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CASE PROCESSING TIME

Time study data collected in November and December 2016 allowed the study team to calculate the average amount of time court staff spends processing a typical case, accounting for differences in docket-type and court site, see Table 4. To provide as detailed and explicate an answer as possible, the study team incorporated a “Court Dashboard” tab in AMICUS which allows the user to compare a single court’s processing time against its court type’s national average.

Table 4. OCIJ Average Case Processing Times by Court-type

COURT TYPE	AVERAGE CASE PROCESSING TIME (MINUTES)			
	IJ	JLC	Court Staff	Total
Detained	115	54	330	499
Hybrid	117	71	292	480
Non-Detained	99	57	302	458
Average	110	61	308	479

The study team further broken out the case processing time for the court-staff by their specific job titles. Note that supervisory positions like Court Administrators still contribute to case processing time.

Table 5. Court Staff Average Case Processing Times by Court-type

COURT TYPE	AVERAGE CASE PROCESSING TIME (MINUTES)						
	CA	SINT	SLA	LA	CS	INT	Total
Detained	34	*	28	164	40	64	330
Hybrid	23	28	33	176	28	32	292
Non-Detained	29	*	38	131	43	61	302
Average	29	*	33	157	37	52	308
*-denotes insufficient data to calculate average accurately							
**-excludes SINT							

The time study data captured a picture of how the courts were operating during a specific five-week period. This data has been adjusted to account for staff who were absent during the study, took leave, or were involved in other non-work-related activities. After adjusting the data, the team found slight variation in processing time between the courts for the total time required to complete a case.

The AMICUS Court Dashboard allows the user to further examine the distribution of time spent completing a case. This provides insight regarding the activities which consume the most time in case completion. The user can combine case processing time with the activity distribution to quantify the benefits of pursuing process changes.

As an example, Table 6: Court Staff Activity Distribution Table 6 displays the activity distribution for each court type. This table highlights that case preparation and completion – largely activities relating to EOIR’s filing system – consumes nearly twice the amount of time as the next most common activity, in-court time.

Table 6: Court Staff Activity Distribution

ACTIVITY	ACTIVITY DISTRIBUTION TO COMPLETE AVERAGE CASE – COURT STAFF			
	Detained	Hybrid	Non-Detained	Total
Preparation & Completion	39%	44%	34%	39%
In-Court	22%	16%	28%	22%
Overhead	23%	21%	21%	22%
Communication & Customer Service	10.5%	13%	11%	12%
Training	3%	3%	3%	3%
Post-Completion	2%	2%	1%	2%

Troubleshooting	0.5%	1%	1%	1%
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Note that IJs and JLCs in the time study were required to document activities across different case-types processed, across multiple dimensions including docket-types, priority, hearing/case details including types of relief applications. Court Staff were required to track only activities and not case-type. Due to the nature of court staff's work, and with validation from advisory committees, many responsibilities did not require knowledge of the case-type (e.g., processing mail and filing). Case-related data captured from the IJ and JLC time study data can be used to inform further workforce decisions.

III. PROCESS MAPS

The team produced and delivered Microsoft Visio-based process maps to EOIR, with the aim of delineating all immigration processes and associated administrative work in a clear medium. The source material from the maps include, but is not limited to, the Immigration Court Practice Manual, the Uniform Docketing Manual, documents from the Environmental scan, and literature provided by court staff during the court visit phase. The maps were subsequently validated by stakeholders at EOIR HQ and members of the Austin working sessions.

The maps consist of eight proceeding-types (i.e. detained and non-detained removal proceedings, claimed status review, etc.) and 10 sub-processes (i.e. detailed administrative procedures involved in processing a case):

Proceedings

1. Non-detained Removal Proceedings
2. Detained Removal Proceedings
3. Credible/Reasonable Fear Review
4. Asylum-Only Proceedings
5. Withholding-Only Proceedings
6. Claimed Status Review
7. Rescission Proceedings
8. Bond Proceedings

Processes

1. Pre-Hearing
2. Applications Review
3. Reopen/Reconsider
4. Asylum Process
5. Process Charging Documents
6. Schedule Master Calendar
7. Schedule Individual Calendar
8. Appeals Administrative Process
9. Recalendar
10. Interpreters

The process maps allow the viewer to identify the series of required steps, taken by DHS, EOIR, or the respondent, to progress through particular proceedings and areas for process improvement.

