindsay Nash, *Universal Representation*, 87 FORDHAM L. REV. 503, 510–15 (2018) (describing the growth in universal representation projects modeled after the New York Immigrant Family Unity Project).

created statewide and local-level funding to train and hire attorneys that are dedicated to high-quality removal defense.[108] In fiscal year 2012, as seen in Figure 5, lawyers provided deportation defense representation for only 224,177 immigrants. Since that time, new statewide programs were established in ten states, including California, New Jersey, and Illinois. At the end of fiscal year 2024, lawyers represented over 1.4 million (1,432,628) immigrants facing removal, a six-fold increase in the total level of attorney involvement in immigration court.

II. CONTINUED UNEQUAL DISTRIBUTION OF COUNSEL

With the overall trends in representation now introduced, we turn to examining how attorney resources have been distributed across different groups and case types. Our 2015 article uncovered stark inequality in the distribution of limited attorney resources, with representation rates varying along key axes such as detention status, geographic location of the court, and the immigrant's nationality. Relying on an additional twelve years of data, we reexamine these major axes of inequality.

A. *NATIONALITY AND LANGUAGE*

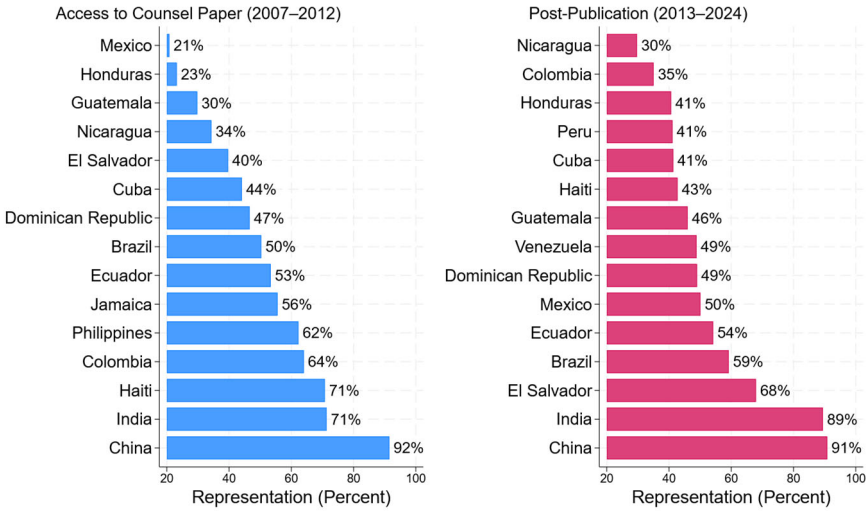
In our 2015 national study, we found that different nationality groups had very different representation rates. These varied rates, which are replicated on the left side of Figure 6, included a representation rate of 21% among Mexicans and 23% among Hondurans. Meanwhile, 71% of Indians and 92% of Chinese had counsel.

In the subsequent period from 2013 to 2024 we again find a wide distribution of representation rates across different nationalities. However, as seen on the right side of Figure 6, the representation rate for some countries has shifted markedly. For example, the representation rate for persons from Mexico increased from 21% to 50%, and the representation rate for persons from Honduras increased from 23% to 41%. On the other hand, the rate of representation for immigrants from Haiti decreased from 71% to 43% and for immigrants from Colombia, the representation rate decreased from 64% to 35%. Other nationalities have maintained a relatively steady representation rate. For example, Cuba's moved from 44% to 41%, China's from 92% to 91%, and the Dominican Republic's from 47% to 49%.[109]

108. A recent study on the New York Immigrant Family Unity Project credits the program with increasing representation rates by 4.6 percentage points. George John Vojta, How Large-Scale Legal Aid Impacts Civil Proceedings: Evidence from Immigration Courts (June 2025) (Ph.D. dissertation, University of Chicago), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5229159 (on file with the *Iowa Law Review*).

109. For additional analysis of nationality patterns in removal cases, see Dylan Farrell-Bryan & Ian Peacock, *Who Gets Deported? Immigrant Removal Rates by National Origin and Period, 1998 to 2021*, 8 SCOCIOUS, 2022, at 2 (tracking removal rates of the thirty most common national-origin groups in removal proceedings).

Figure 6. Representation Rates Among Fifteen Nationalities with the Greatest Number of Removal Cases Decided, 2007–2024[110]



These patterns in representation by nationality are in part associated with shifting distribution of the nationalities arriving at the border and represented in removal proceedings. Table 1 breaks down the nationality of respondents in completed removal cases beginning with the years of our initial national study, and tracing how the proportion of each major group changed during subsequent presidential administrations. During the 2007 to 2012 period of our initial study, the largest proportion of removal cases involved Mexicans (48%). Since then, however, the number of Mexican respondents has steadily declined, and by the time of the Biden Administration, made up only 13% of completed removal cases. The declining number of Mexican cases may partially explain why a higher proportion of Mexican respondents have been able to find counsel.[111] Similarly, the growing gap in representation for Haitians and Colombians may be partially explained by the abrupt rise in the number of Haitians and Colombians arriving at the U.S. border and being placed in removal proceedings.[112] Migrants arriving at the border in larger numbers will

110. We excluded from the analysis in Figure 6 a small number of cases that displayed missing or multiple nationalities at the case level ($n = 7{,}015$ of 4,086,087 initial completions on the merits between 2007 and 2024).

111. *See supra* Figure 6.

112. *See infra* Table 1; *supra* Figure 6. *See generally* Beatrice Dain & Jeanne Batalova, *Haitian Immigrants in the United States*, MIGRATION POL'Y INST. (Nov. 8, 2023), https://www.migrationpolicy.org/article/haitian-immigrants-united-states-2022 [https://perma.cc/2UH4-NFEU] ("[T]here has been a significant increase in the number of Haitians arriving in the United States irregularly, particularly via land."); Diego Chaves-González & Jeanne Batalova, *Colombian Immigrants in the United States*, MIGRATION POL'Y INST. (July 11, 2023), https://www.migrationpolicy.org/article/colombian-immigrants-united-states [https://perma.cc/J5KH-DCL3] ("Since 2018, the number of people leaving Colombia has steadily increased, driven in large part by the consequences of

likely have a much harder time finding counsel due to the strain placed on existing community and referral networks.

Table 1. Number of Respondents in Removal Cases Completed on the Merits, by Nationality and Presidential Administration, 2007–2024

Country	Access to Counsel Paper (2007–2012)	Later Obama (2013–2016)	Trump (2017–2020)	Biden (2021–2024)
Mexico	573,708 (47.7%)	190,000 (36.4%)	200,637 (24.9%)	207,810 (13.4%)
El Salvador	84,535 (7.0%)	55,567 (10.6%)	98,065 (12.2%)	160,535 (10.4%)
Guatemala	97,401 (8.1%)	65,486 (12.5%)	173,491 (21.5%)	264,985 (17.1%)
Honduras	63,322 (5.3%)	59,364 (11.4%)	144,741 (17.9%)	253,391 (16.4%)
Other	384,109 (31.9%)	151,725 (29.1%)	189,965 (23.5%)	660,235 (42.7%)
Brazil	*12,497 (1.0%)*	*3,253 (0.6%)*	*7,976 (1.0%)*	*46,354 (3.0%)*
China	*40,301 (3.3%)*	*25,445 (4.9%)*	*21,838 (2.7%)*	*24,095 (1.6%)*
Colombia	*19,551 (1.6%)*	*4,203 (0.8%)*	*4,184 (0.5%)*	*48,052 (3.1%)*
Cuba	*24,240 (2.0%)*	*7,757 (1.5%)*	*18,256 (2.3%)*	*99,447 (6.4%)*
Dominican Republic	*21,718 (1.8%)*	*8,019 (1.5%)*	*6,836 (0.8%)*	*11,512 (0.7%)*
Ecuador	*11,060 (0.9%)*	*7,212 (1.4%)*	*14,098 (1.7%)*	*54,091 (3.5%)*
Haiti	*17,835 (1.5%)*	*4,176 (0.8%)*	*10,442 (1.3%)*	*33,557 (2.2%)*
India	*10,582 (0.9%)*	*5,904 (1.1%)*	*12,125 (1.5%)*	*24,343 (1.6%)*
Jamaica	*13,272 (1.1%)*	*5,356 (1.0%)*	*3,899 (0.5%)*	*4,513 (0.3%)*
Nicaragua	*9,314 (0.8%)*	*2,881 (0.6%)*	*7,901 (1.0%)*	*70,418 (4.6%)*
Peru	*8,626 (0.7%)*	*3,036 (0.6%)*	*3,066 (0.4%)*	*25,195 (1.6%)*
Venezuela	*7,128 (0.6%)*	*1,566 (0.3%)*	*5,688 (0.7%)*	*79,970 (5.2%)*
Other (Not Listed)	*187,985 (15.6%)*	*72,917 (14.0%)*	*73,656 (9.1%)*	*138,688 (9.0%)*
Total n	1,203,075	522,142	806,899	1,546,956

Research by Emily Ryo and Reed Humphrey has identified language—a factor we did not discuss in our 2015 study—as a related axis of inequality for legal representation.[113] For those who do not speak English, finding a lawyer who can to listen to their story and provide competent representation will be necessarily hindered by the language abilities of staff at local nonprofits and law firms. Looking at administrative court data for immigrants in removal proceedings in 2019, Ryo and Humphrey found that those who were identified

the country's prolonged armed conflict and economic challenges exacerbated by the COVID-19 pandemic.").

113. Emily Ryo & Reed Humphrey, *Beyond Legal Deserts: Access to Counsel for Immigrants Facing Removal*, 101 N.C. L. REV. 787, 822–24 (2023) (comparing the representation rates of English and non-English speakers in immigration court).

in the data as speaking English in court, as compared to those who used an interpreter, were more likely to find a lawyer.[114] In Figure 7 we extend and build on this analysis.

Figure 7. Representation Rates by Language Spoken in Immigration Court in Removal Cases Completed on the Merits, 2007–2024[115]

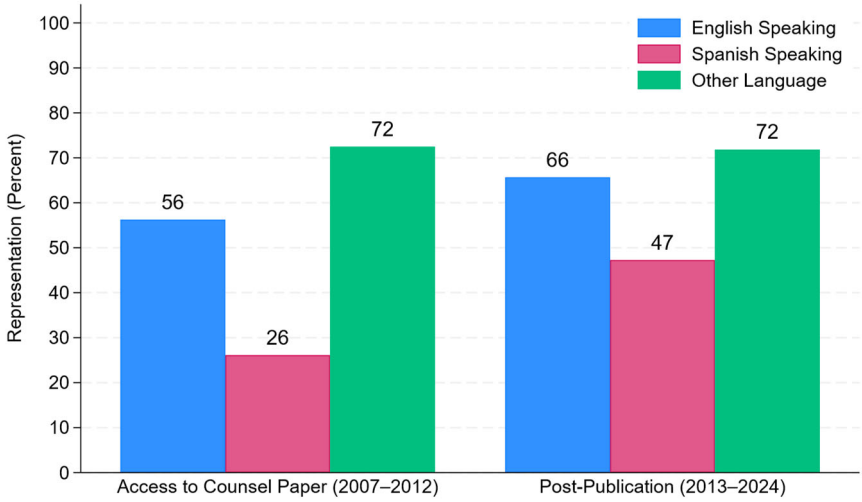


Figure 7 compares attorney access across our two time periods for three groups: those who spoke English in court, those who relied on a Spanish language interpreter, and those who relied on an interpreter in a language other than Spanish.[116] This analysis uncovers two important findings. First, the representation gap was only present for those who spoke Spanish and, second, the Spanish language gap narrowed in the more recent period. From 2007 to 2012, only 26% of those who relied on a Spanish language interpreter in court found counsel, compared to 56% of those who spoke English and 73% of those who spoke a different language. In the subsequent period, these differences narrowed, with 47% of persons using a Spanish language interpreter

114. *Id.*

115. All differences between language groups across periods are statistically significant ($p < .001$, two-tailed difference of proportions test); differences among all language statuses within periods are also statistically significant ($p < .001$, two-tailed Pearson chi-square test).

116. A significantly greater proportion of respondents were listed as English speakers during the period covered in our 2015 article (15%, n = 184,600 of 1,203,725) than during the subsequent period (7%, n = 213,710 of 2,879,109) ($p < .001$, two-tailed test of proportions). In contrast, a smaller proportion of respondents were listed as Spanish speakers during the initial study period (71%, n = 853,840 of 1,203,725 versus 78%, n = 2,238,095 of 2,879,109). This pattern could reflect the shifting nationalities present in immigration court, as well as the increased presence of recently arrived asylum seekers. *See supra* Table 1. Additionally, a slightly greater proportion of respondents were missing language information in the period covered in our 2015 article (0.22%, n = 2,681 of 1,206,406 versus 0.02%, n = 572 of 2,879,681) ($p < .001$, two-tailed test of proportions).

finding counsel, compared to 66% of those who spoke English and 72% of those who spoke another language.

Our analysis reveals an almost doubling in the ability of those who spoke Spanish in court to find counsel, a trend that is likely generated by increased diversity in the profession, including more immigration lawyers who are proficient in Spanish.[117] Access to Spanish-speaking lawyers is also facilitated by law school courses focused on Spanish language legal skills.[118] Finally, with increased funding support, nonprofit organizations have often prioritized hiring attorneys who are bilingual in English and Spanish.[119]

B. *DETENTION*

A second axis of inequality uncovered in our original study was detention.[120] In particular, we found much lower representation rates in cases where persons were detained during their court case.[121] While the overall representation rate across all completed cases was 37%, in detention only 14% found counsel.[122] One of the reasons why noncitizens in detained proceedings were less likely to find lawyers is because the facilities where they are held are located in remote, "justice-free zones" far away from most legal services providers.[123] Moreover, practices at some facilities interfere with access to counsel by limiting the ability to use the telephone, accept visits, or access other resources that are necessary to establish an attorney–client relationship.[124]

Figure 8a replicates our earlier analysis for the 2007 to 2012 period and extends it to the subsequent period of 2013 to 2024. As already established, the more recent period enjoyed a higher overall representation rate: 52% of immigrants in removal proceedings completed on the merits found counsel,

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117. Ryo & Humphrey, *supra* note 113, at 805–07 figs.6 & 7.

118. For example, see *Courses: Spanish for Lawyers*, HARV. L. SCH., https://hls.harvard.edu/courses/spanish-for-lawyers [https://perma.cc/LZZ6-99HY]; and *Law 451: Spanish for Lawyers*, UCLA L., https://law.ucla.edu/academics/curriculum/spanish-lawyers [https://perma.cc/5LFU-Z9N3].

119. *See, e.g.*, *Staff Attorney: Deportation Defense Unit*, CARECEN, https://www.carecen-la.org/staff_attorney_deportation_defense_unit [https://perma.cc/5ATT-SHWM] (seeking a removal defense staff attorney that is "[f]luent or highly proficient in Spanish, subject to testing").

