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PRESS RELEASE

# 11 Years of Government Data Reveal That Immigrants Do Show Up for Court

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**WASHINGTON**—A new report released today by the American Immigration Council examines 11 years of government data on the rate at which immigrants appear for hearings in U.S. immigration court. The report, "**Measuring *In Absentia* Removal in Immigration Court** (<https://www.americanimmigrationcouncil.org/research/measuring-absentia-removal-immigration-court>)," concludes that an overwhelming 83% of immigrants attend their immigration court hearings, and those who fail to appear in court often did not receive notice or faced hardship in getting to court.

As the new administration of President Joe Biden considers how to reform the immigration system, including the immigration courts, this report reveals how reliance on detention, access to legal representation, and immigration judges' docket management impact immigrants' appearance rate.

The report draws on government data from 2,797,437 immigration court removal proceedings held between 2008 to 2018. It documents how individuals who were never detained and those who were released from detention proceeded through court and what obstacles they faced in pursuing their immigration cases.

The report finds that people released from immigration detention and individuals with attorneys overwhelmingly attend their hearings. Data also show that immigration judges have a vital role in maintaining due process. The findings further demonstrate that the creation of an independent

structure for the immigration courts would help reduce the prevalence of unwarranted *in absentia* removal orders and give immigration judges more discretion in managing their dockets and individual case decisions.

The main findings of the report include:

- 83% of nondetained immigrants with completed or pending removal cases attended all of their hearings.
- 96% of nondetained immigrants represented by a lawyer attended all of their hearings.
- 15% of those who were ordered deported because they did not appear in court successfully reopened their cases and had their removal orders rescinded. In some years, as many as 20% of all orders of removal for missing court were later overturned.
- Individuals who apply for relief from removal have especially high rates of appearance.
- Appearance rates vary strongly based on the immigration court's location.
- The Executive Office for Immigration Review's method for measuring the rate at which immigrants fail to appear in court presents a limited picture of the frequency of missed court appearances.

“The empirical research presented in this report debunks the myth that immigrants don’t show up for court,” said **Ingrid Eagly, professor of Law at UCLA School of Law**. “Relying on the government’s own immigration court data, co-author Steven Shafer and I find that, since 2008, 83% of all immigrants in nondetained deportation cases have attended all of their court hearings. In addition, over the 11 years of our study, 96% individuals represented by an attorney attended all of their court hearings.”

“Today’s report verifies what those who have worked in the immigration court system already knew: immigrants overwhelmingly show up in court. We hope that this data finally puts to rest a false narrative about immigrants’ appearance rates that past administrations used to justify restrictive and cruel immigration policies,” said **Aaron Reichlin-Melnick, policy counsel at the American Immigration Council**. “After previous administrations spent years funding immigration enforcement to address a small set of individuals who miss court, the Biden administration has the opportunity change course. To ensure even higher appearance rates, the new administration should focus on updating immigration court technology, providing better resources to orient immigrants, and working to ensure that all immigrants navigating our removal system are represented by counsel. As Congress debates immigration reform, this report shows that it’s time to revisit harsh and punitive laws that require judges to enter deportation orders for a single missed hearing and which limit the ability of the government to appoint counsel.”

“The findings of this timely report confirm what many of us formerly on the immigration bench have known for years: represented asylum seekers appearing before fair, knowledgeable judges show up for virtually all of their immigration court hearings,” said **Paul Wickham Schmidt, former immigration judge and board member for the Board of Immigration Appeals**. “The findings refute one of the many ‘big lies’ and ‘bogus narratives’ promoted by the last administration to demean and dehumanize asylum seekers and wrongfully deprive them of their legal and constitutional rights. The Biden administration should pursue changes that would provide immigration judges greater independence and discretion and support the creation of an independent structure for the immigration courts.”

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