In these maps, the team identified **constants**, or required processes involved in immigration adjudication. In the process maps, constants are depicted by rectangular icons that represent actions or sub-processes. Although the time required to conduct these actions may be shortened or eliminated by introducing process reengineering mechanisms, they are fundamental steps taken in the adjudication process. Table 7 summarizes the constants for removal and limited proceedings.



Table 7. Removal and Limited Proceedings Constants

REMOVAL PROCEEDINGS	
CONSTANTS	STAKEHOLDER
Serve Notice to Appear (Form I-862) to respondent	DHS
Serve Notice to Appear (Form I-862) with EOIR	DHS
Process newly-filed Notice To Appear documents (NTAs)	EOIR OCIJ
File appropriate motions or documents	Respondent, DHS
Any necessary pre-hearing activities occur	Respondent, DHS, EOIR OCIJ
Schedule Master Calendar	EOIR OCIJ
Request necessary continuances	Respondent, DHS
Arrange for an interpreter	EOIR OCIJ
Conduct Master Calendar	EOIR OCIJ
Adjudicate removability	EOIR OCIJ
File for relief	Respondent
Review applications	EOIR OCIJ
Facilitate collection of biometric information	DHS
Set DHS biometrics deadlines	EOIR OCIJ
Schedule Individual Calendar	EOIR OCIJ
Conduct Individual Calendar	EOIR OCIJ
Opening statements, testimony, cross-examinations, closing statements	Respondent, DHS
Render a decision	EOIR OCIJ
Submit motion to reopen	Respondent
Submit motion to reconsider	Respondent
File Notice of Appeal (EOIR-26) with Board of Immigration Appeals (BIA)	Respondent, DHS
Process BIA ROP	EOIR OCIJ
Review appeal	EOIR BIA
Submit motion to recalendar	Respondent, DHS

LIMITED PROCEEDINGS	
CONSTANTS	STAKEHOLDER
Conduct Credible Fear interview	DHS
Conduct Reasonable Fear interview	DHS
File Notice of Referral to Immigration Judge (Form I-863)	DHS
Conduct Credible Fear Review	EOIR OCIJ
Conduct Reasonable Fear Review	EOIR OCIJ
Refer respondent to asylum-only proceeding	DHS
Refer respondent to withholding-only proceeding	DHS
Consider applications for withholding of removal	EOIR OCIJ
Complete I-589	Respondent
Place respondent in removal proceedings	DHS
Asylum-Only Proceeding	EOIR OCIJ
Conduct Claimed Status Review	EOIR OCIJ
Render a decision	EOIR OCIJ
Make statement	Respondent
Attempt to verify respondent's claims about status	DHS

Additionally, the team identified **variables**, or bottlenecks that could stymie the required processes involved in immigration adjudication. Bottlenecks are depicted by diamond icons, which represent decision points. Table 8 below details the list of key bottlenecks identified in the process maps. These variables may overwhelm constants when 1) the stakeholder who has ownership over a decision point (the Respondent, DHS, or EOIR) delays in pursuing a decision; or 2) the stakeholder who has ownership over a constant delays in pursuing the action or sub-process. The process maps are key for EOIR to identify bottlenecks that can be eradicated to optimize process efficiency. In addition to the identification of these bottlenecks, the study team developed methods of quantifying the effect the process has on pending cases or timely adjudication. It should be noted that the accuracy of the method to calculate these bottlenecks is largely dependent on the accuracy of the adjournment code system, which is discussed further in the recommendations tables below.

