Enhancing Quality and Timeliness in Immigration Removal Adjudication
Draft Report January 12, 2012
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Suggested Outline for Meeting of the ACUS Committee on Adjudication
January 25, 2012

The report is in four substantive sections (II-V), plus a brief preamble, even briefer conclusion, and seven appendices.

II. **"Framework for Analysis and Methods"** explains our approach to studying removal adjudication—envisioning three types of court improvement—additional resources, shifting work to other forums, and process modification.

This section explains the methods we used, including literature reviews, data analyses, field interviews, and a survey of the over 260 immigration judges, open from January 11 to January 19, with a response rate of 63 percent.

**III. "Immigration Removal Adjudication: Overview of Organization and Processes"** describes:

A. Homeland Security and Justice Department agencies involved in removal adjudication, in particular:

1. DHS's Citizenship and Immigration Services, Customs and Border Protection, and Immigration and Customs Enforcement, and
2. DOJ's Executive Office for Immigration Review, housing both the immigration courts and the Board of Immigration Appeals. (The Office of Immigration Appeals is a separate DOJ agency.)

B. Important aspects of removal adjudication including:

1. Method of removal without immigration court participation, the initiation of removal proceedings when a DHS agency files a Notice to Appear; various types of immigration court proceedings (master calendar, individual calendar, bond and motion hearings), and appeals to the BIA and to the U.S. courts of appeal, and
2. Aspects such as mandatory or discretionary detention of respondents (aliens in removal proceedings); dispositions in absentia, by stipulated removal or voluntary departure; representation and lack thereof; and the use of video conferencing technology.

**IV. "Framework and Focus of Analysis"** describes what we see as:

A. The basic problem facing immigration removal adjudication, viz., the mismatch between resources and workload, the unlikelihood of significant resource increases for the foreseeable future, and thus the need to promote just, inexpensive, and expeditious removal adjudication through means other than major resource enhancements.

B. The three approaches available for court improvement efforts as noted above: resource enhancement, reducing the demand for services from EOIR agencies,

and process modifications. We also note the possible value to immigration courts of experience in other courts.

**V.** **"Analysis and Recommendation"** presents our analysis of removal adjudication and its agencies within the three-component framework referenced above. (Page references are to those in the pdf version of our January 12 report.)

Our recommendations may change in number and substance based on the responses to our survey of the judges.

A. Resource Enhancement—After noting again the unlikelihood of substantial resource increases, and commenting on some proposals offered by others that would require either increased resources or longer disposition times, we discuss EOIR's current interest in a rule authorizing temporary immigration judges (similar to a rule in place involving the BIA) and other courts' use of "weighted caseloads" as a tool for resource assessments and allocation.

We offer four recommendations (1-4) at page 34:

1. That EOIR continue to seek appropriations beyond current services levels but that it plan for changes that will not require new resources.
2. That EOIR release and implement regulations to allow for temporary immigration judges but with rigorous plans for monitoring their performance; and consider NAIJ's proposal for senior judges.
3. That EOIR explore case weighting systems in use in other high volume court systems to determine their utility in assessing the relative need for immigration judgeships, and consider a pilot project to test one or more methods. (We do not recommend any specific method or take a position on NAIJ's proposal.)
4. That EOIR, to facilitate comparative analysis of its incoming caseload, expand its data collection field to provide a record of the sources of NTAs filed in the immigration courts. The NTA includes the name and title of the DHS officer who filed it. Court administrative staff could code the filing agency on the case docket sheet for inclusion in the OPAT data base. We encourage the EOIR to be as specific as possible about the entity preparing the NTA because estimating future work of the court may depend on anticipating the priorities of the varied enforcement operations.

B. Reduce the Demand for EOIR Services—We see two basic approaches within this heading: shifting some disputes and some administrative tasks to DHS.

1. One is to direct some disputes to other decision-makers. More specifically,

   a. We discuss the long-standing interest in DHS's use of prosecutorial discretion to reflect DHS priorities before an agent files an NTA with the court and make one recommendation (5) at page 38.