120. For more on access to counsel for immigrants held in immigration jails and prisons, see generally Michael J. Churgin, *An Essay on Legal Representation of Non-Citizens in Detention*, 5 INTERCULTURAL HUM. RTS. L. REV. 167 (2010); and Margaret H. Taylor, *Promoting Legal Representation for Detained Aliens: Litigation and Administrative Reform*, 29 CONN. L. REV. 1647 (1997).

121. Eagly & Shafer, *supra* note 4, at 32.

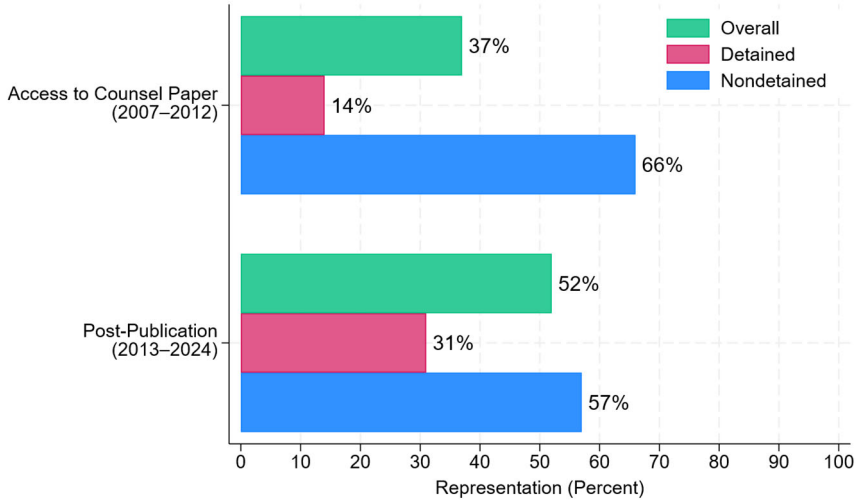
122. *Id.* at 16, 32. Outside of detention the representation rate was much higher: 66% found counsel. *Id.*

123. EUNICE HYUNHYE CHO, TARA TIDWELL CULLEN & CLARA LONG, JUSTICE-FREE ZONES: U.S. IMMIGRATION DETENTION UNDER THE TRUMP ADMINISTRATION 20–21 (2020), https://assets.aclu.org/live/uploads/publications/justice-free_zones_immigrant_detention_report_aclu_hrw_nijc_o.pdf [https://perma.cc/9DQ4-4GQ3].

124. ADITI SHAH & EUNICE HYUNHYE CHO, NO FIGHTING CHANCE: ICE'S DENIAL OF ACCESS TO COUNSEL IN U.S. IMMIGRATION DETENTION CENTERS 6 (2022), https://assets.aclu.org/live/uploads/publications/no_fighting_chance_aclu_research_report.pdf [https://perma.cc/A7WB-ZBDF]; *see also* CÉSAR CUAUHTÉMOC GARCÍA HERNÁNDEZ, MIGRATING TO PRISON: AMERICA'S OBSESSION WITH LOCKING UP IMMIGRANTS 80–81 (2021) (describing a lack of legal information, law libraries, and attorney–client meeting space inside immigration prisons).

compared to only 37% in the earlier period.[125] We now see that this rise in representation occurred in detained cases. While representation for detained immigrants *increased* from 14% to 31%, representation for immigrants who were not detained *decreased* from 66% to 57%.[126]

Figure 8a. Representation Rates in Removal Cases Completed on the Merits, Overall and by Custody Status, 2007–2024[127]



A few important trends are associated with these shifts. First, with respect to detained cases, the increase in representation reflects a growth in publicly funded removal programs that occurred in the more recent period. These programs were often restricted to persons who were detained, thus making counsel more available inside detention.[128] In addition, the increase in detained representation rates over the more recent period is associated with a dramatic decline in the number of immigration cases completed in detention. Figure 8b highlights the relatively flat and recently declining number of represented cases in detention compared to nondetained cases. And, as seen in Table 2, in 2021 when the detained representation rate reached a high of 35%, the number of detained cases was only 7,074. In contrast, in 2008 when detained cases reached a high of 122,266, only 12% of immigrants in detention found representation.

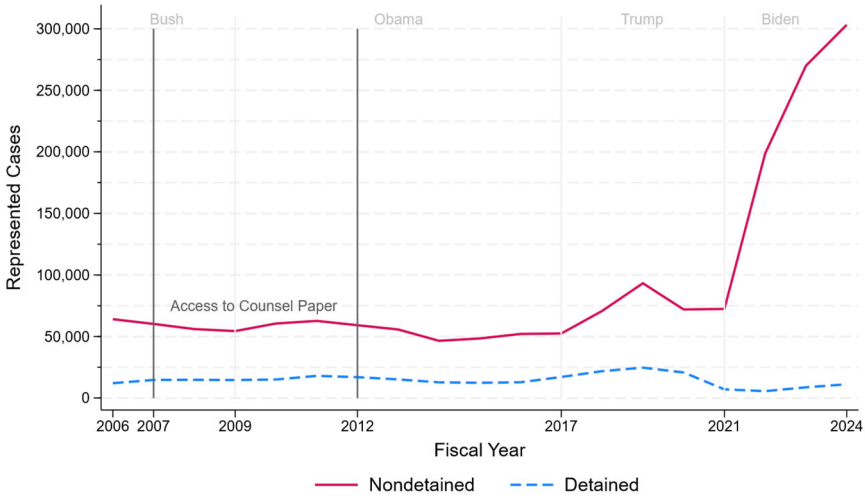
125. *See supra* Section I.D.

126. Nondetained cases include both individuals who were never detained as well as persons who were initially detained but later released from custody on bond.

127. All differences between custody statuses within era, as well as overall differences across eras, are statistically significant ($p < .001$, two-tailed difference of proportion test).

128. *Information Hub*, *supra* note 26 (noting that some deportation defense programs "prioritize representing people who are detained").

Figure 8b. Represented Removal Cases Completed on the Merits, by Custody Status, 2006–2024



Second, with respect to nondetained cases, the decline in representation revealed in Figure 8a is associated with a dramatic increase in nondetained cases beginning during the later part of the second Obama term, and continuing in the Trump and Biden terms. As reported in Table 2, the number of cases completed outside of detention increased from only 81,852 in 2008 to 626,756 in 2024, far outstripping the number of cases completed in detention.[129] Attorneys handling nondetained cases have simply not been able to grow their capacity sufficiently to maintain the prior level of representation. This is not to say, however, that capacity outside detention has not grown—indeed, as the red solid line in Figure 8b shows, the number of immigrants who found counsel outside detention has skyrocketed, with the most dramatic gains occurring during the Biden Administration.

129. *Detained Immigration Courts*, *supra* note 55, at 728 fig.3 and accompanying text (comparing trends in cases initiated in detention with those initiated outside of detention).

Table 2. Representation in Detained and Nondetained Removal Cases Completed on the Merits, 2007–2024

	Nondetained Cases			Detained Cases		
Fiscal Year	**Represented**	**Total**	**Percent**	**Represented**	**Total**	**Percent**
Access to Counsel Paper (2007–2012)						
2007	60,221	100,010	60%	14,723	104,973	14%
2008	56,040	89,702	62%	14,779	122,266	12%
2009	54,389	83,107	65%	14,624	132,313	11%
2010	60,551	91,747	66%	15,059	112,757	13%
2011	62,672	90,190	69%	18,003	110,380	16%
2012	59,171	81,852	72%	16,986	87,109	19%
Overall	353,044	536,608	66%	94,174	669,798	14%
Post-Publication (2013–2024)						
2013	55,700	80,188	69%	15,117	58,874	26%
2014	46,490	75,298	62%	12,762	51,094	25%
2015	48,397	89,296	54%	12,371	40,282	31%
2016	52,078	88,651	59%	12,807	39,813	32%
2017	52,440	94,613	55%	17,125	53,906	32%
2018	70,749	117,275	60%	21,817	62,290	35%
2019	93,246	187,551	50%	24,707	72,386	34%
2020	71,969	143,266	50%	20,791	76,767	27%
2021	72,402	84,221	86%	7,074	16,027	44%
2022	198,685	272,852	73%	5,589	18,094	31%
2023	270,026	468,450	58%	8,717	25,683	34%
2024	303,206	626,756	48%	11,157	36,048	31%
Overall	1,335,388	2,328,417	57%	170,034	551,264	31%

This pattern of increased representation rates in detention may, however, begin to change during the second Trump Administration as more pressure is placed on DHS to detain immigrants during removal proceedings.[130] Supported by Congress's approval of Trump's new domestic policy bill, billions of additional dollars of federal funding will support a growth in

130. *See, e.g.*, Invasion Executive Order, *supra* note 14 (ordering DHS to "take all appropriate actions to ensure the detention of aliens apprehended for violations of immigration law pending the outcome of their removal proceedings").

detention beds to as many as 116,000.[131] Additionally, after passage of the Laken Riley Act in 2025, individuals arrested for minor crimes such as theft or shoplifting will be subject to mandatory detention, even without a conviction in criminal court.[132]

C. *GEOGRAPHY*

The third axis of inequality that we identified in our national study was geography. That is, the likelihood of obtaining a lawyer differed based on the location of the court where the case was heard. In particular, when cases were heard in small cities and rural areas they were less likely to find a lawyer.[133] As Lisa Pruitt and her co-authors have found, few attorneys practice in rural America, creating "deserts" where the legal needs of rural communities go unattended.[134] In the context of immigration, it is also important to understand the geography of detained immigration courts which are frequently co-located inside detention facilities far outside of major city centers and often in the South, such as in Jena, Louisiana and Lumpkin, Georgia.[135]

On the left side of Figure 9 we replicate our earlier analysis of representation by city size and detention status. For detained immigrants in small cities, which we defined as cities with populations fewer than 50,000, only 10% found counsel between 2007 and 2012.[136] In contrast, for those detained in large cities, which we defined as populations above 600,000, 17% found counsel.[137] Similarly, for nondetained immigrants with cases heard in small cities, only 53% found counsel, compared to 70% of immigrants with cases in large cities.[138]

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131. Juliana Kim, *How Trump's Tax Cut and Policy Bill Aims to 'Supercharge' Immigration Enforcement*, NPR (July 3, 2025, 5:12 PM), https://www.npr.org/2025/07/03/g-s1-75609/big-beautiful-bill-ice-funding-immigration [https://perma.cc/F9DX-TMYK].

132. Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3, 3–6 (2025); *see also* Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025) (stripping immigration judges of authority to conduct immigration bond hearings to release immigrants from custody if they entered the United States without being admitted).

133. CHO ET AL., *supra* note 123, at 20.

134. *See generally* Lisa R. Pruitt et al., *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL'Y REV. 15 (2018).

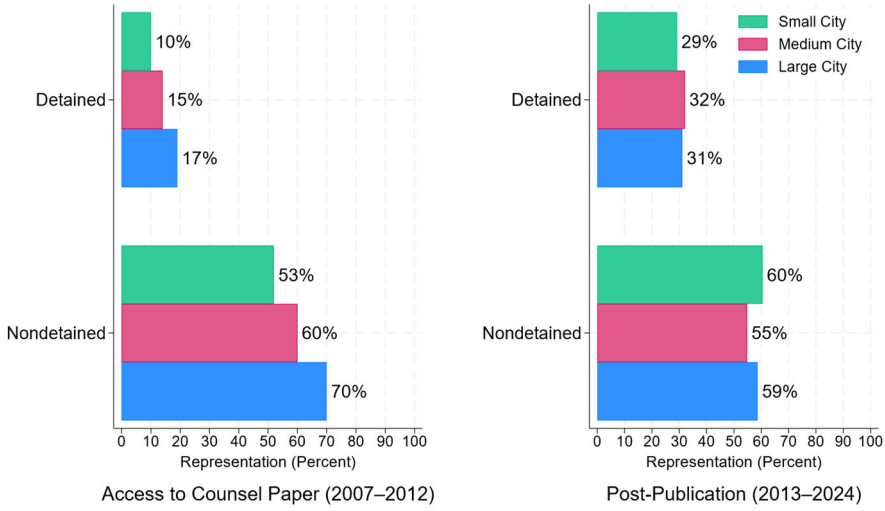
135. *Detained Immigration Courts*, *supra* note 55, at 719, 737.

136. Eagly & Shafer, *supra* note 4, at 41 & fig.11.

137. *Id.*

138. *Id.*

Figure 9. Representation in Removal Cases Completed on the Merits, by City Size and Custody Status, 2007–2024[139]



The right side of Figure 9 extends our city-size analysis to the 2013 to 2024 period, spotlighting interesting shifts in the availability of counsel.[140] In particular, the representation rate is no longer the highest in large cities. For the nondetained, the representation rate in large and medium cities is now slightly *lower* than in small cities. And, for the detained, the highest representation rate occurred in medium-sized cities.

To further understand how counsel was distributed across local court geographies, our 2015 national study also examined the availability of counsel within the nation's busiest immigration courts.[141] We looked separately at the detained and nondetained court locations that decided the most removal cases in the country and found that representation rates varied widely by court location.[142] Representation rates in detained courts ranged from a high of 22% in El Paso to a low of close to zero in Tucson.[143] Similarly, representation

139. All differences among city size within custody statuses are statistically significant ($p < .001$, two-tailed Pearson chi-square test). The changes in representation rate from period to period within custody status are also statistically significant ($p < .001$, two-tailed difference of proportions test).

140. The updated analysis for 2017 to 2024 relies on Census data measuring city size as of 2020 and the current locations of U.S. immigration courts. *See Annual Estimates of the Resident Population for Incorporated Places in the United States: April 1, 2020 to July 1, 2021*, U.S. CENSUS BUREAU (May 2022), https://www2.census.gov/programs-surveys/popest/tables/2020-2021/cities/totals/SUB-IP-EST2021-POP.xlsx [https://perma.cc/48K6-5WF3].

