

Share of Immigration Cases Ending in Deportation Orders Hits Record Low

During the first three months of FY 2012, cases disposed of in the nation's Immigration Courts showed a drop in deportation orders⁽¹⁾ and an increase in the number of individuals allowed to stay in the United States.

In percentage terms, the shift was striking. In only about half of the cases (50.8 percent) were individuals ordered removed. This was down substantially from the 56.1 percent who were ordered removed during the previous quarter. Nationally, this is the smallest share ever recorded in court data tracking outcomes during the past two decades.

An additional 14.0 percent received a so-called "voluntary departure" order to leave the country, up slightly from 13.2 percent during the previous quarter. Counting both removal and voluntary departure orders, slightly fewer than two out of every three cases (64.8 percent) in the first quarter of FY 2012 ended in a deportation order, also an historic low.

Note that these dramatic changes may be related to a review by ICE of all pending Immigration Court cases. The aim of this review, announced on August 18, 2011, was to identify cases which were not deemed to be enforcement priorities (see [below](#)).

Details on the change that has taken place nationally during the last six months are shown in Table 1. These results are from an analysis of case-by-case Immigration Court records obtained from the Executive Office for Immigration Review (EOIR) by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University under the Freedom of Information Act (FOIA).

Table 1. Immigration Court Closures by Type of Outcome

| | Cases Closed | | Percent | |
|--------------------------------|--------------|--------------|--------------|--------------|
| | Jul-Sep 2011 | Oct-Dec 2011 | Jul-Sep 2011 | Oct-Dec 2011 |
| Ordered Deported | | | | |
| Removal ordered | 28,948 | 26,957 | 56.1% | 50.8% |
| Voluntary departure ordered | 6,823 | 7,405 | 13.2% | 14.0% |
| Subtotal | 35,771 | 34,362 | 69.3% | 64.8% |
| Allowed to stay in U.S. | | | | |
| Relief granted | 6,739 | 9,497 | 13.1% | 17.9% |
| Case terminated | 6,567 | 6,228 | 12.7% | 11.7% |
| Administratively closed | 2,133 | 2,541 | 4.1% | 4.8% |
| Subtotal* | 15,439 | 18,266 | 29.9% | 34.4% |
| Total completed cases** | | | | |
| | 51,625 | 53,064 | 100.0% | 100.0% |

* Subtotal for those allowed to stay in U.S. includes a small number of miscellaneous closures not separately tabulated.

** Fiscal year 2012 current through December 31, 2011; the overall volume of closures may increase somewhat since late reports are not yet reflected in these numbers. For more details see TRAC's [interactive tool](#).

When Immigration Court cases are closed without a deportation order, individuals are allowed to remain in the country, at least temporarily. During the first quarter of fiscal year 2012, a total of 18,266 cases were closed in this manner, up from 15,439 in the previous quarter. The largest jump occurred in the number and proportion of individuals

who were granted relief. The court ruled that under provisions of the immigration statutes, these individuals were legally entitled to remain in this country.

Another way of looking at these numbers is that among individuals alleged by ICE to have violated immigration laws, more than one in three (34.4 percent) were allowed to stay in the U.S. Figure 1 tracks quarterly trends over the last four years. Again, this past quarter represented an historic high. (For earlier time periods, see [this chart](#) from TRAC's [immigration report of November 9, 2010](#).)

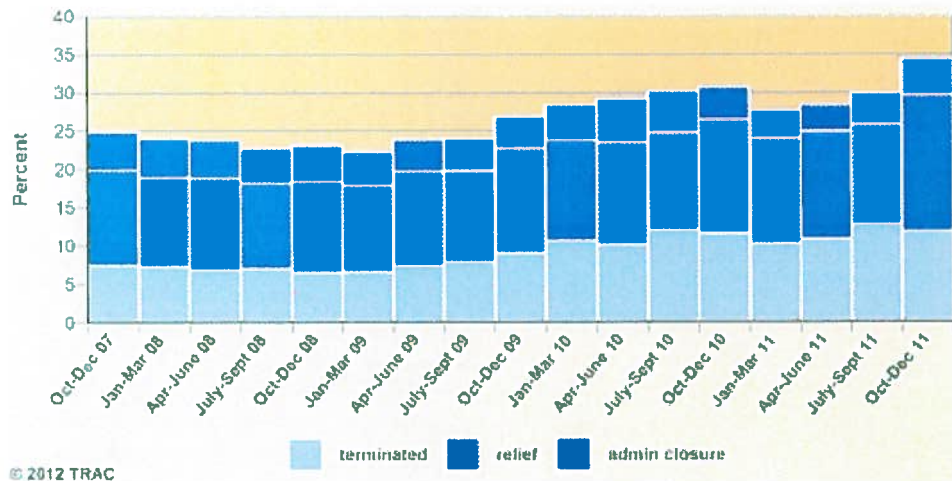
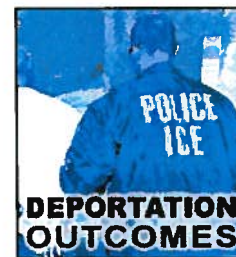


Figure 1. Percent of ICE Immigration Court Filings for Deportation Orders Not Granted, by Quarter.

