



Transactional Records Access Clearinghouse
Syracuse University

September 22, 2021

Acting Director Jean King
Executive Office for Immigration Review
5107 Leesburg Pike
Falls Church, VA 22041

Dear Acting EOIR Director Jean King:

We are reaching out in good faith to raise concerns about the quality of the EOIR's data related to juveniles in the Immigration Court system. Our preliminary analyses indicate that the EOIR's data used for tracking juveniles appear to be seriously flawed to the point that we question whether the agency has the ability to meaningfully and reliably track juveniles in its caseload.

We believe that we share a common interest in ensuring the reliability and validity of EOIR data and hope that communication channels would be open as we move forward. Specifically, we would welcome any feedback or insight the agency would like to share on our preliminary findings before we move forward to finalize and publish them. We would also be happy to share additional details with the agency should you find that helpful.

We are taking these steps of alerting the agency to our preliminary findings since it is TRAC's desire is to make sure that TRAC's analysis accurately reflects and interprets EOIR data. Thus, we would appreciate your letting us know within 30 days if the agency is planning to provide input before we finalize our results. Should you need additional time, please let us know.

TRAC's Analyses Explained

We summarize our preliminary findings below in order to justify our overarching concern about the quality of the data on juvenile cases and to allow the agency to confirm our findings independently should it choose to do so.

Step 1: The Juvenile History File

Our analysis was focused on the EOIR's "juvenile history" file. The file is part of a larger series of tables we request monthly which is released to us on the EOIR's public website. To ensure that TRAC was using all sources of data identifying juveniles that EOIR itself used, we previously requested "access to whatever source or sources EOIR is currently using to identify juveniles, as well as to identify that segment who are unaccompanied children (UACs), as each of their cases reach the Immigration Court." The EOIR responded by advising us that no other sources were

located¹ apart from the “juvenile history” file.

Our analysis therefore examined EOIR records contained in EOIR’s “juvenile history” file. As we understand, this file is currently used by the Immigrant Courts to flag Notices to Appear (NTAs) that are filed which involve juveniles – that is, persons from 0 to 17 years of age. From the beginning, when this specialized file was created in 2014 from information in the Case Identifier table, it contained a number of categories of juveniles including unaccompanied juveniles. Since 2017, the file also added a category to explicitly identify juveniles who were part of a family unit. According to EOIR, “both the ‘juvenile’ and ‘UAC’ designations are made by DHS on the Notice to Appear.”²

In 2017 EOIR also added a new “not applicable” code for records in the juvenile history file. The file already had a code to indicate that the “juvenile has been released to guardian or has turned 18.” Accordingly, it was a bit unclear how this code in tracking a juvenile’s history was to be differentiated from this previous code indicating a change in status had occurred.

Step 2: Comparing the Juvenile History Table to Other Sources

Our investigation compared the records in the juvenile history file to multiple sources of information also recorded by EOIR that could be logically understood to validate the inclusion of records in the juvenile history file. Specifically, we drew on the following three points of comparison in our analyses:

- A. *Age at time of NTA.* This was calculated from the month and year of birth recorded in EOIR CASE records and assessed whether the individual, based on birthdate, was between 0 and 17 years of age at the time the NTA was issued.
- B. *Juvenile court location assigned.* We analyzed information related to whether the child was assigned to a hearing location designated for unaccompanied juveniles.
- C. *Family unit on Dedicated Docket.* We analyzed whether cases included in the juvenile file were part of a family unit assigned to the Dedicated Docket which the EOIR recently established for families apprehended at the border who were seeking asylum.³

¹ The EOIR did provide a copy of material used in a June 9-13, 2021, EOIR Legal Training Program entitled “Unaccompanied Alien Children and Juveniles: Relief and Reporting Requirements” by Immigration Judge Rebecca L. Holt and Associate General Counsel Laura Robbins. The “Reporting Requirements” referred to in the title concerned the responsibilities of Immigration Judges to report suspected abuse and trafficking of juveniles to government authorities, rather than any reporting requirements for EOIR tracking of juveniles in its own record systems.