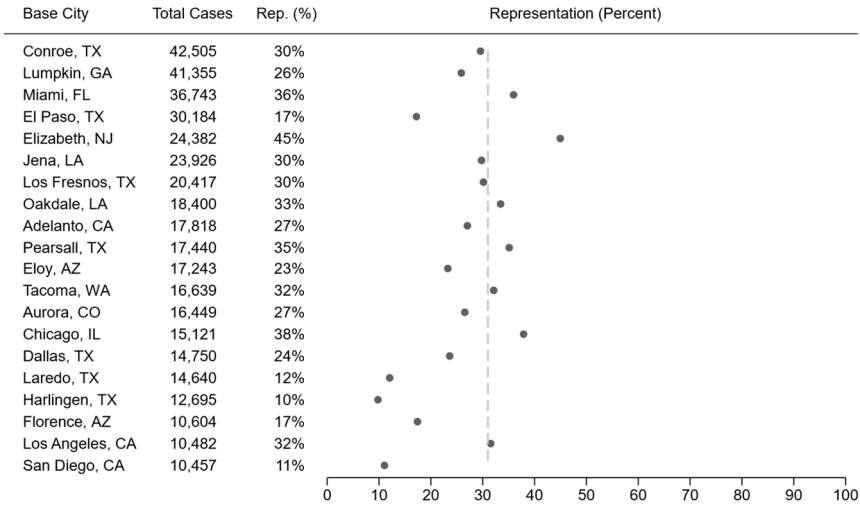
141. Eagly & Shafer, *supra* note 4, at 40. Our analysis was organized by EOIR's designation of "base cities," which have shifted over time. For example, the now closed "base city" of York, Pennsylvania now has its cases archived in the "base city" of Elizabeth, New Jersey. Similarly, cases at the shuttered "base city" of Arlington, Virginia were moved to Annandale, Virginia.

142. *Id.* at 38–43. For more on the difference between detained and nondetained courts, see *Detained Immigration Courts*, *supra* note 55, at 738–42.

143. Eagly & Shafer, *supra* note 4, at 38 & fig.10a.

in nondetained courts varied from 87% in New York to just 47% in Kansas City and Atlanta.[144]

Figure 10a. Detained Representation Rates in Removal Cases Completed on the Merits, by Volume Decided in Court City, 2013–2024[145]



Figures 10a and 10b extend our original analysis to the new study period of 2013 to 2024. While the courts with the highest volume of cases have shifted, the same patterns of geographic disparity in representation persist. As seen in Figure 10a, the representation rate in detained courts ranged from a high of 45% in Elizabeth, New Jersey to a low of 10% in Harlingen, Texas. Some of the detained courts experienced a significant rise in representation rate since our last study. For example, the rate in Adelanto, California increased from 13% to 27%, and in Tacoma, Washington from 8% to 32%.[146] Detained courts in the South also saw a surge in representation, such as in Lumpkin, Georgia where the rate increased from 6% to 26%.[147] Notably, these rising representation rates have occurred in locations with nonprofit and pro bono representation programs focused on detained cases.[148]

144. *Id.* at 39 & fig.10b.

145. "Total cases" reports the total number of detained removal cases completed on the merits in each city's court between 2013 and 2024. The dashed vertical line is the percent of detained removal cases with counsel across all cities.

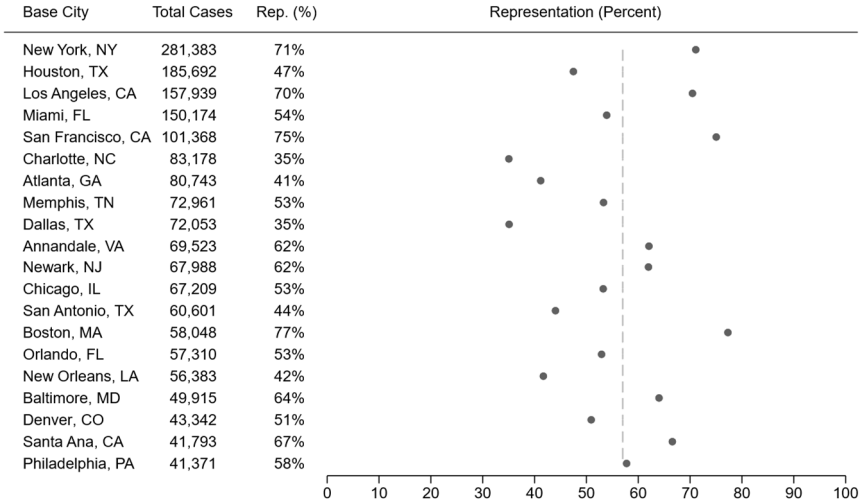
146. *Compare* Eagly & Shafer, *supra* note 4, at 38 & fig.10a, *with supra* Figure 10a.

147. *Compare* Eagly & Shafer, *supra* note 4, at 38 & fig.10a, *with supra* Figure 10a.

148. One such source of increased representation was a project at the Southern Poverty Law Center to provide detained removal defense, including at Georgia's Stuart Detention Center. *SPLC Launches Pro Bono Project to Ensure Detained Immigrants Have Access to Counsel*, SPLC (Mar. 7, 2017), https://www.splcenter.org/resources/stories/splc-launches-pro-bono-project-ensure-detained-immigrants-have-access-counsel [https://perma.cc/6PSW-DGHS]. In 2025, thirty-

Figure 10b shows that the representation rate in nondetained courts also continued to fluctuate across different city locations: from a high of 77% in Boston, Massachusetts to a low of 35% in Charlotte, North Carolina and Dallas, Texas. A few cities have seen their nondetained representation rate increase since our last study. Boston, for example, increased from 69% to the current rate of 77%, and Los Angeles increased from 67% to 70%.[149] However, unlike the detained courts, nondetained courts have generally experienced a downward slide in representation. New York City's nondetained representation rate fell from 87% in our prior study to 71% in the current study, Orlando fell from 63% to 53%, Dallas fell from 61% to 35%, Charlotte fell from 50% to 35%, Philadelphia fell from 66% to 58%, and Atlanta fell from 47% to 41%.[150]

Figure 10b. Nondetained Representation Rates in Removal Cases Completed on the Merits, by Volume Decided in Court City, 2013–2024[151]



III. GROWING CAPACITY

The picture of immigration representation drawn so far raises an important question of how the overall availability of counsel in immigration court has changed over time. As Part I documented, there has been a six-fold increase

five of the program's attorneys and staff were laid off. Rob Kuznia, *Group that Defended Undocumented Migrants Cuts Dozens of Attorneys and Staff*, CNN (Feb. 19, 2025, 6:00 AM), https://www.cnn.com/2025/02/19/politics/splc-immigration-lawyers-layoffs-trump-crackdown-invs (on file with the *Iowa Law Review*).

149. *Compare* Eagly & Shafer, *supra* note 4, at 39 & fig.10b, *with infra* Figure 10b.

150. *Compare* Eagly & Shafer, *supra* note 4, at 39 & fig.10b, *with infra* Figure 10b.

151. "Total cases" reports the total number of nondetained removal cases completed on the merits in each city's court between 2013 and 2024. The dashed vertical line is the percent of nondetained removal cases with counsel across all cities.

in the number of removal cases with legal representation since our last study.[152] This Part turns to the supply-side questions that flow from this finding. In particular, are more immigration lawyers practicing in the field of deportation defense? Or, are existing lawyers just becoming more specialized and taking on more cases?

As Emily Ryo and Reed Humphrey have noted, data limitations have prevented scholars from measuring the size of the deportation defense bar. State bars do not collect lists of attorneys who practice deportation defense.[153] EOIR distributes a list of nonprofit pro bono providers to respondents, but the list is quite limited.[154] Finally, although EOIR maintains records of the attorneys and other representatives who practice with the immigration courts,[155] EOIR has been inconsistent over the years in providing these attorney records to researchers.[156]

This Part takes advantage of several new sources of EOIR attorney data, as well as our extensive coding of these data, to get past the limitations that have stymied scholars to empirically measure the size and composition of the deportation defense field.[157]

A. *"ACTIVE" LEGAL REPRESENTATIVES*

For this Article, we constructed an original dataset with the names of all representatives who have practiced in immigration court. In total, the EOIR data we analyze contained 388,939 entries with attorney names, firm names, and other associated information, accounting for all attorney appearances across the entire EOIR database. However, these entries do not represent individual attorneys because many individuals have practiced for a long time and were entered multiple times in the data.

After completing an extensive review of the 388,939 entries in the data, we identified 100,808 unique representatives.[158] Of these 100,808 unique individuals, however, only 69,586 were "active" between 2006 and 2024, which we define as involved in representing at least one person in a removal

152. *See supra* Figure 5.

153. Ryo & Humphrey, *supra* note 113, at 800–09.

154. *See generally* EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., LIST OF PRO BONO LEGAL SERVICE PROVIDERS (2025), https://www.justice.gov/eoir/file/probonofulllist/dl [https://perma.cc/2SNT-P5CM]. One important resource is a list of providers practicing in Oregon's universal representation program. *Attorney Directory*, EQUITY CORPS OR., https://equitycorps.org/attorney-directory [https://perma.cc/VK2N-ZAZZ].

155. We analyzed these records to a limited extent in our 2015 study. *See* Eagly & Shafer, *supra* note 4, at 43 & tbl.2 (calculating the number of unique attorneys practicing in eight different U.S. cities).

156. Ryo & Humphrey, *supra* note 113, at 800. In the absence of public data on the number of unique immigration attorneys practicing in immigration courts, Ryo and Humphrey analyzed the membership list of a voluntary professional association for immigration attorneys, the American Immigration Lawyers Association ("AILA"). *Id.* at 803–04 & figs.2 & 3.

157. For a description of these data and our coding, see *infra* Appendices C–E.

158. As described in greater detail in Appendix E, our process of identifying these unique individuals required standardizing how the names of attorney representatives were recorded.

case.[159] Those who were not associated with a case may have retired or stopped practicing removal defense. Or, they may have registered with the court to practice thinking that they would take on a case pro bono but never ended up doing so.[160] Finally, these "inactive" lawyers may have supported other lawyers who filed an EOIR-28 form to be the representative of record, as is the case with collaborative forms of lawyering where lawyers and other advocates support one another to take on higher number of cases.[161]

Although 69,586 individuals handled at least one case between 2006 and 2024, most were not active every year. To understand how many representatives were actually available to take on a case in any one year, we need to measure the size of the active population of representatives over time.

Figure 11. Active Representatives in Completed and Pending Removal Cases, 2006–2024

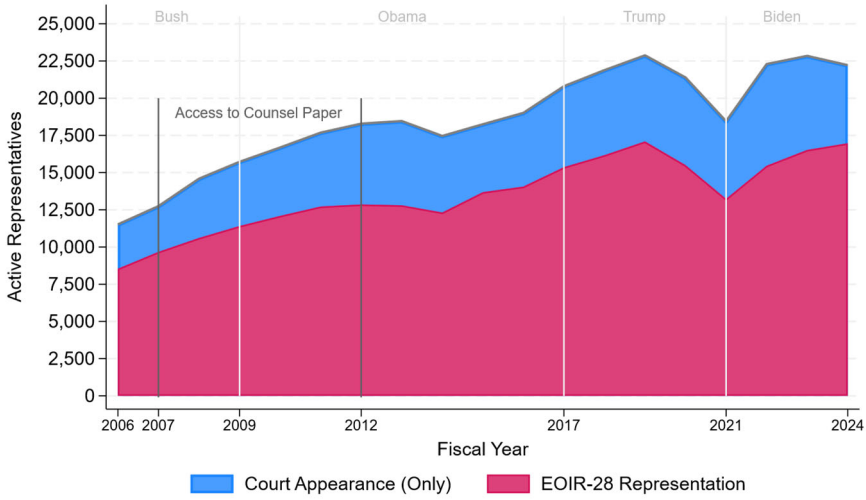


Figure 11 traces the number of legal representatives who were what we call "active" each year. Included in the red shaded area at the bottom of the figure are the number of representatives that filed at least one EOIR-28 form

159. To identify "active" practitioners, we relied on both case- and hearing-level EOIR data. At the case level, we relied on the filing of the required EOIR-28 form giving notice of their representation. At the hearing level, we relied on whether the representative was scheduled to appear at a hearing, even if the representative never filed an EOIR-28 form in the case. *See generally infra* Appendix B.

160. Our analysis of the EOIR data in this Article only includes removal proceedings, which are 97% of all proceedings since 2006. *See supra* note 65. Therefore, it is important to acknowledge that it is possible that some representatives who did not take on a removal case could have been active in one of the case types that we do not measure.

161. *See* Manning & Stumpf, *supra* note 36, at 424–29 (explaining that "big immigration law advocacy" breaks down lawyering into its constituent parts—such as client interviews, investigation, research, document preparation, or arguing in court—and divides these tasks across advocates to create a "massively scaled system[]" for legal representation).

to represent a client during the year.[162] Included in the smaller blue area at the top of Figure 11 are representatives that did not file an EOIR-28 but were nonetheless scheduled to appear in at least one hearing in a removal case during the year.

Combining these two ways of measuring activity in immigration court, in 2006 there were 11,521 "active" representatives associated with at least one removal case. The number of "active" representatives continued to rise year over year until just before the onset of the COVID-19 pandemic, reaching a high of 22,883 unique individuals in 2019. In the last year of the Biden Administration, 22,223 unique representatives were active in immigration court. Impressively, between 2006 and 2024 the population of active representatives almost doubled.

B. *Representative Type, Tenure, and Discipline*

As mentioned in Part I, the immigration courts allow individuals who are not attorneys—namely, law students, accredited representatives, and reputable individuals—to provide legal representation.[163] EOIR gathers information on representative type because the EOIR-28 form requires representatives to indicate whether they are an attorney or instead a qualified nonattorney, such as a law student or accredited representative.[164] However, at the time of our 2015 study, the EOIR data we analyzed did not include this representative type information.[165] Fortunately, for this study, EOIR released information on representative type, and we are able to analyze it for the first time.[166] We also supplemented the EOIR representative type information with additional research. We analyzed the DOJ's list of accredited representatives[167] and found that as of the end of 2024 there were 451 fully accredited representatives.[168] We coded these names and integrated them into our analysis.[169] We also combed through the attorney data tables for notations that individuals were not attorneys. For example, the data contained notations that individuals were appearing as accredited representatives, such as when the title "accredited

162. These representatives who filed at least one EOIR-28 form may also have appeared in immigration court one or more times during the relevant year.

163. *See supra* notes 83–87 and accompanying text.

164. EOIR-28, *supra* note 80, at 1.

165. Eagly & Shafer, *supra* note 4, at 25–26.

166. *See infra* Appendices F, H.

167. Specifically, we used the list last updated on December 9, 2024. *See generally* EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., RECOGNIZED ORGANIZATIONS AND ACCREDITED REPRESENTATIVES ROSTER BY STATE AND CITY (2024) (on file with the *Iowa Law Review*).

168. *See infra* Appendix F. This is an increase in the number since Professor Pistone wrote her 2022 article and found that only 300 accredited representatives had full accreditation. Michele R. Pistone, *The Crisis of Unrepresented Immigrants: Vastly Increasing the Number of Accredited Representatives Offers the Best Hope for Resolving It*, 92 FORDHAM L. REV. 893, 913 (2022).