5. That DHS implement the ABA Immigration Commission recommendation to require DHS-lawyer approval for the issuance of any NTA—on a pilot basis in offices with sufficient attorney resources. Ideally, we would recommend that ICE attorneys must approve the NTA rather than an attorney within a separate component of DHS; this is because ICE is the agency that must commit the resources to prosecute and execute removal orders.

b. We discuss shifting preliminary to CIS's Asylum Office primary jurisdiction to adjudicate asylum applications, including:

Shifting to the Asylum Office primary jurisdiction to adjudicate claims that arise in expedited removal proceedings and make three recommendations (6-8) at page 40.

6. That CIS seek to amend 8 C.F.R. § 235.6 to authorize the asylum officer to approve qualified asylum applications in the expedited removal context. If necessary, CIS should allocate additional resources to complete the asylum adjudication in this context as there are significant cost savings for other components of DHS and for EOIR.
7. That CIS seek to amend regulations to clarify that once the asylum officer is satisfied that the individual has a well-founded fear of persecution or fear of torture, the asylum officer is authorized to grant parole admission into the U.S. and to recommend that DHS allow the individual to be released from detention on parole pending completion of the asylum process including required security and identity checks. [Existing procedures would remain in place for those cases where the asylum officer does not find the applicant met the "credible fear" standard.]
8. That CIS clarify that in those cases where the non-citizen meets the credible fear standard but the officer believes that the case cannot be adequately resolved based on the initial interview and the asylum application prepared in conjunction with that interview, the officer may prepare the NTA and refer the case to the immigration court as is done now. The fact that some cases could not be adequately resolved at this stage should not preclude the possibility of granting asylum as soon and as efficiently as possible in other cases.

Shifting to the Asylum Office primary jurisdiction to adjudicate asylum applications that respondents file after being placed in removal proceedings, and make three recommendations (9-11) at page 45.

9. That EOIR seek to amend its regulations to provide that in cases where the respondent seeks asylum of withholding or removal as a defense to removal, the judge should administratively close the case to allow the respondent to file the asylum application and/or a withholding of removal application in the Asylum Office. If the Asylum Office does not grant the application for asylum or withholding, or if the respondent does not comply with Asylum Office procedures, the Asylum Office would prepare a motion to re-calendar the administratively closed NTA. [Note this recommendation is related to the recommendation below concerning the authority to adjudicate applications for withholding of removal.]
10. That EOIR seek to amend its current procedure of having judges "adjourn" asylum cases involving unaccompanied juveniles while the case is adjudicated within the Asylum Office and instead have the judge administratively close the case. If the Asylum Office cannot grant the asylum or other relief to the juvenile, the Asylum Office can initiate a motion to re-calendar the removal proceeding before the judge.
11. That CIS, to help implement these recommendations, evaluate whether a fee is appropriate for the *defensive* filing of an asylum application. There are other forms of relief sought as a defense to removal proceedings where the respondent must pay a fee for a DHS adjudication; e.g., adjustment of status applications. If the respondent is indigent,

the regulations provide for fee waivers. The fee should help sustain the resources of the CIS Asylum Office. While there are many concerns about charging fees to vulnerable populations, the INA already contains statutory authority for a fee-based asylum petition.

Shifting to the Asylum Office primary jurisdiction to adjudicate eligibility for the closely related claims of withholding of removal or eligibility for withholding due to the Convention Against Torture and make two recommendations (12-13) at p. 48.

12. That DHS seek to amend 8 C.F.R. § 208.16 to authorize the Asylum Office to adjudicate eligibility for withholding, and if it grants withholding there would be no automatic referral to the immigration court. Implementation of this recommendation would contravene DHS's current reading of its organic statute as restricting withholding decisions to the Attorney General and the immigration courts.

