



CONGRESSIONAL HISPANIC CAUCUS

Joaquin Castro | Chairman
116th Congress

June 16, 2020

Director James McHenry
Executive Office for Immigration Review
5107 Leesburg Pike
P.O. Box 621506, Stop 211
Falls Church, VA 22041

Dear Director McHenry:

We are deeply concerned by the recent reports that the Executive Office for Immigration Review (EOIR) is releasing incomplete data on immigration court proceedings and deleting potentially irretrievable data¹. Reliable public data of court operations is an essential characteristic of any court system. Any mismanagement or manipulation of immigration court data only further undermines the public's confidence in the fundamental fairness of an immigration court system that is under the control of the Department of Justice (DOJ).

The Transactional Records Access Clearinghouse (TRAC) has repeatedly relayed its concerns to EOIR about the severe irregularities contained in EOIR's data sets², including in the number of applications for relief. Rather than addressing the documented deficiencies in the data, the number of deleted records continue to rise at alarming rates. Even after the agency assured the public that the Office of Information Technology would review the immigration court data before future releases in the fall of 2019³, TRAC noticed that none of the original missing relief applications had been restored. These concerns prompted the Government Accountability Office (GAO) in January 2020 to initiate an investigation into EOIR's data management⁴. Since then, there has only been an increase in missing court records. The volume of missing data has reached a degree that prompts an urgent question if the agency is able to adequately manage itself⁵.

EOIR's release of inaccurate and incomplete data obstructs the public's right to be informed about government operations and undermines EOIR's responsibility to fully and accurately respond to FOIA requests. Furthermore, EOIR's failure to respond to reports of missing data is alarming and only serves to heighten community distrust. These concerns require immediate action. We ask that you clearly explain what has prompted official government records to go missing, what is being done to recover those records, and what steps the agency is taking to ensure accurate and reliable dissemination of information about immigration court operations going forward.

¹ <https://talkingpointsmemo.com/prime/weekly-primers/this-week-trump-swamp-asylum-cases-missing-records-disappear>

² <https://trac.syr.edu/immigration/reports/580/>

³ <https://trac.syr.edu/immigration/reports/586/>

⁴ <https://www.law360.com/articles/1238391/gao-to-probe-missing-doj-immigration-records>

⁵ <https://trac.syr.edu/immigration/reports/611/>

We request that the agency provide a detailed account of these missing records and commit to providing the public with accurate and reliable data about immigration court operations in the future.

We respectfully ask that EOIR promptly address the following questions thoroughly:

1. What are the current policies and procedures that govern recordkeeping at EOIR?
2. What has prompted official records to go missing from public data releases?
3. Are official records missing from EOIR's master database? If so, how many records appear to be missing? What types of records are missing?
4. Are these removals or deletions intentional? If so, is EOIR keeping track of what is being deleted and how have you chosen records for removal?
5. If this information is only being removed from the publicly released data, please explain why this change in policy has occurred?
6. It appears that most of the missing information concerns cases involving applications for relief. Why are these types of cases missing?
7. Does EOIR back files up? If so, where and in what format?
8. Does a missing case record have a substantive impact on individual cases, if appealed?

We believe that it is in the public interest to understand how the immigration court system is working. We expect these problems to be quickly resolved, and we look forward to your response and plan of action.

Sincerely,

Joaquin Castro
Member of Congress

Tony Cárdenas
Member of Congress

Nydia M. Velázquez
Member of Congress

Juan Vargas
Member of Congress

Jesús G. "Chuy" García
Member of Congress

Norma J. Torres
Member of Congress

Ruben Gallego
Member of Congress

Darren Soto
Member of Congress

Sylvia R. Garcia
Member of Congress

Grace F. Napolitano
Member of Congress

Adriano Espaillat
Member of Congress

Raul Grijalva
Member of Congress

Alexandria Ocasio-Cortez
Member of Congress

Albio Sires
Member of Congress