² September 1, 2021 email from EOIR in response to TRAC’s August FOIA request. For some periods, the Immigration Court distinguished between DHS’s “UAC” designation, and a more limited subclass of juveniles who had not been placed with a family member or sponsor.

³ See TRAC’s [August 2021](#) and [September 2021](#) reports examining families assigned to the Dedicated Docket and the references on the program cited there.

TRAC's Findings Explained

We summarize our findings from each of the comparisons described above.

A. Juvenile History File v. Age at Time of NTA

At the outset, we compared the reported age at the time of the NTA with all records in the juvenile history file, along with how that file classified them.

We had noted that records in the juvenile history file that were coded “not applicable” beginning in 2017 – even those that represented the only record for that individual rather than a change in status – soon became the vast majority of all records in the juvenile history file after this new code was added. For example, thus far during FY 2021, 79 percent of all records newly added to the juvenile history file assign this “not applicable” code. Further, 40 percent reporting birthdate with this code, were adults at the time their NTA was issued. Thus, we are puzzled by why their record was so recently added to a file designed to track “juvenile history” in the first place.

Next, we examined individuals in the juvenile history file whose cases were currently pending. The month and year of birth was recorded for most (77%) of these and resulted in a file of 466,397 pending cases where we could determine they were children 0-17 years of age at the time their NTA was issued.

These pending juvenile cases showed little agreement with the juvenile history file. Errors were of two different types: errors of omission and errors of over inclusion. Errors of omission occur when an individual clearly identified as a juvenile in terms of age was not included in the juvenile history table. Errors of inclusion occur when an individual clearly identified as outside the juvenile age range was included in the juvenile history file.

- Errors of Omission. Fully half (50%) of those who were juveniles (0-17 years of age) at the time their NTA was issued were not included in the juvenile history file.
- Errors of Inclusion. Over a third (38%) of pending cases whose birthdates were recorded and were in the juvenile history file were adults at the time their NTA was issued. Not all of these were coded “not applicable” in the juvenile history file, as a number were adults even though they were coded as unaccompanied or accompanied juveniles.

B. Juvenile History File v. Juvenile Court Assignment

We then compared all cases assigned to hearing locations that are specifically set up to handle cases for unaccompanied minors with cases included in the juvenile file.

Nearly three out of ten (29%) of the individuals whose cases were pending at hearing locations that have been set up to handle cases for unaccompanied children were *not included at all* in the juvenile history file or were misclassified (not classified as unaccompanied children).⁴

C. Juvenile History File v. Dedicated Docket

We compared cases assigned to the Dedicated Docket with the juvenile history file. We found that nearly nine out of ten (88%) children 0-17 years of age in families seeking asylum who are part of the administration's recent Dedicated Docket initiative were not included in the juvenile history file.

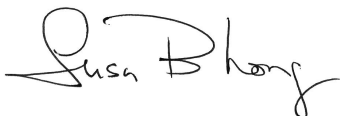
TRAC Looks Forward to Working with EOIR

We appreciate the myriad challenges that the EOIR faces with managing its caseload along with its data, given the large and growing national court docket. However, given the importance and public interest in understanding deportation cases involving juveniles, we believe the responsible thing to do is to alert the agency to our concerns and should our findings bear out, then inform the public of data quality issues that could directly impact the public's ability to monitor these cases.

Ideally, we would like to support the agency in its attempts to understand and address these issues. For this reason, we will not proceed with our plans to finalize our findings for 30 days to provide time for the agency to respond to this letter. We are not asking that the agency resolve all issues within 30 days, simply that the agency respond to us within 30 days so that we may understand if the agency wishes to provide its own insight into these concerns which could help shape our ultimate findings and report.

We sincerely hope to hear back from you.

Sincerely,



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⁴ Recorded month and year of birth with rare exception agreed (>98%) entirely with being a juvenile assigned to the juvenile docket.