13. That the Asylum Office develops a procedure to allow the applicant to seek immigration court review and upon receipt of the request, the Asylum Office would initiate a referral to the immigration court. Alternatively, where the individual is ineligible for asylum but is eligible for withholding, the Asylum Office could refer that application to a special team of senior asylum officers who might be designated as temporary immigration judges and authorized to conduct de novo review of eligibility for asylum in the context of a regular § 240 hearing. The advantage of this model would be to move well trained resources into a specialty hearing docket, allowing the expansion of the immigration court to handle low priority cases, yet preserving the adversarial adjudication model and allowing litigants to develop an administrative record.

**N.B.:** Recommendations 14 through 17, and related text, now at pages 48-53, will be moved to section C in the next iteration of our report. In this outline, we have moved them there already.

c. We discuss shifting appeals now filed from DHS agency decisions to the BIA to DHS administrative appeal agencies and make three recommendations (18-20) at page 53.

18. That DHS seek statutory and regulatory change to allow all appeals of denied I-130 petitions to be submitted to the CIS's Administrative Appeals Office (AAO).

19. That DHS amend regulations to send all appeals from CBP airline fines and penalties to AAO. Alternatively, CBP may want to eliminate any form of administrative appeal and airlines and other carriers would seek review in federal courts.

20. That the AAO, to ensure quality and timely adjudication of these important family-based petitions: create a special unit for the adjudication, formally segregating the unit from its other visa petition adjudications; institute a method of designating precedent decisions; and publicize clear processing time frames so that the public can anticipate the length of time it will require to adjudicate the appeal.

2. In addition to recommending shifting some *disputes* to other agencies (in some cases with review by immigration courts), we suggest relieving judges and court staff of two case-processing related *tasks*. One is the maintenance of trial attorney dockets, which depends on EOIR's adoption

of an electronic docketing system, now under production. The other concerns judges' maintenance of the so-called "asylum clock."

We make four recommendations (21-24) at pages 54 and 55.

21. That EOIR move as quickly as possible to electronic docketing and explore interim steps to provide limited electronic access to registered private attorneys, accredited representatives, and ICE Trial Attorneys.
22. That EOIR, until it can release its public electronic docking system with equal access to docket information for all parties, consider making a computer terminal available in the courts' pro bono rooms or at the back of a courtroom so that members of the public, attorneys and non-profit organizations can access the same limited docket as ICE Trial Attorneys.
23. That EOIR stop using adjournment codes to track the delays in asylum adjudication, informing DHS that it will no longer code adjournments or record the reasons for adjournment in the recording of proceeding for the purpose of tracking the number of days an asylum application is pending.
24. That DHS revise its regulations and procedures to allow asylum and withholding applicants to apply for work authorization in the same manner as other people within removal proceedings provided that at least 150 days have passed since the filing of an asylum application.

C. Process Modification—The majority of our recommendations involve possible changes in how the immigration courts and the BIA process cases, including recommendations in the tangential area of management of the immigration courts themselves.

1. Immigration Adjudication Case Management

a. Representation and legal advice—Respondents may be represented in removal proceedings but at no cost to the government. Less than half of respondents have counsel, and a much lower percentage of detained respondents have counsel. We assess the costs *to the government* of these low representation rates, describe various efforts to increase both representation and the availability of legal advice to respondents.

We make six recommendations (25-30) at page 61.

25. That EOIR, regardless of the likelihood of statutory change, continue to make the case to Congress that funding representation for those who are detained and unable to pay the cost of hiring individual counsel will work efficiencies and cost savings.
26. That EOIR consider a more intensive assessment of the paraprofessional programs that provide legal representation and the accreditation process, as well as an assessment of the accuracy and usefulness of the pro bono lists provided at the courts.
27. That the EOIR develop, in consultation with groups that are encouraging pro bono representation, a national pro bono training curriculum, tailored to detained and non-detained settings and offer a systematic cycle of training in partnership with CLE and non-profit providers. The successful mock hearings and training materials developed in one location should be shared with the other courts and where possible, trainings should be recorded and those video or audio recordings made widely available to the public. With appropriate disclaimers

and updates, these trainings may help to increase representation, pro bono participation, and even raise the sophistication of the respondents and their families about what to expect of their representatives.