Full details for each Immigration Court can be viewed by using TRAC's newly updated [Deportation Outcomes](#) application, now current with data through the end of December 2011. The information, which includes the type of charge, the nationality of the individual involved and the location of each action, can be examined by state, Immigration Court and hearing location.



ICE Review of All Pending Immigration Court Cases

Special circumstances may have contributed to the changes observed during the first quarter of FY 2012. On August 18, 2011, the Administration announced [a review](#) of all cases pending before and incoming to the Immigration Courts, using the factors set out in a June 17, 2011 [agency directive](#) on prosecutorial discretion. The objective of this review was to identify those cases that were not enforcement priorities which could be dismissed or administratively closed, thereby freeing up staff and court resources to expedite those cases that reflected a high enforcement priority.

A November 17, 2011 [memorandum](#) and ["next steps" instructions](#) on a formal process for carrying out this review were announced by ICE. These included scenario-based training of all attorneys along with a special pilot in the Baltimore and Denver Immigration Courts. In addition, all ICE attorneys, officers, and agents were again instructed to apply, on a case-by-case basis, the full range of factors set forth in the [June 17, 2011 Prosecutorial Discretion memorandum](#) in the course of their regular duties.

However, in the first quarter of FY 2012, the average processing time in days rose sharply to 375 days, up from 311 days on average during FY 2011. Longer processing times were seen in every category of closure — administrative closures, terminations, grants of relief, removals and voluntary departures. This is not what one would expect if cases were being closed more quickly — either to weed out cases that weren't enforcement priorities, or to

speed up those that were (see Table 2).

Table 2. Immigration Court Processing Time by Outcome

| | Average Court Processing Time in Days | | Percent Change |
|--------------------------------|---------------------------------------|----------|----------------|
| | FY 2011 | FY 2012* | |
| <i>Ordered Deported</i> | | | |
| Removal ordered | 165 | 188 | 13.9% |
| Voluntary departure ordered | 327 | 356 | 8.9% |
| <i>Allowed to stay in U.S.</i> | | | |
| Relief granted | 723 | 794 | 9.8% |
| Case terminated | 470 | 521 | 10.9% |
| Administratively closed | 484 | 530 | 9.5% |
| <i>Total completed cases*</i> | 311 | 375 | 20.6% |

* Fiscal year 2012 current through December 31, 2011; the overall volume of closures may increase somewhat since late reports are not yet reflected in these numbers. Completed cases include a small number of miscellaneous closures not separately tabulated. For additional details see [interactive tool](#).

In addition, while there was a substantial shift in the nature of court outcomes during the first quarter of FY 2012, these changes weren't always the types one might expect. For example, the number of administrative closures reported nationally increased by only 408, while actual dismissals ("terminations") decreased by 339. Thus, in the categories mentioned by the new policy there was only a net increase of 69 closures nationally.

In contrast, a big jump was seen in grants of relief which weren't explicitly addressed in these directives. While it is possible that the overall volume of closures may increase, since late reports are not yet reflected in these records for the first quarter of FY 2012, these closure patterns are nonetheless surprising.

Outcomes by Immigration Court

Patterns varied from court to court. In the first quarter of FY 2012, some Immigration Courts saw increases in case closures, while others experienced decreases. But in most courts there was an increase in the proportion of closures that allowed individuals to remain in this country. Only 13 courts saw a decrease in the percent allowed to stay, while 31 courts saw an increase. The remaining 9 courts showed little change.

As shown in Table 3, the Portland, Cleveland and Phoenix courts led the nation in the increasing share of closures that resulted in individuals being allowed to stay in the U.S. In each court, similar to the nation as a whole, the increase was driven by decisions granting the individual some form of relief. In the San Diego Court in contrast, administrative closures were behind most of the increase. In the Seattle Court it was a combination of an increases in relief grants and in administrative closures. For all other courts in the top 10, the shift was explained by the relative increase in grants of relief.