169. *See infra* Appendices E, F.

representative" followed the person's name.[170] Similarly, law students sometimes had the notation "student" after the name of their law school.[171]

Table 3. Active Representatives in Completed and Pending Removal Cases, by Type, 2006–2024[172]

		Total Years Active	
	Number (%)	**Median**	**Mean (SD)**
Representative Type[173]			
Attorney	68,787 (98.9%)	3	7.1 (8.5)
Accredited Representative	583 (0.8%)	4	7.1 (8.5)
Law Student or Graduate	1,037 (1.5%)	2	4 (4.5)
Reputable Individual	39 (0.1%)	1	2.4 (4)
Discipline Status[174]			
Ever Disciplined	984 (1.4%)	16	18 (11)
Never Disciplined	68,602 (98.6%)	3	6.8 (8.3)

Table 3 presents our findings on representative type, along with our analysis of how many years these representative types were active in the immigration courts. Among the 69,586 "active" representatives present in the data since 2006,[175] the lion's share (68,787) were attorneys.[176] As reported in Table 3, these attorneys practiced for a median of just 3 years, underscoring that many attorneys are new to the practice, while also suggesting considerable turnover in the field of deportation defense. This finding provides valuable context for recent research that has highlighted how removal defense exposes

170. *See infra* Appendix F.

171. *See infra* Appendix H.

172. Table 3 follows the same method used in Figure 11 to measure "active" representatives: (1) filing an EOIR-28 in a case; and/or (2) being scheduled to appear at a hearing held in immigration court. "Total Years Active" represents attorney activity across all available years in the EOIR data (ranging from 1951 to 2024).

173. The representative types in Table 2 do not add up perfectly to 100% due to overlap in categories. That is, some representatives in the data handled cases in more than one capacity during the period studied. For example, some accredited representatives in the data attended law school, and their involvement in removal defense also included cases handled later as attorneys. Similarly, some students who appeared in court during law school went on to later practice immigration law.

174. "Discipline status" combines practitioners on EOIR's "previously disciplined" list with those on the "currently disciplined" list. *List of Previously Disciplined Practitioners*, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T JUST., https://www.justice.gov/eoir/list-of-previously-disciplined-practitioners [https://perma.cc/PD4Q-RFJW]; *List of Currently Disciplined Practitioners*, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T JUST., https://web.archive.org/web/20250119175515/https://www.justice.gov/eoir/list-of-currently-disciplined-practitioners [https://perma.cc/3W66-9YAG]. For an insightful analysis of how and why unethical lawyering may occur in the immigration context, see generally Richard L. Abel, *Practicing Immigration Law in Filene's Basement*, 84 N.C. L. REV. 1449 (2006).

175. *See supra* Figure 11.

176. *See supra* Table 3.

representatives to extremely high levels of "secondary traumatic stress"[177] and "overwork" due to "pressure they feel to do more to protect their clients."[178] This dynamic can lead to "professional burnout," including prompting representatives to consider "quitting because of the high-stress nature of the work."[179]

Less than 1% of the representative population ($n = 583$) were accredited representatives working within a recognized nonprofit organization.[180] This relatively low number of practicing accredited representatives is consistent with research by Michele Pistone that has found that accredited representatives are underutilized.[181] And, as Brittany Benjamin has observed, often accredited representatives focus on providing services outside of immigration court, such as helping noncitizens with visa petitions or applications to adjust status.[182] For those accredited representatives that did practice in immigration court, however, they exhibited slightly longer active tenure than attorneys (4 versus 3 median years).[183]

The remaining two categories of representatives were also rare. A total of 1,037 representatives were associated with a case as a law student or law graduate that had not yet become an attorney.[184] Finally, only 39 representatives associated with cases were "reputable individuals," such as a brother or

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177. Hannah C. Cartwright, Lindsay M. Harris, Liana M. Montecinos & Anam Rahman, *Vicarious Trauma and Ethical Obligations for Attorneys Representing Immigrant Clients*, 2 AILA L.J. 23, 24 (2020); *see also* Lindsay M. Harris & Hillary Mellinger, *Asylum Attorney Burnout and Secondary Trauma*, 56 WAKE FOREST L. REV. 733, 808 (2021) (highlighting factors that "contribute to professional burnout").

178. ALYSSA SNIDER, L GAGNE & JILL WILLIAMS, ACACIA CTR. FOR JUST., DEFENDING CHILDREN AND OVERCOMING BURNOUT IN A HARMFUL IMMIGRATION SYSTEM 16–20 (2024), https://acaciajustice.org/wp-content/uploads/2024/08/BurnoutPaperFinal7.30.24.pdf [https://perma.cc/2A9D-GZ9S].

179. *Id.* at 18.

180. *See supra* Table 3.

181. Pistone, *supra* note 168, at 913. Professor Pistone has launched a new program at Villanova University, known as VISTA, to train people to become accredited representatives. LegalEDweb, *supra* note 83. *But see* M. Isabel Medina, *The Challenges of Facilitating Effective Legal Defense in Deportation Proceedings: Allowing Nonlawyer Practice of Law Through Accredited Representatives in Removals*, 53 S. TEX. L. REV. 459, 460 (2012) (arguing that accredited representatives may not be a solution to the access to counsel crisis because they lack "expertise and exposure to legal methodology, practice, and the adversarial system"); Lauren Gilbert, *Facing Justice: Ethical Choices in Representing Immigrant Clients*, 20 GEO. J. LEGAL ETHICS 219, 228 (2007) (pointing out that some accredited representatives have a limited understanding of immigration law).

182. Brittany Benjamin, Note, *Accredited Representatives and the Non-Citizen Access to Justice Crisis: Informational Interviews with Californian Recognized Organizations to Better Understand the Work and Role of Non-Lawyer Accredited Representatives*, 30 STAN. L. & POL'Y REV. 263, 270–71, 288 (2019); *see also* Donald Kerwin & Evin Millet, *Charitable Legal Immigration Programs and the US Undocumented Population: A Study in Access to Justice in an Era of Political Dysfunction*, 10 J. MIGRATION & HUM. SEC. 190, 196 (2022) (explaining that many accredited representatives handle work other than removal defense, such as "USCIS petitions, applications and requests for immigration benefits").

183. *See supra* Table 3.

184. *See supra* Table 3. We note that more cases were handled by law school clinical programs, but often the professor was the person associated with the case rather than the student.

reverend.[185] Understandably, these representative types generally practiced for a shorter time in immigration court.[186]

It bears noting, however, that many individuals who started their careers in immigration court as accredited representatives or law graduates continued to practice as attorneys in removal defense. For example, 44% (n = 254 of 583) of accredited representatives later entered the deportation defense bar, actively so, with a median of 8 and average of 12 years of practice (SD = 11). Likewise, 57% of law students or law graduates (n = 597 of 1,037) continued to practice as attorneys with a median of 5 and average of 5.9 years of practice (SD = 5.1). This suggests that many individuals who are introduced to immigration court practice before becoming licensed attorneys are later motivated to use those skills in their careers as lawyers.

Legal representation requires not only finding a lawyer but also ensuring that the lawyer delivers competent advice. Although there is no right to appointed counsel in removal proceedings, courts have recognized a due process right to receiving competent advice if a lawyer is hired or works on a case on a pro bono basis.[187] Accordingly, the EOIR has the authority to discipline immigration attorneys and accredited representatives.[188] Grounds for EOIR discipline include charging excessive fees, making false or misleading communications about qualifications, providing ineffective assistance, and repeatedly failing to appear in court.[189] As we report in Table 2, 984 of our active representatives (1.4%) faced formal discipline, ranging from suspension to disbarment. Of note, these disciplined representatives had more than 5 times the tenure practicing than non-disciplined attorneys (16 years median versus 3 years).

C. Workload and Professionalization of the Deportation Defense Bar

Thus far we have shown that, since 2006, the number of active representatives nearly doubled, from 11,521 representatives in 2006 to 22,223 in 2024.[190] Moreover, 99% of these individuals were attorneys.[191] At the same time, as we established earlier, the number of completed and pending cases with representation grew nine-fold, from only 146,066 cases in 2006 to more than 1.4 million (1,432,628) in 2024.[192] In other words, the number of represented cases increased at a far faster rate than the active population of

185. *See supra* note 87 and accompanying text.

186. *See supra* Table 3.

187. *See* Jayanth K. Krishnan, *The Immigrant Struggle for Effective Counsel: An Empirical Assessment*, 2022 U. ILL. L. REV. 1021, 1031 (citing Matter of Lozada, 19 I. & N. Dec. 637, 638 (B.I.A. 1988)).

188. EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., EOIR'S ATTORNEY DISCIPLINE PROGRAM AND PROFESSIONAL CONDUCT RULES FOR IMMIGRATION ATTORNEYS AND REPRESENTATIVES 1 (2014), https://www.justice.gov/sites/default/files/eoir/legacy/2014/07/23/EOIRsDisciplineProgramFactSheet.pdf [https://perma.cc/8DNA-4LFZ].

189. 8 C.F.R. § 1003.102 (2025).

190. *See supra* Figure 11.

191. *See supra* Table 2.

192. *See supra* Figure 5.

representatives, meaning that at least some attorneys took on a greater number of removal cases than was the case at the time of our initial national study.

Table 4. Workload in Completed and Pending Cases Among Representatives Filing at Least One EOIR-28 Form in Year, 2006–2024[193]

Fiscal Year	Representatives	Cases with Entries of Appearance (EOIR-28)			
		Median	Mean (SD)	Min	Max
2006	8,543	3	11 (26.4)	1	819
2007	9,676	3	11 (25.5)	1	908
2008	10,611	3	11 (24.1)	1	816
2009	11,414	3	11 (23.0)	1	453
2010	12,092	3	11 (23.8)	1	600
2011	12,723	3	12 (24.3)	1	508
2012	12,865	3	11 (22.9)	1	421
2013	12,808	3	11 (20.9)	1	376
2014	12,322	4	11 (19.6)	1	402
2015	13,687	4	12 (24.1)	1	401
2016	14,063	4	14 (29.6)	1	408
2017	15,370	4	16 (34.1)	1	578
2018	16,172	4	18 (39.4)	1	892
2019	17,099	5	22 (53.9)	1	2,416
2020	15,504	5	19 (42.7)	1	1,002
2021	13,240	5	16 (39.4)	1	1,130
2022	15,465	6	30 (83.5)	1	3,029
2023	16,527	8	43 (116.0)	1	3,374
2024	16,976	10	52 (151.8)	1	5,574

We investigated these increasing workloads by analyzing the subset of "active" representatives who filed at least one EOIR-28 form in a single year.[194] We then counted the number of EOIR-28 forms these representatives filed each year in completed or pending cases. As seen in Table 4, the number of representatives who took on a case by filing an EOIR-28 form increased from

193. Table 4 counts the number of representatives by fiscal year who filed at least one EOIR-28 in a removal case. Calculations of "Case Entries of Appearance Filed" exclude EOIR-28s filed within the same year for the same case but may count additional EOIR-28s filed in subsequent years for the same case.

194. Representatives filing at least one EOIR-28 form in a year are shaded in blue in *supra* Figure 11.

8,543 in 2006 to 16,976 in 2024. At the same time as the supply of representatives increased, the average number of EOIR-28 filings per representative also went up, from 11 per year in 2006 to 52 cases on average in 2024.

At the top end of the distribution, attorneys carried very high caseloads. Between 2006 and 2008, the highest number of EOIR-28 forms were filed by Suzanne Gladney, an attorney at Legal Aid of Western Missouri who represented migrant farmworkers.[195] In subsequent years, the lawyers with the largest caseloads were all practicing at high-volume small law firms where a single attorney is generally assisted by nonlawyer support staff and/or associate attorneys. For example, in 2014, Darius Amiri, an associate practicing at "one of the largest volume immigration firms in Arizona" took on 402 cases.[196] Or consider Petro Richard Kostiv, an immigration lawyer with offices in Los Angeles and Miami, who filed EOIR-28 forms in 1,002 cases in 2020 and 1,130 in 2021.[197] In 2024, Jaspreet K. Singh, an attorney with an active YouTube channel and more than 400,000 followers on Facebook, took on an astronomical 5,574 cases.[198] To provide some context on just how large these caseloads are, it is helpful to compare them to the typical caseloads of major nonprofit organizations such as Brooklyn Defender Services in New York or the Immigrant Defenders Law Center in California where our analysis finds that attorneys took on an average of just under 30 cases a year.[199]

At the low end of attorney workload, Table 4 shows that many active attorneys handled only one case in immigration court. Many of these low-volume practitioners were attorneys at major law firms who were involved as pro bono volunteers on immigration cases. For example, Ropes & Gray LLP and Gibson Dunn—two major law firms that have been recognized for their pro bono work[200]—each had over 600 of their firm attorneys in the data, but only 70% of these attorneys filed an EOIR-28 form, and generally in only one case during the entire period from 2006 to 2024. Thus, while these pro bono

195. *Suzanne Gladney with Legal Aid of Western Missouri Receives 2012 Healthy Lafayette Award*, HEALTH FORWARD FOUND. (Oct. 1, 2012), https://healthforward.org/news/suzanne-gladney-with-legal-aid-of-western-missouri-receives-2012-healthy-lafayette-award [https://perma.cc/ 345E-PTDV].

196. *See generally Darius Amiri*, ROSE L. GRP. P.C., https://www.roselawgroup.com/amiri-darius [https://perma.cc/WKX9-7LKT].

197. At the end of 2024, the California State Bar Court Review Department affirmed the hearing judge's recommendation that Kostiv be temporarily suspended from practice as a result of missteps in his representation of clients in immigration court. *In re* Kostiv, No. SBC-22-O-31036, slip op. at 2 (Cal. State Bar Ct. Dec. 13, 2024), https://www.statebarcourt.ca.gov/Portals/2/documents/opinions/Kostiv-Opinion.pdf [https://perma.cc/LZ2H-LZES].

198. *See generally Jaspreet Singh Attorney*, YOUTUBE, https://www.youtube.com/@JaspreetSinghAttorney [https://perma.cc/L72K-WAAD]; *Jaspreet Singh Attorney*, FACEBOOK, https://www.facebook.com/JaspreetSAttorney [https://perma.cc/6XC3-F9ST].

199. *See generally* BROOKLYN DEFS., https://bds.org [https://perma.cc/W6HD-GGGN]; IMMIGRANT DEFS. L. CTR., https://www.immdef.org [https://perma.cc/SYH6-QWN9].

200. *The 2024 Pro Bono Scorecard: National Report*, AM. LAW. (Jul. 9, 2024), https://www.law.com/americanlawyer/2024/07/09/the-2024-pro-bono-scorecard-national-report (on file with the *Iowa Law Review*) (ranking Ropes & Gray and Gibson Dunn among the top U.S. law firms for pro bono).

volunteers collectively handled a significant number of cases, their expertise level in working on removal cases was limited.