28. That EOIR continue to give high priority for any available funds for the Legal Orientation Program.
29. That EOIR help negotiate "know-your-rights" providers' access to detainees and to help ensure that presentations are made sufficiently in advance of the initial master calendar hearings to ensure adequate time of the detainees to consider and evaluate the presentation information.
30. That EOIR consider giving LOP providers electronic access to the court dockets in the same manner as is provided to DHS counsel. While a longer term goal of EOIR is to allow all registered representatives to electronically access the court dockets, in the intervening period if LOP providers have this access it will help them prepare for the presentations, potentially recruiting additional assistance or notifying needed translators. In detention centers it may be equally important for EOIR to negotiate with the detention officers to provide lists of new detainees, their country of origin and language requirements at the earliest possible stage to both the court and the LOP providers.

We also discuss the use of technology to enhance representation and make four recommendations (31-34) at page 64.

31. That DHS and EOIR provide video versions of the "Know-Your-Rights" presentations in every detention facilities available to be played in the dorms throughout the day and the law libraries on demand.
32. That DHS and/or EOIR assist in the transcription of the text of the forthcoming ABA Immigration Commission video into additional languages or provide audio translations in the major languages of the detained populations.
33. That DHS provide video technology in all detention facilities allowing private consultation and preparation visits between detainees and counsel. Similarly, this should be part of the standards required of all leased or privately controlled immigration detention facilities.
34. That DHS, to help reduce continuances granted to allow attorney preparation, have a duty officer in those facilities where video technology is not available, whom attorneys and accredited representatives can contact to schedule collect calls from the detainee.

We encourage greater use of "limited appearances" by counsel in some situations (appearing for only part of the case) and the use of pro se law clerks and make two recommendations (35-36) at pages 64 and 65.

35. That EOIR consider amending the Practice Manual to explain circumstances in which judges may wish to permit limited appearances and necessary warnings and conditions they should establish.
36. That EOIR consider a limited multi-year pilot program in a large immigration court or a detention center with a large immigration docket to assess whether a pro se law clerk office could provide benefits that outweigh its costs, such as saving court time in explaining procedures and filing requirements and reduced need for continuances because a greater number of applications were complete upon submission.

b. Case Management Procedures

We make three recommendations (37-39) about enhancing advice that EOIR provides lawyers and pro se respondents about immigration court procedures, at page 66.

37. That EOIR, perhaps though its LOP, work with non-profit legal services providers to develop a pro se version of the OCIJ Practice Manual that explains terms and concepts with which lay persons, especially from other countries, are unlikely to understand.
38. That EOIR share best practices developed by individual courts or judges by collecting and sharing any supplement instructions used to aid the parties in preparing submissions to the court.
39. That EOIR develop video kiosks in the waiting rooms or similar spaces within the courts so that the respondents can access the court website and find instructional materials.

We discuss the extent to which judges use prehearing or status conferences to narrow issues and make three recommendations (40-42) at page 70.

40. That EOIR revise its coding scheme to allow judges or court administrators to identify what the Practice Manual calls "pre-hearing conferences."
41. That EOIR consider a pilot project in one or more courts to test the effectiveness of mandatory pre-hearing conferences to be convened in specified categories of cases and to evaluate situations in which the judge should order the Trial Attorney to produce essential records from the A File.
42. That EOIR evaluate the use EOIR Form-55 and/or create a new form and recommended procedure for stipulations by the represented parties.

We discuss various ways in which removal adjudication might be streamlined. We make two recommendations (43-44) about the charging document and about judges' authority to close cases *sua sponte* at page 71.