 **Table 8: Bottlenecks**

BOTTLENECK	STAKEHOLDER	METHOD
Delay in processing NTAs	EOIR OCIJ	CASE entry date minus NTA stamp date
Delay in submitting motions or documents	Respondent, DHS	Adjournment codes that denote delay-based reasons divided by total reset Masters and all Individual Calendars
Delay in scheduling Master Calendar	EOIR OCIJ	Master Calendar date minus NTA stamp date
Filing errors or delays in submitting motions	Respondent, DHS	Adjournment codes that denote filing errors or request for preparation divided by total reset Masters and all Individual Calendars
Failing to catch filing errors and delays in processing motions	EOIR OCIJ	Adjournment codes that denote IJ delay to process motions divided by total reset Masters and all Individual Calendars
Delay in biometrics screening or background investigation	DHS United States Citizenship and Immigration Services (USCIS)	Adjournment code that denotes DHS biometric or background check request divided by total reset Masters and all Individual Calendars
Finding Representation	Respondent	Adjournment code that denotes "finding representation" divided by total reset Masters and all Individual Calendars
Delay in Respondent appearance	Respondent, EOIR OCIJ	Adjournment code that denotes "delay in respondent appearance" divided by total hearings
Delay in issuing a decision	EOIR OCIJ	Decision date minus the last individual calendar date
Delay in filing appeal	Respondent, DHS ICE OCC, EOIR OCIJ	Date stamp of EOIR-26 minus decision date
Delay in decision certification	EOIR BIA	Certification date minus decision date
Delays caused by motions to reopen and reconsider	Respondent, EOIR OCIJ	Date of decision on motion to reopen/reconsider minus date of filing reopen/reconsider
Delays in appeals review	BIA	Date of BIA decision minus original decision

BOTTLENECK	STAKEHOLDER	METHOD
Re-calendaring an administratively closed case	Respondent, DHS ICE	Sum of re-calendared cases divided by total receipts
Unnecessary Continuances	EOIR OCIJ, Respondent, DHS ICE OCC	Sum of above adjournment code metrics
Cancelled due to IJ absence	EOIR OCIJ	Adjournment code that denotes "IJ absence" divided by total hearings
Delay due to re-prioritization	EOIR OCIJ	Adjournment code that denotes "re-prioritization" divided by total hearings

This detailed process of documenting, citing, and organizing the adjudication lifecycle provides EOIR with the capability to produce robust performance and budget models that can analyze the effects procedural changes will have on case processing and completions. Some of these example changes might include quantifying the effect increased representation would have on processing, the effects of instituting magistrate-like positions on clearance rates, and measuring how case prioritization affects pending caseload.

OCIJ can use the process maps to optimize processes in the following ways:

- **Preserve:** Identify decision points and actions that are necessary to ensure due process and effective case processing and completion. Of these identified process, understand opportunities for OCIJ to enhance them through developing appropriate training and onboarding materials, and standard operating procedures.
- **Eliminate:** Identify areas of the map which may be removed due to anticipated policy or operational changes, and quantify how such changes will impact case processing and completion.

Streamline and Refine: Time study and CASE data can be incorporated into the Process Maps to simulate the Adjudication Lifecycle. Coupling data-backed process maps with findings from pilot programs and other court initiatives, OCIJ can identify methods that will streamline or refine case processing.

IV. RECOMMENDATIONS

RECOMMENDATIONS TABLES

Through the Legal Case Study, the team identified a series of recommendations for EOIR which could result in significant improvements in the organization's ability to better attain its mission.

These key recommendations fall into four main groups: (1) understaffing, (2) culture and careers, (3) processes; and (4) external dependencies. The team's identified challenges and corresponding recommendations can be found in

Table 9, Table 10, Table 11, Table 12. In order to implement these groups and categories, OCIJ must assign them owners, which may involve the creation of new working groups. Some of these recommendations should be considered with the understanding that they cannot take place with great effect without EOIR HQ concurrently implementing a staffing strategy based on AMICUS output.

KEY	
Environmental Scan and Data Analysis (E/D)	
Interviews (I)	
Study Team Observations at Courts and HQ (O)	
Time Study Data (TS)	

11
 implement these groups
 assign them owners,
 creation of new working

Note: highlighted text indicates data pulled from the time study follow-up survey.