Table 5. Representatives with Ten or More EOIR-28 Filings in Year, 2006–2024[201]

Fiscal Year	Ten or More Filings	At Least One Filing	Percent
2006	2,259	8,543	26%
2007	2,691	9,676	28%
2008	2,881	10,611	27%
2009	3,066	11,414	27%
2010	3,413	12,092	28%
2011	3,625	12,723	28%
2012	3,579	12,865	28%
2013	3,493	12,808	27%
2014	3,513	12,322	29%
2015	4,076	13,687	30%
2016	4,587	14,063	33%
2017	5,107	15,370	33%
2018	5,713	16,172	35%
2019	6,614	17,099	39%
2020	5,641	15,504	36%
2021	4,408	13,240	33%
2022	6,516	15,465	42%
2023	7,818	16,527	47%
2024	8,489	16,976	50%

Finally, to further understand how represented cases were distributed, we measured the population of attorneys specializing in deportation defense, which we define as entering an EOIR-28 form to become counsel of record in ten or more removal cases in a single year. As seen in Table 5, in 2006, only 2,259 attorneys handled ten or more cases. In contrast, in 2024, there were 8,489 attorneys that handled ten or more cases. Even more telling is that a full half of attorneys who filed EOIR-28 forms in court were practicing at this

201. Table 4 analyzes the number of representatives by fiscal year who filed ten or more EOIR-28 forms in a single year, as a percentage of the number of representatives presented in Table 3. Table 4 excludes EOIR-28s filed within the same year for the same case but may count additional EOIR-28s filed in subsequent years for the same case.

level in 2024, compared to only 26% in 2006. This trend reveals a rising level of specialization in the deportation defense field over time.

Our analysis to this point has shown that the number of representatives taking on cases in immigration court has grown, and on average the caseloads of these representatives have increased over time. We have also documented extreme variations in the engagement of these representatives, with some handling no cases or only a single case, while others juggled thousands of cases in a single year.

IV. SUSTAINED RELATIONSHIP BETWEEN LEGAL REPRESENTATION AND SUCCESS

An important finding of our national study in 2015 was that having an attorney was associated with more favorable case outcomes.[202] Analyzing cases nationwide, we found that respondents represented by counsel were more likely to seek relief from removal (such as asylum) and win that relief if they sought it.[203] Overall they were less likely to be ordered deported.[204] Considering the higher representation rates identified in Part I,[205] in this Part we return to our findings on case outcomes to analyze the extent to which success remains associated with the involvement of counsel.

Before proceeding, it is important to reemphasize that our findings here do not establish a causal relationship between counsel and case outcome. Selection effects may be at play here given that persons who qualify for relief from removal may be more likely to obtain a lawyer to assist with their claim. As research has underscored, some attorneys may feel pressure to take on "strong cases" that "clearly fit into existing case law,"[206] while excluding other "winnable" cases that present more complex legal challenges that would consume comparatively more attorney resources.[207] At the same time, however, there has been a growth in "universal" representation programs that seek to

202. Eagly & Shafer, *supra* note 4, at 75–76.

203. *Id.* at 9.

204. *Id.* at 47–51.

205. As developed in Part I, our updated analysis finds that 52% had counsel between 2013 and 2024, compared to only 37% of persons in the period from 2007 to 2012. *See supra* note 39 and accompanying text.

206. Hillary Mellinger, *Quality over Quantity: Legal Representation at the Asylum Office*, 43 LAW & POL'Y 368, 376 (2021). Of the attorneys interviewed by Mellinger, nineteen said they took on "hard cases," while seven reported only taking "strong cases." *Id.*; *see also* Chiara Galli, *Humanitarian Capital: How Lawyers Help Immigrants Use Suffering to Claim Membership in the Nation-State*, 46 J. ETHNIC & MIGRATION STUD. 2181, 2194–95 (2020) (surveying strategies adopted by lawyers to increase immigrants' access to humanitarian relief).

207. Lilly Yu, *Legibility and Burden: Representing Immigrants' Winnable Claims to Humanitarian Status*, 49 LAW & SOC. INQUIRY 797, 807–08 (2024); *see also* Nash, *supra* note 24, at 103 (explaining that, given the shortage of nonprofit and pro bono attorneys, often programs adopt a "'merits-based' or 'triage-based' approach" of taking on cases that "immediately presented some likelihood of success on the merits").

provide representation to all immigrants at a single court location or docket without first considering the merits of the case.[208]

A. *Overall Success*

In analyzing the EOIR data, we define "success" as including all cases that ended in the immigrant being allowed to remain in the United States, including through grant of relief from removal (such as asylum) or termination or dismissal of their removal case.[209] Cases in which voluntary departure was granted are counted as removal as persons who receive voluntary departure are required to leave the United States.[210]

Using this combined measure of success, we find that immigrants with counsel had far higher success rates than those who proceeded pro se. As we show in the right-hand side of Figure 12, in the most recent period of 2013 to 2024, immigrants were overall 4.6 times more likely to succeed if they had counsel (14% versus 64%). In the prior study period, as seen in the left-hand side of Figure 12, immigrants were 9.6 times more likely to succeed if they had counsel (5% versus 48%).

The statistics in Figure 12 also reveal that since 2013 success rates were higher for both pro se and represented respondents. These higher levels of success were associated with increased case dismissals and terminations,[211]

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208. *See generally* Vojta, *supra* note 108, at 21 (finding that the universal representation model of the New York Immigrant Family Unity Project increased representation and improved legal outcomes). Still, some public defense funds have sought to exclude immigrants convicted of crimes. *See* César Cuauhtémoc García Hernández, *Immigrant Defense Funds for Utopians*, 75 WASH. & LEE L. REV. 1393, 1423 (2018) (warning that such exclusions risk "carving the migrant population into desirable and undesirable").

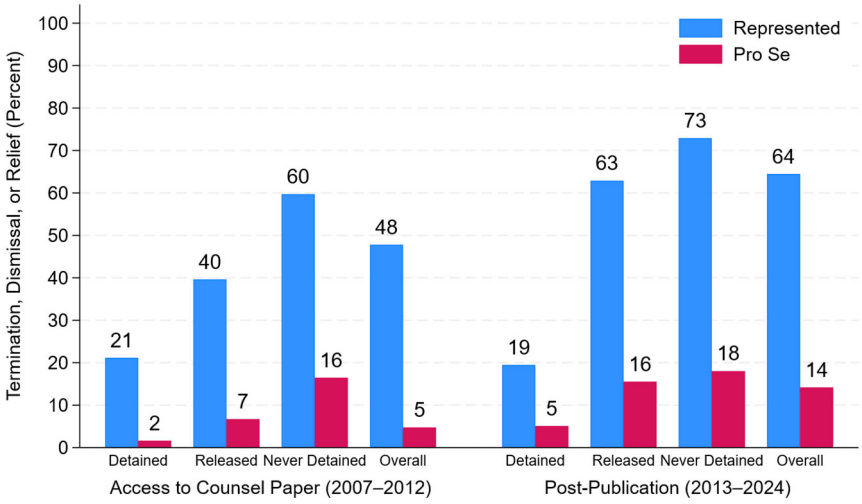
209. Our 2015 article did not include dismissals in the analysis of success, as dismissals were rare during the period studied. Eagly & Shafer, *supra* note 4, at 49. In the years since 2012, especially during the Biden Administration, dismissals of cases grew, and we now include dismissals as a form of success akin to termination, as both dispose of the case before the court. Coronado Acevedo, 28 I&N Dec. 648, 648 n.1 (A.G. 2022) (explaining that the terms termination and dismissal are often used interchangeably). We note, however, that the meaning of court dismissals as "success" may be changing under the second Trump Administration given recent instances of DHS dismissing removal charges only to arrest the respondent in immigration court to pursue expedited removal. Shalini Bhargava Ray, *Using Immigration Court as a Trap*, VERFASSUNGSBLOG (June 6, 2025), https://verfassungsblog.de/immigration-ice-court [https://perma.cc/FX3V-TTVL]. For additional background on the role of presidential administration in immigration enforcement patterns, see Catherine Y. Kim & Amy Semet, *An Empirical Study of Political Control over Immigration Adjudication*, 108 GEO. L.J. 579, 622–28 (2020); and ADAM B. COX & CRISTINA M. RODRÍGUEZ, THE PRESIDENT AND IMMIGRATION LAW 7–13 (2020).

210. *See* AM. IMMIGR. COUNCIL, VOLUNTARY DEPARTURE: WHEN THE CONSEQUENCES OF FAILING TO DEPART SHOULD AND SHOULD NOT APPLY 1 (2017), https://www.americanimmigrationcouncil.org/sites/default/files/practice_advisory/voluntary_departure_when_the_consequences_of_failing_to_depart_should_and_should_not_apply.pdf [https://perma.cc/V74D-6YJL].

211. Case terminations accounted for only 9% of all merits decisions from 2007 to 2012 (case dismissals were not recorded during that period). But case terminations, including dismissals, grew to 30% of all merits decisions during the subsequent period (2013 to 2024). Dismissals were especially associated with the rise in pro se "success." Across the two study periods, the number of pro se respondents to receive terminations or dismissals grew six-fold (from 29,299 to 180,205) compared to the modest relative increase in pro se respondents receiving relief (from 6,628 to 14,393).

including dismissals following the exercise of prosecutorial discretion to not pursue the removal case.[212] It is also relevant to note that the period since 2013 saw an increase in pro se assistance programs which could partly explain the greater success among those without counsel. For example, a "Friend of the Court" initiative in several cities facilitated attorneys assisting pro se respondents with court forms and understanding the court process.[213]

Figure 12. Successful Case Outcomes (Termination, Dismissal, or Relief) in Removal Cases, by Detention and Representation Status, 2007–2024[214]



Additionally, Figure 12 shows higher rates of success for those with counsel for all three custody statuses—detained, released, and never detained. Detained respondents were 3.8 times more likely to succeed, released respondents were 3.9 times more likely to succeed, and those who were never detained were 4 times more likely to succeed. Notably, those released from detention or never detained enjoyed a 13% jump in success since our last study period.

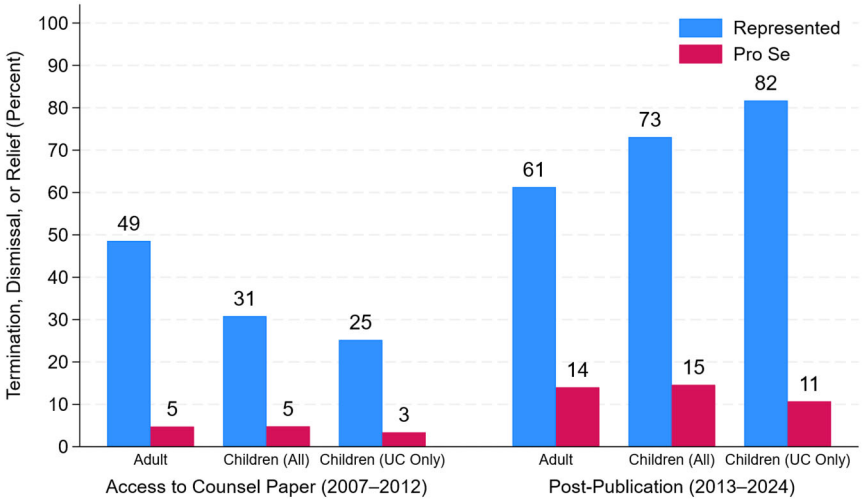
212. *See* Memorandum from Kerry E. Doyle, Principal Legal Advisor, U.S. Immigr. & Customs Enf't, Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion, to All OPLA Att'ys 9 (Apr. 3, 2022), https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_guidanceApr2022.pdf [https://perma.cc/T25R-E5J9].

213. DAVID L. NEAL, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST., DM 22-06, FRIEND OF THE COURT 6 (2022), https://www.justice.gov/eoir/page/file/1503696/dl [https://perma.cc/YP7A-8ANU] (noting that the "Friend of the Court" model is particularly "beneficial in cases involving unaccompanied children, adults with competency issues, and other particularly vulnerable groups").

214. Figure 12 replicates the analysis of Figure 14 in our 2015 study. *See* Eagly & Shafer, *supra* note 4, at 50 & fig.14. For a discussion of how we measure "success," see *infra* Appendix J. All differences between pro se and represented respondents are statistically significant ($p < .001$, two-tailed difference of proportions test).

Moreover, as was the case in our initial access to counsel paper, we find that immigrants who found counsel had very high rates of appearing in court.[215] For the prior study period, 93.9% of those who found representation attended all of their hearings and in the subsequent period (2013 to 2024), 94.2% attended all of their hearings.[216]

Figure 13. Successful Case Outcomes (Termination, Dismissal, or Relief) in Removal Cases Among Adults and Children, 2007–2024



Next, Figure 13 examines success in immigration court among children and adults. Here, we see that both children and adults, as well as the subgroup of unaccompanied children, were more likely to succeed with counsel. In the most recent period since 2013, success rates were higher across the board, but particularly so for children.[217] With counsel, 73% of children succeeded in their removal case, compared to only 15% of those without counsel, making them almost 5 times more likely to succeed.

For unaccompanied children, as seen in Figure 13, 82% succeeded with counsel, compared to only 11% without, making them 7.5 times more likely to succeed. One important reason why unaccompanied children experienced higher success rates with counsel is that they have complicated and unique avenues for relief outside of immigration court, avenues that almost certainly require counsel to successfully navigate. For example, with the reauthorization

215. Eagly & Shafer, *supra* note 4, at 10, 72–75. For a detailed discussion of court appearance and *in absentia* removals, see generally Ingrid Eagly & Steven Shafer, *Measuring* In Absentia *Removal in Immigration Court*, 168 U. PA. L. REV. 817 (2020).

216. Among initial merits completions during the Access to Counsel Paper period (2007–2012), only 27,440 of 447,218 represented individuals were ordered removed *in absentia*, compared to 87,429 of 1,505,422 represented individuals in the subsequent period (2013–2024).

217. For additional background on some of the complexities associated with seeking relief in immigration court for vulnerable children, see Elizabeth Keyes, *Evolving Contours of Immigration Federalism: The Case of Migrant Children*, 19 HARV. LATINO L. REV. 33, 34–40 (2016).

of the TVPRA in 2008, unaccompanied minors gained the ability to seek asylum relief outside of court with U.S. Citizenship and Immigration Services ("USCIS").[218] Having been granted such relief (or having a pending application outside of court) has allowed unaccompanied children to seek termination or dismissal of their immigration court proceedings. In addition, the TVPRA expanded eligibility for a form of relief for children known as Special Immigrant Juvenile Status ("SIJS").[219] This form of relief requires counsel licensed in state court to seek judicial findings as to parental abuse, abandonment, and neglect, only later to seek SIJS with USCIS.[220] Consistent with our findings showing large disparities in outcomes for unaccompanied children with and without counsel, the authors of a recent study on SIJS relief concluded that "[i]t would be practically impossible for a child to file for SIJS without an attorney."[221]

B. *Seeking and Obtaining Relief from Removal*

Our national study also examined the two components of obtaining relief from removal. First, we analyzed whether cases that were not terminated by the judge were more likely to include an affirmative application for relief from removal, such as asylum, when counsel was involved.[222] Second, we analyzed how having counsel was associated with having relief granted when sought.[223]

As replicated on the left side of Figure 14, during the period from 2007 to 2012 there were dramatic differences in the rate of seeking relief between pro se and represented respondents. Detained respondents were 10 times more likely to seek relief if represented, while released and never-detained respondents with counsel were both more than 5 times more likely to seek relief than their counterparts who lacked counsel.