43. That EOIR amend the OCIJ Practice Manual [or, if legal counsel believes it necessary, seek to amend the CFR] to define specifically "Motions for Administrative Closure;" authorize the judge to initiate this motion sua sponte; indicate that a specific basis for administrative closure should be the failure of the parties to meet and confer as previously directed by the judge; and authorize government and private counsel under the procedural rules to object to the administrative closure orally or in writing. (EOIR may want to codify within the procedural rules governing these motions a list of common reasons that a judge should consider in evaluating the basis for administrative closure, such as those referenced above.) If the caseload of the court grows so large that the court cannot possibly address the backlog of cases, administrative closures of low priority or very old cases may be an appropriate mechanism to manage the workload of the courts.
44. That EOIR amend the Practice Manual [or seek to amend the CFR] provision that allows the government to amend the charges and allegations in the NTA at any time in the proceeding. The new rule would liberally allow amendment at the first master calendar but following that hearing, amendment would only be considered based on motion to the court and good

cause show for why the government could not have presented the charges or allegations earlier.

We recount earlier DHS efforts to create prosecution teams of lawyers assigned to the same judge and collectively responsible for the actions of the team and make five recommendations (45-49) at page 73.

45. That EOIR not oppose plans that ICE Chief Counsel might devise to implement a vertical prosecution arrangement in particular courts.
46. That EOIR consider providing judges guidance on what they may do to require that government counsel are fully prepared to represent the government and are responsible for necessary actions that DHS must complete between hearings. EOIR can make clear that the judge has authority to rely on a member of a prosecution team to follow up on important evidence, forensic examination, securing required security checks, locating government files, etc.
47. That EOIR instruct judges to treat all ICE Trial Attorneys as responsible for the actions and omissions of other Trial Attorneys in the same case. Judges may hold ICE Trial Attorneys accountable for the commitments made in prior hearings, in the same manner the court holds private counsel working in the same law firm or non-profit responsible. Parties should be able to expect that the commitment made by an attorney in a hearing will be met in a subsequent hearing. This practice could be established through judicial education programs. Further, the OCIJ should amend the Practice Manual to explicitly define the responsibility of the Trial Attorneys. This recommendation does not require an amendment of existing regulations.
48. That EOIR clarify the authority for judges to make conditional decisions on applications for relief where trial counsel did not secure completed agency action and clarify that the judges may continue the case for a period such as sixty days or some other period that does not create undue hardship on individuals who have been granted relief but allows the DHS sufficient time under the totality of the circumstances to complete the biometric check;
49. That EOIR authorize a special docket for cases awaiting biometric results with a special coding for these cases to allow later measurement of the degree to which the security checks are solely responsible for the delays. When the check is complete, if the Trial Attorney found the results of the security check warranted a resumption of the hearing, the Trial Attorney would move to calendar a resumed individual hearing to address the biometric results. If no further hearing is necessary, the Trial Attorney could file a notice with the court and respondent stating that no new evidence was presented in the results of the security check and upon receipt of this notice, the judgment would convert to a final order.

Earlier in the report we made other streamlining recommendations and move them here in this outline, consistent with our plans for the report's next iteration. These recommendations concerned the manner in which judges provide advisals to respondents seeking asylum, and the use of "stipulated removal" orders for respondents whose interests might best be served by departure from the country. We make four recommendations (14-17) at pages 49 and 50.

14. That OCIJ amend the Practice Manual that requires the filing of a defensive asylum application in open court to allow appropriate employees of the court (possibly judicial law clerks or senior staff trained by the court administrators) to accept the submission of the asylum

application and provide the required statutory advisals. The amendments should further authorize court personnel to schedule a telephonic status conference with the judge and ICE attorney in any situation where the respondent or his/her representative expresses a lack of understanding. The Practice Manual amendments should note that court personnel may renew, at the merits hearing, the advisal of the danger of filing a frivolous application and allow an opportunity for the respondent to withdraw the application.

15. That EOIR consider a pilot project to test stipulated removals' utility as a mechanism to reduce detention time, allow judges to focus on contested cases, and assess the contexts, if any in which, the use of stipulated removals might diminish due process protections.