Table 9. Understaffing Findings and Recommendations

CATEGORY	FINDINGS		RECOMMENDATIONS
Understaffing	Many courts of all types and sizes are understaffed, which impacts case processing, court morale, and office culture ■ Staff across all positions indicated that, on average, they have less time than they need to finish their tasks each day	E/D	<ul style="list-style-type: none"> Allocate staffing according to workforce staffing model output Analyze and assess the effect that coordinated court-wide scheduling systems have on timeliness and due process. This could include, but is not limited to a "magistrate"-style court system Upon reaching more appropriate staffing levels, implement appropriate personnel-based or team-based rotational systems in all courts to allow staff to cross-train skills and to prepare for backfilling Conduct cost-benefit analysis of temporary duty assignments, weighing distribution of staffing against the impact on the home and visiting courts Expand JLC responsibilities to possibly include some of the following duties: conducting rights advisals, screening
		TS	
		I	
	Some court staff take on responsibilities not in their job descriptions and work above the standard work week ■ Over 20 percent of staff reported an average work week more than the expected number of hours during the time study	O	
		I	
		O	
Court personnel sent on temporary duty assignments often have difficulty catching up with their own work upon returning due to their home court being similarly understaffed	I		

CATEGORY	FINDINGS	RECOMMENDATIONS
	Los Angeles, San Diego, and San Francisco conducted pilot programs with some success, which involved having some judges conduct solely Masters and others conduct solely Merits akin to a state court magistrate system	NTAs, and reclassifying mistakenly-labelled priority cases

Table 10. Culture and Careers Findings and Recommendations

CATEGORY	FINDINGS	RECOMMENDATIONS	
Leadership and Communication	Courts with strong leadership, clear lines of communication, clearly-delineated responsibilities and channels of authority, and a culture of transparency and mutual respect operate more smoothly than courts lacking in any one of these regards	E/D	<ul style="list-style-type: none"> Improve existing formal channels of communication between court staff, management, and HQ by utilizing working sessions with the Legal Assistant Advisory Committee (LAAC), Interpreter Advisory Committee (INTAC), and the Court Administrator Advisory Committee (CAAC), appointing an official liaison between each court and HQ, disseminating routine emails from OCIJ leadership, and ensuring committees representative of the full OCIJ staff have a voice in important conversations Create innovative forums for exchanging ideas among court staff. For example, a crowdsourcing platform in which teams can submit ideas to an online portal, prizes for great ideas, and proper use of staff surveys Formalize leadership and management training for CAs, DCAs, SLAs, and SINTs.
		I	
		O	
		TS	
Hiring	EOIR job descriptions, posted by Office of Administration, do not accurately represent responsibilities <ul style="list-style-type: none"> 76 percent of all non-judicial court staff say their duties do not match their position 	E/D	<ul style="list-style-type: none"> Coordinate with Office of Administration to update hiring process standard operating procedures, conduct periodic internal reviews of job descriptions, and post vacancies more speedily Work with Office of Security to assess possible mechanisms for IJs awaiting results of clearance process to begin hearing cases Post vacancies with more up-to-date job descriptions to attract appropriate candidates Considering typical time-to-hire for IJs and support staff, coordinate more
	Delays associated with hiring, posting job descriptions, human resources (HR) processes, background investigations, and interviews stymie the hiring cycle, resulting in many qualified candidates withdrawing applications or finding other employment	I	
		TS	
		E/D	
Having a body of IJs largely composed of lawyers who previously worked for DHS ICE or	E/D		