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218. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110-457, § 235(d), 122 Stat. 5079–81 ("An asylum officer . . . shall have initial jurisdiction over any asylum application filed by an unaccompanied alien child . . . .").

219. *Id. See generally* Laila L. Hlass, Rachel Leya Davidson & Austin Kocher, *The Double Exclusion of Immigrant Youth*, 111 GEO. L.J. 1407, 1427–28, 1446 fig.1 (2023) (explaining that the 2008 reforms "marked a broadening of access to SIJS protection" by including "children who were harmed by one but not both parents" and creating "age-out protections").

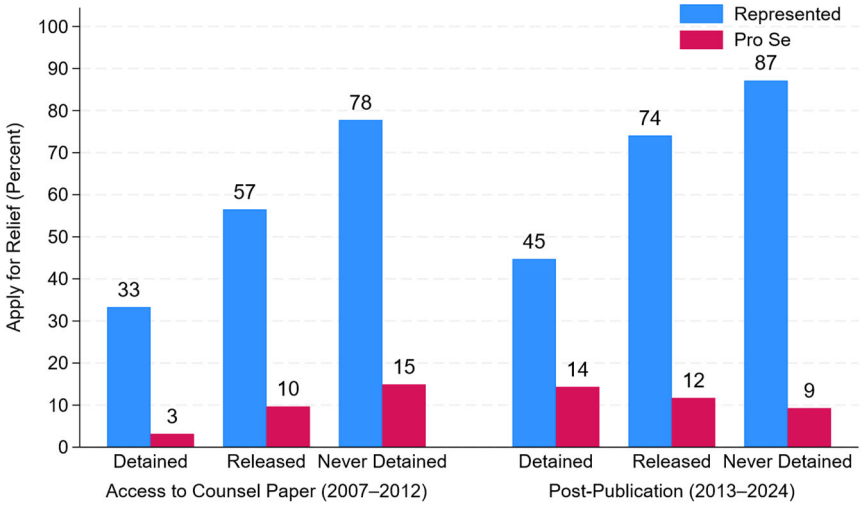
220. *See generally* IMMIGR. LEGAL RES. CTR., WHAT IS SPECIAL IMMIGRANT JUVENILE STATUS (SIJS)? 1, 2 (2024), https://www.ilrc.org/sites/default/files/2024-05/What%20is%20SIJS_May%202024.pdf [https://perma.cc/5QQK-42B5] (explaining that Special Immigrant Juvenile Status gives persons under twenty-one who were "abandoned, abused, or neglected" by a parent "a pathway to a green card").

221. Hlass et al., *supra* note 219, at 1432.

222. Eagly & Shafer, *supra* note 4, at 51 & fig.15. This analysis considered only respondents whose cases were not terminated. Some respondents applied for more than one form of relief. If the respondent withdrew all relief applications before the judge ruled on the merits of the application, we did not count the respondent as having sought relief.

223. *Id.* Other foundational work has produced similar findings on success associated with counsel. *See, e.g.*, Ramji-Nogales et al., *supra* note 46, at 340 (finding that persons seeking asylum were three times more likely to succeed if represented by counsel); Donald Kerwin, *Revisiting the Need for Appointed Counsel*, 4 MIGRATION POL'Y INST., Apr. 2005, at 6 (finding that in fiscal year 2003 represented immigrants in nondetained cases "secured relief in 34 percent of their cases, in contrast to 23 percent of unrepresented, nondetained cases").

Figure 14. Applications for Relief in Removal Cases, by Custody and Representation Status, 2007–2024[224]



As seen on the right side of Figure 14, these patterns persisted in the subsequent years of 2013 to 2024. Never-detained immigrants were 8 times more likely to seek relief with counsel, released immigrants were 5 times more likely, and detained immigrants were 3 times more likely. Also notable in Figure 14 is the increase (from 3% to 14%) in seeking relief among people *without* counsel in detention. As mentioned earlier, these patterns of more robust engagement by pro se respondents could be associated with increased reliance by pro se respondents on federally funded programs that provided people in thirty-five immigrant detention centers with basic information about their legal rights and how to bring pro se claims.[225] Through what is known as the "Legal Orientation Program" detained adults can attend orientation sessions as well as self-help workshops that provide pro se guidance.[226] Termination of these programs by Trump may push down relief seeking in pro se cases.[227]

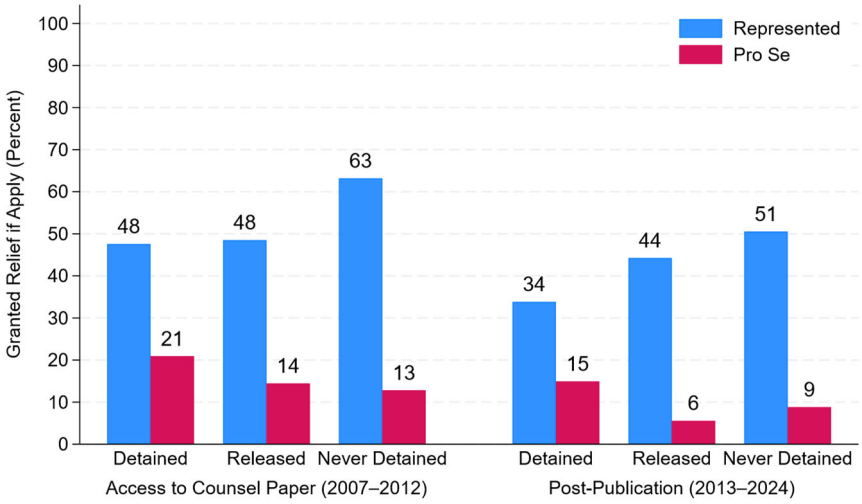
224. Only cases that were not dismissed or terminated are included in Figure 14's analysis. Figure 14 does not consider voluntary departure applications to be applications for relief. Cases in which all applications for relief were withdrawn are also excluded. All differences between pro se and represented respondents are statistically significant ($p < .001$, two-tailed difference of proportions test).

225. U.S. IMMIGR. & CUSTOMS ENF'T, DEP'T HOMELAND SEC., ACCESS TO DUE PROCESS 8–9 (2024), https://www.dhs.gov/sites/default/files/2024-04/2024_0220_ice_access_to_due_process.pdf [https://perma.cc/P9LX-5WQC] (noting expansion of federally funded pro se legal orientation programs).

226. *Legal Orientation Program (LOP)*, ACACIA CTR. FOR JUST., https://acaciajustice.org/what-we-do/legal-orientation-program-lop [https://perma.cc/YMX3-6Y3W].

227. Rachel Uranga, *Justice Dept. Halts Legal Programs for Detained Immigrants, Cuts Off Advocates' Access to Facilities*, L.A. TIMES (Jan. 27, 2025, 2:07 PM), https://www.latimes.com/ca

Figure 15. Relief in Removal Cases Among Those Who Sought Relief, by Custody and Representation Status, 2007–2024[228]



Finally, the findings of our earlier study also prove enduring when analyzing how many immigrants received relief among those who sought it. Between 2013 and 2024, as seen on the right-hand side of Figure 15, detained respondents were 2.3 times more likely to prevail with counsel (34% versus 15%), released respondents were 3.3 times more likely to prevail (44% versus 6%), and never-detained respondents were 6.5 times more likely to prevail (51% versus 9%). We note, however, that across the board the grant rates for persons with and without counsel declined in the most recent period. These lower grant rates may be a symptom of growth in the population seeking relief.[229] That is, as more people seek relief, riskier claims may be filed and fewer may prevail. The lower grant rates may also be associated with new barriers to asylum that were erected during the Trump and Biden years,[230] and pressures

lifornia/story/2025-01-27/some-lawyers-for-detained-children-lose-access-as-doj-halts-programs (on file with the *Iowa Law Review*); *EOIR Acting Director Axes Friends of the Court*, IMMIGR. POL'Y TRACKING PROJECT (May 5, 2022), https://immpolicytracking.org/policies/eoir-rescinds-a-biden-administration-policy-allowing-friends-of-the-court-to-assist-respondents-in-immigration-proceedings [https://perma.cc/99EJ-L3CA].

228. Figure 15 analyzes the case outcomes among those cases considered as applying for relief in Figure 14. Cases in which voluntary departure was granted are counted as removal rather than relief. All differences between pro se and represented respondents are statistically significant ($p < .001$, two-tailed difference of proportions test).

229. *See supra* Figure 14 (showing increases in the percent of noncitizens seeking relief from removal across all custody statuses).

230. *See generally* ANDREW I. SCHOENHOLTZ, JAYA RAMJI-NOGALES & PHILIP G. SCHRAG, THE END OF ASYLUM (2021) (arguing that if recent changes in asylum law and policy are not corrected, it may lead to "the end of asylum"). These asylum restrictions also occurred during the Biden Administration, such as a rule that denies asylum access except under limited circumstances to those who travel through a country before entering the United States. Elora Mukherjee, *The End of Asylum Redux and the Role of Law School Clinics*, 133 YALE L.J.F. 473, 479–85 (2023).

placed on immigration judges to decide complex asylum cases on expedited timelines.[231]

CONCLUSION

Deportation proceedings, as the Supreme Court has noted, can deprive a person of "all that makes life worth living."[232] Yet, too often immigrants must face these proceedings alone, without a legal representative. As Judge Robert Katzmann remarked in 2007, "[j]ustice should not depend upon the income level of immigrants."[233] Responding to Katzmann's call to address this justice gap, in 2013 the first-ever universal representation system for detained immigrants was established in New York City.[234] Since that time, many other states and localities have followed suit in establishing legal services programs for immigrants.[235]

As the second national study on access to counsel, this Article documents that these and other efforts toward expanding the availability of counsel for immigrants have had considerable success. Nationally, we show that since New York opened the doors to the first detained representation program in 2013, the national representation rate for people in detention has more than doubled, from 14% to 31%.[236] Similarly remarkable is the expanded availability of counsel in rural areas and small cities, increasing from 10% to 29% for those who were detained and from 53% to 60% for those who were not detained.[237] Counsel has also become more available for immigrants who do not speak English and for certain nationality groups.[238] For example, Mexican nationals saw their representation rate increase from just 21% to 50%.[239] Highlighting the sheer size of the representation boom, we show that the number of active deportation defense representatives has nearly doubled,[240] and the number of cases with representation grew from only 224,177 in 2006 to over 1.4 million (1,432,628) in 2024.[241]

At the same time, our revisiting project uncovers a patchwork system of immigrant representation that shows serious signs of stress. Although representation in detention has improved, representation for people who are not detained has actually *declined* from 66% to 57%.[242] So too has the

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231. UCLA CTR. FOR IMMIGR. L. & POL'Y, THE BIDEN ADMINISTRATION'S DEDICATED DOCKET 16 (2022), https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Policy/Dedicated_Docket_in_LA_Report_FINAL_05.22.pdf [https://perma.cc/LK7Y-FLY2].

232. Bridges v. Wixon, 326 U.S. 135, 147 (1945).

233. Robert A. Katzmann, *The Legal Profession and the Unmet Needs of the Immigrant Poor*, 62 REC. ASS'N BAR CITY OF N.Y. 287, 289 (2007).

234. Nash, *supra* note 24, at 104.

235. *Immigration Court Legal Representation Dashboard*, *supra* note 11.

236. *See supra* Figure 8.

237. *See supra* Figure 9.

238. *See supra* Figures 6, 7.

239. *See supra* Figure 6.

240. *See supra* Figure 11.

241. *See supra* Figure 5.

242. *See supra* Figure 8.

representation rate in pending cases—from 47% in 2012 to just 31% in 2024.[243] Moreover, some of the increase in representation may have come at the expense of quality. Attorney workloads are up nationwide, and some representatives have taken on thousands of cases in a single year.[244] As caseloads grow, burnout among immigration attorneys becomes a more serious problem.[245]

Efforts at the state and local level to increase funding for deportation defense continue. In New York, the legislature allocated $64.2 million for immigration legal services in its 2026 budget.[246] California, Colorado, and Massachusetts have similarly set aside additional funds for deportation defense of state residents.[247] Minneapolis increased funding for immigration legal services for city residents in its 2025 budget and the City of San Francisco secured $3.4 million in philanthropic funding to support the Public Defender's immigration defense efforts.[248] New Jersey legislators are considering a bill that would establish an immigration unit within the State's Office of the Public Defender.[249]

Addressing supply requires the commitment of law schools to prepare and train future lawyers to enter the field of deportation defense.[250] It also demands thinking creatively beyond access to lawyers. The immigration courts already allow nonlawyers, particularly persons trained as accredited representatives, to provide legal representation.[251] And laypeople can also

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243. *See supra* Figure 3 and accompanying text.

244. *See supra* Table 4.

245. *See* Harris & Mellinger, *supra* note 177, at 772 (finding that asylum attorneys experience high levels of burnout and secondary traumatic stress).

246. Press Release, Vera Inst. of Just., New York Lawmakers Allocate $64.2 Million for Immigration Legal Services, Falling Short of Critical Need amid Growing Threats to Due Process (May 9, 2025), https://www.vera.org/newsroom/new-york-lawmakers-allocate-64-2-million-for-immigration-legal-services-falling-short-of-critical-need-amid-growing-threats-to-due-process [https://perma.cc/XB2E-9NKY].

247. Act to Amend the Budget Act of 2024, S.B. 2, 2025–2026 Leg., Reg. Sess. (Cal. 2025); Press Release, MIRA Coalition, Protecting Our Immigrant Communities Campaign Celebrates Expanded Legal Aid for Immigrants (July 7, 2025), https://miracoalition.org/news/protect-our-immigrant-communities-campaign-celebrates-expanded-legal-aid-for-immigrants [https:// perma.cc/C9YQ-4YAB]; Press Release, American Friends Service Committee, Colorado Bolsters Immigration Legal Defense Funding in State Budget (Apr. 29, 2024), https://afsc.org/newsroom/colorado-bolsters-immigration-legal-defense-funding-state-budget [https://perma.cc/SSX2-RF6H].