Table 3. Immigration Courts With Largest Percentage Point Increase in Proportion Allowed to Stay in U.S.

| Rank | Court* | FY 2011 (quarterly average) | | FY 2012 (first 3 months) | | Largest Percentage Point Increase | |
|------|---------------|-----------------------------|----------|--------------------------|----------|-----------------------------------|---------------------|
| | | Cases Closed | % Stay** | Cases Closed | % Stay** | FY 2012 vs. FY 2011 | What increased? *** |
| | <i>Top 10</i> | | | | | | |

| | | | | | | | |
|---------------------|---------------|-------|-------|-------|-------|-------|-----------------------|
| 1 | Portland | 230 | 54.6% | 380 | 67.6% | 13.1% | relief |
| 2 | Cleveland | 941 | 18.5% | 491 | 30.8% | 12.2% | relief |
| 3 | Phoenix | 481 | 37.2% | 585 | 49.2% | 12.0% | relief |
| 4 | San Diego | 735 | 48.6% | 794 | 59.9% | 11.3% | adm closure |
| 5 | Charlotte | 745 | 31.6% | 772 | 42.1% | 10.5% | relief |
| 6 | Memphis | 627 | 28.3% | 576 | 38.7% | 10.4% | relief |
| 7 | Kansas City | 856 | 18.8% | 735 | 28.8% | 10.0% | relief |
| 8 | San Francisco | 1,698 | 46.5% | 1,804 | 55.0% | 8.5% | relief |
| 9 | Seattle | 587 | 48.3% | 622 | 56.6% | 8.3% | relief adm closure |
| 10 | Philadelphia | 565 | 57.8% | 653 | 65.8% | 8.1% | relief |
| <i>Pilot Courts</i> | | | | | | | |
| 12 | Denver | 1,271 | 23.4% | 1,096 | 30.9% | 7.5% | relief |
| 27 | Baltimore | 1,101 | 46.7% | 833 | 49.3% | 2.7% | adm closure |

* For all courts see [interactive tool](#).

** Percent of court closures where individual is allowed to remain in the U.S.

*** Listed are the type(s) of outcome(s) that accounted for this increase.

Also shown in Table 3 are the two courts which were singled out by ICE to serve as pilot tests to review all pending cases. Not surprisingly, both courts saw substantial declines in the number of cases closed last quarter while the review was ongoing. This was not unusual as about half of the courts saw some decline in case closures. A number experienced even larger declines.

When compared on the nature of outcomes in cases disposed of in the first quarter of FY 2012, the Denver Immigration Court had the 12th largest increase in the share of closures allowing individuals to stay in the U.S., while the Baltimore Immigration Court came in 27th. In the Denver Court, the proportion of those granted relief was the driving force, while in the Baltimore Court, the primary reason was the relative increase in administrative closures.

Full details are available for each Immigration Court and hearing location in the [Deportation Outcomes](#) and [Court Processing Times](#) applications.

Outcomes by Charge

A removal proceeding begins when ICE files a charging document — called a "Notice to Appear" — in one of the nation's 50 plus Immigration Courts. The charging document contains one or more specific immigration violations that ICE alleges support its request for the deportation order.

For 43,591 (or 82.1 percent) of the cases completed during the first three months of FY 2012, ICE charged that the individuals had violated only the immigration rules. More precisely, that the individuals had entered the country illegally, entered legally but overstayed their visa, or violated other procedural requirements.

In the remainder of the cases, at least one of the charges involved more serious offenses. The most common of these were allegations that the individual had been convicted of, or had engaged in, criminal activities. On rare occasions there was an allegation that the individual was a terrorist or national security risk.

When outcomes are divided by these two broad charge categories, it is clear that all of the rise in the percentage of individuals allowed to stay in this country occurred among those only charged with a violation of immigration rules. In fact, for those with prior criminal convictions or alleged criminal activity there was a small rise in the proportion who received deportation orders. (See Table 4.)

Table 4. Immigration Court Closures by Removal Charge and Type of Outcome

| | Percent of Cases Closed | | | |
|--------------------------------|-------------------------|--------------|-------------------------|--------------|
| | Immigration | | Criminal/Nat.Sec/Terror | |
| | Jul-Sep 2011 | Oct-Dec 2011 | Jul-Sep 2011 | Oct-Dec 2011 |
| <i>Ordered Deported</i> | | | | |
| Removal ordered | 54.0 | 47.8 | 69.2 | 69.0 |
| Voluntary departure ordered | 15.4 | 16.0 | 4.0 | 4.6 |
| Subtotal | 69.4 | 63.8 | 73.2 | 73.6 |
| <i>Allowed to stay in U.S.</i> | | | | |
| Relief granted | 12.5 | 18.6 | 15.6 | 14.6 |
| Case terminated | 13.8 | 12.4 | 8.2 | 9.0 |
| Administratively closed | 4.2 | 5.1 | 3.0 | 2.7 |
| Subtotal* | 30.6 | 36.2 | 26.8 | 26.4 |
| | | | | |
| <i>Total completed cases</i> | 100.0 | 100.0 | 100.0 | 100.0 |

* Subtotal for those allowed to stay in U.S. includes a small number of miscellaneous closures not separately tabulated. For additional details see [interactive tool](#).

^[1] We used the term "deportation" in a generic sense — whether legally labeled as removal, deportation, or expulsion based upon inadmissibility grounds. Further, under the heading deportation we have also counted orders of voluntary departure. See [glossary](#).