CATEGORY	FINDINGS		RECOMMENDATIONS
	<p>other DOJ branches limits the diversity of perspectives on the bench</p> <ul style="list-style-type: none"> At least 41 percent of IJs previously worked at DHS Nearly 20 percent of IJs previously worked at other DOJ branches 	I	<p>efficient timing for IJ Team hiring and investigate means to shorten the hiring process</p> <ul style="list-style-type: none"> Broaden hiring pools and outreach programs to increase diversity of experience among IJs, akin to the approach of the "Career Management Recruiting Branding And Marketing Services," an OPM contract vehicle for use government-wide
		O	
		TS	
Performance Expectations	Staff expressed they did not have clear performance expectations and underperforming staff members do not have clear measures to address improvements	I	<ul style="list-style-type: none"> Implement performance reviews in line with a judicial performance review model that emphasizes process over outcomes and paces high priority on judicial integrity and independence Create clear framework for and improve transparency of performance review systems Launch dialogue with ACIJs and National Association for Immigration Judges (NAIJ) about performance standards and appropriate usage of Performance Improvement Plans (PIPs)
	TS		
Communication barriers between ACIJs and IJs can prevent the implementation of performance improvement measures		I	
		TS	
Conduct and Professionalism	<p>There is a lack of awareness among the staff, respondents, attorneys, DHS, regarding submitting complaints about IJ conduct and professionalism to the ACIJ for Conduct, Management, and Professionalism (CMP)</p>	E/D	<ul style="list-style-type: none"> Create independent body within EOIR composed of individuals of diverse backgrounds outside the chain of command between IJs and ACIJs that would be responsible for conduct and professionalism Direct all complaints regarding conduct and professionalism to the independent body, which would be responsible for investigating and addressing all complaints Revise interview questions to include stronger questions about cultural sensitivity and judicial temperament
		I	
	TS		
	<p>The ACIJ CMP currently only handles complaints about IJ conduct and professionalism, it may be unclear who has ownership over complaints regarding court staff</p>	E/D	
		I	
	TS		
<p>IJs' supervisory ACIJs are involved in addressing conduct and professionalism complaints, which can create personal tension and worsen working relationships</p>	E/D		
	I		
TS			
Human Resources	<p>Not all court staff are aware of the function of Human Resources (HR) within the Office of Administration</p> <ul style="list-style-type: none"> 40 percent of staff stated that they do not know who their HR point of contact is Non-supervisory roles (IJs, LAs, INTs, JLCs) are much less aware of HR than supervisory roles (ACIJs, CAs, DCAs) are 50 percent received HR training in their first three months at EOIR or in the past year 	I	<ul style="list-style-type: none"> Conduct clear, initial, and continuous HR training that clarifies the local HR Point of Contact Conduct clear training for supervisory roles (ACIJs and CAs) to ensure their responsibilities do not encroach on HR's role
		TS	

CATEGORY	FINDINGS		RECOMMENDATIONS
	Some courts have a cultural norm that staff should reach out to HR through their CA or ACIJ and not contact HR directly	I TS	
Training	Court staff, particularly LAs, are provided with little face-to-face or formal training <ul style="list-style-type: none"> ▪ <i>“Informal” job-related training provided at their court is the most common form of initial training received during the first three months at EOIR</i> ▪ <i>Job-related video and audio recordings distributed by EOIR HQ were the most common form of training provided in the last year</i> 	E/D I TS	<ul style="list-style-type: none"> ▪ Review and update the Practice Manual and Uniform Docketing Manual with input from the LAAC, CAAC, INTAC, IJ Committee, and NAIJ ▪ Continue development of formal training for all positions and create more and better training opportunities ▪ Continue to hold annual training seminars during which IJs and appropriate staff can receive in-person training ▪ Hold in-person training for LAs who have recently joined EOIR, which may also help boost morale ▪ Institute an agency-wide framework and training for report development ▪ Create standard training literature and guidelines for LAs ▪ Institute mandatory continuous training on temperament, asylum adjudication, and updates to immigration law for all IJs
	From anecdotal evidence gathered in observations and interviews, courts that provide training appeared to have better office morale and function more smoothly	E/D I O	
	From anecdotal evidence gathered in interviews, video- or web-based training, which is more commonplace, appear to be less effective than in-person training	I O	
Reporting	ACIJ find it difficult to carry out data reporting without appropriate support staff	E/D I O	<ul style="list-style-type: none"> ▪ Improve data collection and analysis of court performance by re-assigning duties to appropriate staff and hiring appropriate support staff, if necessary
Career Mobility	LAs and SLAs face barriers to ascend to SLA and CA positions respectively due to grade-level restrictions <ul style="list-style-type: none"> ▪ <i>Only 23 percent of CAs previously worked as an SLA</i> ▪ <i>70 percent of CAs never worked as an LA</i> 	I O TS	<ul style="list-style-type: none"> ▪ Amend grade levels and position duties to provide opportunities for ascension between LA, SLA, DCA, and CA positions (more detail provided in General Schedule Qualification Standards section of this report) ▪ Investigate possible expansion of staff attorney positions to allow JLCs to continue working for EOIR post-honors program
	Some staff feel they are forced to leave EOIR due to lack of career-building opportunities <ul style="list-style-type: none"> ▪ <i>28 percent stated they believed they were not able to build a career at EOIR</i> 	E/D TS I O	
	JLCs find it difficult to continue their career in EOIR after their two-year honors program lapses	I	