248. Sarah Thamer, *Minneapolis 2025 Budget Includes Funding for Immigrant-Centered Initiatives*, MPRNEWS (Dec. 17, 2024, 3:58 PM), https://www.mprnews.org/story/2024/12/17/minneapolis-budget-includes-funding-for-immigrantcentered-initiatives [https://perma.cc/9SXZ-NXBY]; Press Release, Office of the Mayor, Mayor Lurie Takes Action to Protect San Francisco's Immigrant Communities, Support Immigrant Legal Defense (Aug. 5, 2025), https://www.sf.gov/news-mayor-lurie-takes-action-to-protect-san-franciscos-immigrant-communities-support-immigrant-legal-defense [https://perma.cc/BSA6-2275].

249. Assemb. B. 5021, 221st Leg., Reg. Sess. (N.J. 2024).

250. Elinor R. Jordan, *What We Know and Need to Know About Immigrant Access to Justice*, 67 S.C. L. REV. 295, 325 (2016) (emphasizing the role of legal education in immigrant access to justice).

251. *See supra* notes 83, 84 and accompanying text.

provide representation and accompaniment as "reputable individuals."[252] Yet, as we document, these forms of representation are woefully underutilized.[253]

As this Article goes to press, the Trump Administration seeks to mobilize the largest deportation effort in U.S. history.[254] It is already evident that the Administration hopes to funnel more people into deportation by stripping due process protections, including by limiting access to know-your-rights programs, legal representation funded by the federal government, and law firm pro bono volunteers.[255] The empirical foundation set forth in this Article sounds an alarm that without significant infusion of philanthropic and government support to ensure access to legal counsel in removal proceedings, we are likely to see representation rates in U.S. immigration courts drop to all-time lows.

252. *See supra* note 87 and accompanying text.

253. *See supra* Table 2 and accompanying text.

254. *See, e.g.*, Allison McCann, Albert Sun & Eileen Sullivan, *Who Are the Millions of Immigrants Trump Wants to Deport?*, N.Y. TIMES (Jan. 24, 2025, 12:40 PM), https://www.nytimes.com/interactive/2025/01/17/us/immigrants-trump-deportations.html (on file with the *Iowa Law Review*).

255. *See, e.g.*, *supra* notes 3, 15–17 and accompanying text.

APPENDIX

In this Article, we used administrative data from the EOIR to analyze immigration court decisions and the attorneys and other representatives that practice in immigration court.

A. *EOIR DATA*

We primarily relied on EOIR's public data release that we downloaded from the EOIR website in October 2024, containing all cases in the court system through fiscal year 2024.[256] The full database includes 12,825,932 removal proceedings comprising 9,985,829 cases. The case data we analyze spans from 2006 to 2024, comprising almost 8 million removal cases (n = 7,979,864), including 4,342,595 initial merits decisions from 2006 to 2024 and 3,637,269 pending removal cases at the end of our study period (2024). For most analyses, we divided the EOIR cases between our initial study period (2007 to 2012), and the subsequent period (2013 to 2024). Our replication of the initial study period included 1,206,406 initial merits decisions and 313,861 pending cases (as of 2012). The subsequent period (2013 to 2024) included 2,879,681 initial merits decisions and 3,637,269 pending cases (as of 2024).

As we discuss in this Appendix, to analyze immigration attorneys and nonattorney representatives we also utilized EOIR administrative data not available in the public dataset obtained from TRAC at Syracuse University through our appointment as TRAC Fellows,[257] and through FOIA requests we filed in collaboration with TRAC.[258]

B. *REPRESENTED BY COUNSEL OR OTHER REPRESENTATIVE*

As we did in our 2015 study, we used the filing of an EOIR-28 "Notice of Entry of Appearance as Attorney or Representative" to count respondents as represented.[259] EOIR-28 forms may be filed by all types of representatives, including students and reputable individuals.[260] We looked to the *e_28_date* in the *tbl_RepsAssigned* data table to determine if—and when—an EOIR-28 was filed and, if so, what was the earliest date that the form was filed in the case.[261] We also checked the *e_28_date* in the *A_TblCase* data table to see if an EOIR-28 filing date was recorded at the case level.

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256. *FOIA Library*, *supra* note 64.

257. *TRAC Fellows Program*, TRANSACTIONAL RECS. ACCESS CLEARINGHOUSE, https://tracreports.org/fellows [https://perma.cc/3YVG-AG4S]. Specifically, we relied on data file *tbl_RepsAssigned_AllRecords.csv*, obtained from EOIR on December 19, 2024 (on file with authors).

258. Specifically, we relied on data file *Extract1.4_tbl_EOIR_Attorney_AllRecords_idnEOIRID_b6exceptions_11132024.xlsx*, obtained from EOIR on November 13, 2024 (on file with authors).

259. *See supra* note 80 and accompanying text. For other scholars that have also relied on the EOIR-28 form to measure representation with EOIR data, see Kim & Semet, *supra* note 209, at 608; Hausman & Srikantiah, *supra* note 46, at 1829 n.25; and Ian Gabriel Peacock, The "Guts" of Immigration Law: On the People and Contexts that Shape the Administration of United States Immigration Law 128 (2022) (Ph.D. dissertation, University of California, Los Angeles), https://escholarship.org/content/qt5ss761s3/qt5ss761s3.pdf (on file with the *Iowa Law Review*).

260. *See supra* note 82 and accompanying text.

261. *See* Eagly & Shafer, *supra* note 4, at 15.

For pending cases, we counted the case as represented if, by the end of the fiscal year, an EOIR-28 was filed by a representative in the case.

For completed cases, we counted a respondent as represented by counsel if an EOIR-28 form was filed on or before the case completion date.[262] Additionally, like in our 2015 paper, we counted a respondent in a completed case as represented by counsel if an EOIR-28 form was filed after the completion of the merits proceeding, but an attorney appeared in at least one hearing within the relevant merits proceeding.[263] To determine if an attorney appeared in court, we relied on the EOIR attorney identification code (*eoirattorneyid* field) at the hearing level. We excluded from this analysis certain hearings that did not occur.[264]

Finally, we note that as of fiscal year 2023, EOIR began to require representatives to notify the court by filing an EOIR-61 form if they provided "assistance to a pro se respondent with the drafting, completion, or filling in of blank spaces of a specific motion, brief, form, or other document or set of documents intended to be filed with the immigration court."[265] Respondents who receive this form of document assistance under the new rule remain pro se, however, as the representative only provides document assistance and does not serve as counsel of record.[266] Therefore, following EOIR's statistical approach,[267] we do not count persons receiving pro se document assistance as represented by counsel unless an EOIR-28 was filed in the relevant proceeding.[268]

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262. For the date of completion, we relied on the "comp_date" found in the *B_TblProceeding* data table.

263. Eagly & Shafer, *supra* note 4, at 80.

264. To identify hearings that did not occur we relied on hearing adjournment codes such as data entry errors, immigration judge leave, and docket management rescheduling of hearings. *See generally* Memorandum from Michael J. Creppy, Chief Immigr. J., Exec. Off. for Immigr. Rev., U.S. Dep't of Just., Definitions and Use of Adjournment, Call-up and Case Identification Codes, to Deputy Chief Immigr. JJ., All Assistant Chief Immigr. JJ., All Immigr. JJ., All Ct. Adm'rs, All Support Staff 2–8 (June 16, 2005), https://libguides.law.ucla.edu/ld.php?content_id=69072591 [https://perma.cc/C48S-KX35]; Memorandum from Jean King, Acting Dir., Exec. Off. for Immigr. Rev., U.S. Dep't of Just., New Method for Updating Adjournment, Call-up, and Case Identification Codes, to All of EOIR 1 (Sept. 16, 2021), https://libguides.law.ucla.edu/ld.php?content_id=75294397 [https://perma.cc/D3EK-MRHW]; *EOIR Policy Manual: Appendix O – Immigration Court Adjournment Codes*, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T JUST. (Apr. 2024), https://www.justice.gov/eoir/eoir-policy-manual/appendices-o [https://perma.cc/57PU-AZ2B].

265. 8 C.F.R. § 1003.17(b) (2025); *see also* NOTICE OF ENTRY OF LIMITED APPEARANCE FOR DOCUMENT ASSISTANCE BEFORE THE IMMIGRATION COURT: FORM EOIR-61, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T OF JUST. (Nov. 2022), https://www.justice.gov/eoir/media/1259466/dl?inline [https://perma.cc/F74Y-7XAJ] (notice form).

266. Professional Conduct for Practitioners-Rules and Procedures, and Representation and Appearances, 87 Fed. Reg. 56247, 56254 (Sept. 14, 2022) (codified at 8 C.F.R. § 1003.17) ("In cases where a practitioner enters a limited appearance for document assistance, the noncitizen remains pro se and unrepresented in the EOIR proceedings.").

267. *See* EXEC. OFF. FOR IMMIGR. REV., *supra* note 12 ("An alien who has representation but whose representative has not yet filed a Form EOIR-28 with EOIR is counted as unrepresented.").

268. For an empirical analysis of the frequency of usage of the new Form EOIR-61, see *Immigrants Received Legal Help in Court 23,516 Times in First Year and a Half of New Rule*, TRAC IMMIGR. (June 21, 2024), https://tracreports.org/reports/744 [https://perma.cc/62NE-VN84].

C. EOIRATTORNEYID

EOIR associates every attorney and accredited representative who practices in immigration court with one or more 36-digit codes known as an "eoirattorneyid."[269] In total, the EOIR data we analyzed contained 388,939 entries with attorney names and firm information, each associated with a unique 36-digit eoirattorneyid.[270] These 388,939 36-digit entries on the attorney data table dated as far back as 1996 when the database was created, through November 11, 2024.

In this Article, we relied on these 36-digit eoirattorneyids to measure the activity of attorneys in immigration court. Specifically, the 36-digit eoirattorneyid is associated with the filing of the EOIR-28 form at the case level (*tbl_RepsAssigned_All Records*). In addition, if a representative is scheduled to appear in a court hearing, the 36-digit eoirattorneyid is recorded at the hearing level (*tbl_Schedule*).

Eoirattorneyids do not, however, allow us to count the number of unique attorneys. This is because a single person can have multiple 36-digit codes, with some attorneys having 100 or more.

D. EOIR ID NUMBER

As of December 10, 2013, EOIR required all attorneys and accredited representatives to complete a new registration process.[271] The registration process begins online and is completed when the representative goes in person to their local immigration court so that EOIR staff can verify their identity documents.[272] Once registered, the attorney or accredited representative receives a unique 8-digit code known as an "EOIR ID."[273]

Since 2021, we sought, in collaboration with researchers at TRAC, EOIR ID records through the Freedom of Information Act. Although EOIR did not release the actual EOIR ID numbers, they did release "pseudo" EOIR ID numbers, meaning an identifier that allowed us to group all cases handled under that number to a single attorney. However, the pseudo EOIR ID numbers unfortunately are not a proxy for the number of attorneys and reputable individuals. Of the 69,586 "active" representatives in the data, 71% had at least one EOIR ID ($n = 49{,}701$); yet, among these representatives who had an EOIR ID almost four in ten (38%) had more than one ($n = 18{,}945$). For example, one attorney had an EOIR ID associated with work at the ABA

269. Note that any given attorney may have multiple associated EOIR attorney identification numbers.

270. We relied on data file *Extract1.4_tbl_EOIR_Attorney_AllRecords_idnEOIRID _b6exceptions_ 11132024.xlsx*, for this eoirattorneyid information. *See supra* note 258.

271. *General Instructions*, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T JUST., https://portal.eoir.justice.gov/Content/PDFs/Instructions.pdf [https://perma.cc/DY9C-SXV3].

272. *eRegistration Validation Process*, EXEC. OFF. FOR IMMIGR. REV., U.S. DEP'T JUST. (Feb. 24, 2025), https://www.justice.gov/eoir/eregistry-program [https://perma.cc/5WL8-FEFB]. *See generally* EXEC. OFF. FOR IMMIGR. REV., *supra* note 85, at 21 (explaining that "the EOIR ID number issued by EOIR through the eRegistry process must be provided on the Form EOIR-28").

273. Note that students and reputable individuals do not go through this registration process. As a result, they only have 36-digit eoirattorneyid codes, not EOIR ID numbers.

Immigration Justice Project and a second associated with work at the La Raza Community Resource Center.

E. Unique Representatives

To determine how many unique representatives practice in immigration court, we needed to work with representative names.[274] The process of cleaning representative names required careful review, using the information available in the data (including representative name, representative type, firm name, eoirattorneyid, and pseudo EOIR ID number). Our objective was to create a single, standardized name for each representative to unify their many entries under one name.

We entered all names as: LAST NAME(S), FIRST NAME, MIDDLE NAME(S)/INITIAL. We always used the longest, fullest version of the name that was available in the data. For example, if one entry included the attorney's full middle name, while another only the middle initial, we used the version with the full middle name. Or, if one entry included two last names and the other did not, we included both last names. We also removed all honorific titles, such as Esq., Rev., Dr., Ms., and Mr., and standardized the punctuation used in the names.

To identify individual representatives, and to distinguish among attorneys with similar or identical names, we conducted additional online research through sources such Martindale Hubble, LinkedIn, state bar websites, attorney member organizations such as AILA, lists of accredited representatives, and attorney biographies on law firm or nonprofit websites. For example, using a combination of LinkedIn and the California bar webpage we could determine that a person listed as an accredited representative at the International Institute was the same person as who was later listed as working as an attorney at Sheppard Mullin. To further ensure we fixed inconsistent spellings and formatting of representative names, we utilized a coding strategy that identified similar names for manual review and made corrections where appropriate, linking name variations of a single representative under one common final name.

After completing our analysis, the 388,939 original entries of attorney names and firm information, each associated with a unique 36-digit eoirattorneyid, were reduced to 100,808 unique representatives in the data.[275]

F. Accredited Representatives

To identify accredited representatives in the EOIR data, we relied on several data sources.

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274. Here, we relied on data file *Extract1.4_tbl_EOIR_Attorney_AllRecords_idnEOIRID_b6exceptions_11132024.xlsx. See supra* note 258.

275. Of the 388,939 entries, we excluded 416 entries designated by EOIR as test entries (e.g., "INVALID CODE," "THIS IS A TEST," "XXXXXXXDuplicate Entry," or "DO NOT USE"), where an attorney name was withheld due to privacy concerns, or where only a firm name that could not be reliably associated with an attorney name was listed in the attorney name field.

First, we reviewed EOIR's list of accredited representatives that was last updated on December 16, 2024.[276] Our first step was to limit the list to the 451 representatives that were designated as "fully accredited" and able to appear in immigration court. Next, we coded the accredited representative names, using the same format established for names in the data table discussed above, ensuring that the names were entered in a consistent way. For example, an accredited representative with the Refugee and Immigrant Center for Education and Legal Services used a middle initial in the accredited representative data but not in the attorney data table, so we ensured that the two names matched and could be merged. Note that some accredited representatives later become attorneys.

We identified additional accredited representatives by reviewing the EOIR attorney data table for notations associated names such as "Accredited Representative" or "Accr. Rep." We also identified accredited representatives by relying on the repcode of "AR" contained in the EOIR attorney assignments data.[277]

G. Representative Discipline

We compiled a list of current and formerly disciplined attorneys by coding data we obtained from EOIR's website.[278] To link the names of disciplined attorneys with the attorney data table, we followed the same name standardization procedure as discussed above for accredited representatives.

H. Law Students and Reputable Individuals

Our analysis of law students/law graduates and reputable individuals relies on the repcode ("LS–G," "RI"). In addition, we used notations included in the data indicating that the person had that status (such as "law student," "student attorney," "reputable individual," or "respondent's brother").

I. Merits Decisions and Pending Cases

We considered removal cases to be completed on the merits if they ended in an order of removal or a grant of voluntary departure, relief, termination, or dismissal. The earliest merits decision in each case was treated as the relevant judicial decision for analysis of representation rates for completed cases and for case outcomes. We used the completion date of the initial merits proceeding to calculate the fiscal year.[279]

Cases that ended in administrative closure, a docketing management tool used to temporarily remove a case from the judge's docket, were not considered

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276. EXEC. OFF. FOR IMMIGR. REV., *supra* note 167.

277. We relied on data file *Extract1.4_tbl_EOIR_Attorney_AllRecords_idnEOIRID _b6exceptions _11132024.xlsx*. *See supra* note 258. All 388,939 entries associated with a unique 36-digit eoirattorneyid had an associated repcode indicating the type of representative.

278. *See supra* note 179 and accompanying text.

279. In the small number of cases in which multiple merits proceedings were completed on the same day, the proceeding with the earliest hearing date (or input date if no hearing date was available) was chosen.

initial merits completions. Instead, we looked to the next proceeding (if any) to determine if the judge ordered termination, dismissal, relief, voluntary departure, or removal. If the judge did, we treated that merits outcome as the relevant case outcome.

Cases were considered pending for each year since entering the EOIR system until an initial decision on the merits was reached. Accordingly, proceedings that ended in change of venue or transfer were included as pending in the new jurisdiction. Cases that did not reach a merits outcome but were administratively closed and remained so (or ended in zero bond outcome) were counted as pending until the date of that immigration judge decision.

Although cases generally conclude after reaching the initial merits decision, some cases do go on to later have a subsequent merits decision, such as after a remand from an appeal. To not double count cases, this Article does not analyze representation or case outcomes in these subsequent merits decisions, nor does it count those cases as pending.

J. MEASURING SUCCESS

We coded each case as resulting in one of five possible decisions: case termination; dismissal; grant of relief; voluntary departure; and removal. We treated voluntary departure as a form of removal, as it requires the respondent to leave the United States. We counted termination, dismissal, and a grant of relief as successful outcomes for the respondent.

K. CHILDREN

This Article analyzes removal cases of children, including both children overall and the subgroup of unaccompanied children.

Fortunately, our ability to identify children in the EOIR data has improved since our 2015 national study. First, as of 2015 EOIR began to regularly record birthdate information (*c_birthdate*). For cases initiated in 2006, almost zero removal cases contained a birthdate, but that percentage had increased to more than half by 2014 and reached 95% by 2024.[280] Second, while EOIR had established some specialized court "dockets" for the cases of unaccompanied children as early as 2000,[281] this practice expanded to many more cities

280. Fiscal year of case initiation is measured by the fiscal year in which the case was input into the EOIR database, was scheduled for a hearing, or reached a completion, whichever was earliest. Regarding birthdate data, only 1,177 of 247,374 case initiations in 2006 (0.5%) had birthdate data, while in 2024, the number reached 1,793,052 of 1,888,312 case initiations (95%).

281. As Michael Creppy testified before Congress in 2002, the first "special juvenile docket" began in "the summer of 2000 [when] the immigration court established a pilot program in Phoenix" with the goal of increasing access to pro bono lawyers by grouping all juvenile cases in front of one judge. *The Unaccompanied Alien Child Protection Act, Before the Subcomm. on Immigr. of the S. Comm. of the Judiciary*, 107th Cong. 7 (2003) (statement of Michael Creppy, Chief Immigr. J., Exec. Off. for Immigr. Rev., U.S. Dep't of Just.). By 2002 the "juvenile docket" model had expanded to "Harlingen, Texas; York, Pennsylvania; Los Angeles, California; and San Diego and San Francisco, California." *Id.*

during our more recent study period of 2007 to 2024.[282] Third, EOIR started using additional case priority codes (*tbl_CasePriorityHistory*) to identify unaccompanied children as well as children accompanied by adults.[283] Finally, EOIR created a separate *tbl_JuvenileHistory* data table to capture relevant juvenile case identifiers,[284] previously included in the *A_TblCaseIdentifier* data table.[285]

All Children. In the immigration context, children are generally defined as unmarried persons under the age of twenty-one for purposes of immigrant petitions and lawful permanent residence,[286] and under the age of eighteen for purposes of acquiring citizenship through a parent at birth.[287] By statute, unaccompanied children are defined as being under eighteen years of age at the date of entry.[288] For consistency across our analysis of children and

282. *See generally* Memorandum from MaryBeth Keller, Chief Immigr. J., Exec. Off. for Immigr. Rev., U.S. Dep't of Just., Guidelines for Immigration Court Cases Involving Juveniles, Including Unaccompanied Alien Children, to All Immigr. JJ., All Ct. Adm'rs, All Att'y Advisors, All Jud. L. Clerks & All Immigr. Ct. Staff 5 (Dec. 20, 2017), https://libguides.law.ucla.edu/ld.php?content_id=38593215 [https://perma.cc/553U-2YET] ("Wherever feasible, courts should conduct cases involving juvenile respondents, particularly unaccompanied alien children, on a separate docket or at a fixed time in the week or month.").

283. *See generally* Memorandum from Brian M. O'Leary, Chief Immigr. J., Exec. Off. for Immigr. Rev., U.S. Dep't of Just., Docketing Practices Relating to Unaccompanied Children Cases and Adults with Children Released on Alternatives to Detention Cases in Light of the New Priorities, to All Immigr. JJ. 1 (Mar. 24, 2015), https://libguides.law.ucla.edu/ld.php?content_id=38074103 [https://perma.cc/S7DC-ENCV] (discussing the new UC priority code); Memorandum from Print Maggard, Chief Immigr. J. (Acting), Exec. Off. for Immigr. Rev., U.S. Dep't of Just., Revised Docketing Practices Relating to Certain EOIR Priority Cases to All Immigr. JJ. & All Ct. Adm'rs 1–2 (Feb. 3, 2016), https://libguides.law.ucla.edu/ld.php?content_id=38074108 [https://perma.cc/PDK2-G75V] (directing continued use of the UC priority code).

284. After EOIR confirmed in 2017 that it relied solely on the juvenile history data table for its statistics on children, TRAC determined that this method was faulty and incomplete. *Immigration Court's Data on Minors Facing Deportation Is Too Faulty to Be Trusted*, TRAC IMMIGR. (Dec. 2, 2021), https://tracreports.org/immigration/reports/669 [https://perma.cc/BYV4-YE5M]. Following TRAC, we also find this coding to be incomplete. *See Detained Immigration Courts*, *supra* note 55, at 774. However, for purposes of this Article we find these codes to be reliable when used in connection with the other tools to identify children. For an early discussion of J codes and their limitations, see NINA SIULC, ZHIFEN CHENG, ARNOLD SON & OLGA BYRNE, VERA INST. OF JUST., LEGAL ORIENTATION PROGRAM: EVALUATION AND PERFORMANCE AND OUTCOME MEASURE REPORT, PHASE II, at 79–80 (2008), https://vera-institute.files.svdcdn.com/production/downloads/publications/LOP_evalution_updated_5-20-08.pdf [https://perma.cc/K2FM-DZ29].

285. For further discussion of these case identifier codes, see Memorandum from David L. Neal, *supra* note 98, at 8–9.

286. INA § 101(b)(1), 8 U.S.C. § 1101(b)(1).

287. *See Obtaining U.S. Citizenship Under the Child Citizenship Act*, U.S. DEP'T STATE (Oct. 24, 2024), https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/us-citizenship/child-citizenship-act-of-2000.html [https://perma.cc/BL4U-A89J].

288. 6 U.S.C. § 279(g)(2) (defining "unaccompanied alien child" as "a child who— (A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom— (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody"). *See generally* Galli & Padilla, *supra* note 97, at 3.

unaccompanied children, in this Article we define children as under the age of eighteen.[289]

To create our analytical sample for all children, we followed a number of steps. First, where age information was available, we began by using cases of children who were eighteen or younger at the time of the Notice to Appear ("NTA").[290] We used this slightly older age cutoff at our first stage of analysis (including those who had turned eighteen) because lags in filing the NTA can mean that someone who was a child at the date of entry had turned eighteen by the time the NTA was filed.[291]

After this initial step of identifying children by age,[292] we added all additional cases (without age listed) that had an indication of child status:

- Cases with a code indicating child status in the juvenile history table at any proceeding;[293]
- Cases with an Unaccompanied Child ("UC") case priority code;[294] and
- Cases ever listed on a specialized juvenile docket at the proceeding or hearing level.[295]

We then excluded cases with the following indicators of adult status:

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289. In this way, we adopt EOIR's definition of a "juvenile," that is, under the age of eighteen. 8 C.F.R. § 1236.3(a) (2025).

290. For our age calculations, we chose to rely on the date of the NTA, rather than the date of entry because the date of entry was less consistently available in the EOIR data. Of the 4,086,087 initial merits completion from 2007 to 2024, only 106 cases (>0.00%) lacked an NTA date, NTA compared to 1,405,053 cases lacking an entry date (34%). In this way, our analysis differs from Galli and Padilla who relied first on date of entry to measure age, and then NTA when entry date was not available. Galli & Padilla, *supra* note 97, at 9 & tbl.1.

291. As TRAC has found, sometimes delays in filing an NTA can be as long as a year. *Immigration Court Filings Take Nose Dive, While Court Backlog Increases*, TRAC IMMIGR. (Oct. 30, 2017), https://tracreports.org/immigration/reports/487 [https://perma.cc/79YN-HR49].

292. Of the 9,985,829 cases in the full database, 5,994,444 had age data, excluding 183 cases where the age at NTA was negative or over 100. Among cases with reliable age data, 1,932,431 removal respondents were under the age of nineteen at the time the NTA was filed.

293. These codes include "AJ, Accompanied Juvenile," "J, Juvenile Case," "J1, Juvenile Has Been Released to Guardian," "J2, Unaccompanied Juvenile – Asylum," and "UJ, Unaccompanied Juvenile." Inclusion of cases with these juvenile codes increased the count of children by 86,921 cases.

294. Although 4,610 cases included the UC case priority code, there was considerable overlap among age, juvenile codes, and the UC priority code. As such, inclusion of the UC priority code increased the total number of children at this stage by 55 cases.

295. Focusing on these specialized dockets increased the number of children by 13,464 cases. We identified these specialized dockets by reviewing and researching the hearing locations in the EOIR data. These children's dockets included, for example, EPJ (El Paso Juvenile), HJV (Harlingen Juvenile), PHJ (Phoenix Juvenile), SDJ (San Diego Detained Juvenile), and SJD (San Antonio Juvenile Detained). We confirmed that these dockets were dedicated to children by checking the mean and median age of individuals whose cases were heard at these locations, and by looking for the presence of identification codes related to unaccompanied children. TRAC has similarly analyzed "special hearing locations that are devoted to holding hearings for unaccompanied juveniles" to identify unaccompanied juvenile cases. *TRAC Report on Children*, *supra* note 79. Galli and Padilla also relied on these dockets in their analysis of unaccompanied children. Galli & Padilla, *supra* note 97, at 9–10.

- Cases ever listed as part of the Institutional Hearing Program;[296]
- Cases ever listed as a *Franco* class member;[297] and
- Cases not otherwise categorized as a child (i.e., not marked as accompanied or unaccompanied, and no J code in the juvenile history table) with age information of eighteen or older.[298]

After completing these steps, we identified a total of 837,434 children's removal cases decided on the merits between 2007 and 2024, or 20% of 4,086,087 initial merits decisions in our study.

Unaccompanied Children. To identify the subset of unaccompanied children, we began by including all cases who were eighteen or younger at the time of the NTA or who lacked age data but included indicia of unaccompanied child status:

- Those on a specialized juvenile docket;
- Those with juvenile history code J1, J2, or UJ; and
- Those with a UC case priority code.[299]

Next, to ensure we had captured only unaccompanied children, we excluded cases that had ever been:

- Designated as an accompanied juvenile (AJ) in the juvenile history data table;
- Scheduled at a family docket hearing location (Migrant Protection Protocols, Family Unity Cases or Dedicated Dockets, as well as hearing locations associated with Family Detention);
- Listed with a family case priority code in the *tbl_CasePriority* History data table (AWC for adults with children);
- Listed with a case identification code indicating part of a family (FAMU for family unity, MPP for Migrant Protection Protocols, or DD for dedicated docket);
- Listed as part of the Institutional Hearing Program;
- Listed as a *Franco* class member; or

296. The Institutional Hearing Program ("IHP") and the *Franco* class both include individuals who are detained or incarcerated, indicators of adult status. A total of 3,957 were excluded for having been involved with the IHP or *Franco* programs. For more on the IHP, see Ingrid Eagly & Steven Shafer, *The Institutional Hearing Program: A Study of Prison-Based Immigration Courts in the United States*, 54 LAW & SOC'Y REV. 788, 822–24 (2020).

297. *See supra* note 3. For more on access to counsel under *Franco*, see Amelia Wilson, Franco *I Loved: Reconciling the Two Halves of the Nation's Only Government-Funded Public Defender Program for Immigrants*, 97 WASH. L. REV. ONLINE 21, 22–32 (2022).

298. By focusing again on age as the final step of our analysis we excluded 80,265 cases, leaving a total of 1,951,235 children among 9,985,829 total cases in the full database of removal cases.

299. Of the 9,985,829 total cases in the full database, 302,025 had ever been scheduled on a juvenile docket. The UC case priority code, along with the relevant juvenile history codes, increased the number of unaccompanied minor cases to 440,301. Galli and Padilla also relied in part on UC priority codes to identify unaccompanied minors. Galli & Padilla, *supra* note 97, at 10.

- Listed in a consolidated case with another respondent nineteen years or older (by looking at our age calculation in conjunction with the *tbl_Lead_Rider* data table).[300]

After completing these steps, we identified a total of 274,764 removal cases of unaccompanied minors that reached an initial merits decision between 2007 and 2024, or 7% of all initial merits decisions.

300. Of the 440,301 cases identified as unaccompanied minors, we excluded 48,239 that met any of these criteria for exclusion, leaving 392,062 cases identified as unaccompanied minors across the entire database.