    During the pilot, most appropriately conducted in a detention center, the judges would direct attorneys for respondents and ICE counsel to confer and discuss the entry of a stipulated order of removal in cases where the NTA alleges removal on serious criminal grounds (we suggest this subset because in most criminal cases the conviction bars eligibility for relief, thus making a subset that is compatible with DHS priorities and a group likely to have limited defenses).

    EOIR would encourage judges to permit attorneys to make limited appearances (as discussed in section V.C.1.a.(4)) to meet and advise detained respondents about the possibility of relief and the availability of a stipulated order of removal.

    In a randomly selected subset of cases, judges would hold an in person hearing and review of the advisals and assess the understanding of the respondent about the nature of the stipulated removal order and the voluntariness of the waivers.

    "Know-your-rights" presentations sponsored by the LOP program (discussed in Section III.B.) would have sufficient access to the respondents to allow them to make personal inquiries about their ability to contest removal or to establish prima facie eligibility for relief prior to the master calendar hearing. Respondents could be informed about the ability to request a stipulated order of removal after the presentation.

16. That EOIR consider designing, in jurisdictions where DHS routinely seeks stipulated removal orders and asks for a waiver of the respondent's appearance, a random selection procedure where personal appearance is not waived and the respondent is brought to the immigration court to ensure adequate warnings and the waivers were knowing and voluntary.

17. That EOIR, if it undertakes such a project, encourage one or more advocacy organizations to prepare a video recording (with subtitles or dubbing in a number of languages) explaining removal proceedings, general eligibility for relief, and the possibility of requesting a stipulated order of removal should the respondent wish to waive the hearing and any application for relief including the privilege of voluntary departure.

We assessed the value of adjournment codes that judges assign whenever they grant an adjournment (continuance), noted the cautions that EOIR officials stressed as to their limitations, but concluded that the codes may have some value in assessing case management procedures nationwide and in individual courts. We make one recommendation (50) at page 77.

50. That EOIR consider whether adjournment code data, despite their limitations, may facilitate system-wide analysis of case management practices.

We considered the limited tools available to immigration judges to hold both private and government counsel to account for their behavior and make three recommendations (51-53) at pages 79 and 80.

51. That EOIR develop procedures allowing a judge to issue an order to show cause why an attorney should not be publically reprimanded for lack of preparation, obstructive behavior, or other behavior that impedes the operation of the court. Ideally, these procedures would be available to the judge to sanction both the private bar and ICE Trial Attorneys (discussed below). Sanctions would not include monetary or formal disciplinary rulings but are supplemental to the existing disciplinary procedures.
52. That EOIR study and consider developing mandatory CLE materials. When a judge finds an attorney's behavior is substandard due to lack of substantive or procedural knowledge, the judge would have the ability to order the attorney to complete a CLE course and to pass a qualifying examination. If the existing resources of the EOIR are insufficient to develop such a program, the agency should explore pro bono partnerships with existing reputable CLE providers or consider seeing regulatory authority to issue fines that would subsidize the cost of developing such training and educational materials.
53. That EOIR should continue its efforts to implement the statutory grant of immigration judge contempt authority.

c. We describe the immigration courts' use of video conferencing technology to hold hearings, both for detained respondents and non-detained respondents. We were unable to conduct a controlled experiment to assess the impact of video conferencing on outcomes, but we assessed some additional data which calls into question earlier research that flatly asserts there is such an impact (a negative one) in asylum hearings. We make five recommendations (54-58) at page 88.

54. That EOIR revise the OCIJ Practice Manual to provide judges, attorneys, and pro se respondents more guidance about how to prepare for and conduct proceedings using VTC. Further, that the OCIJ consult with the Asylum Office and review their VTC best practices for possible adoption and integration into EOIR procedures. Further that the OCIJ develop a system that randomly selects VTC hearings for observation by ACIJs and/or other highly trained personnel such as BIA staff attorneys or visits by senior members of the Asylum Office, to prepare formal evaluations of the VTC hearings, especially those involving claims for asylum or other humanitarian relief. Ideally these special observers would also review a random selection of in-person hearings to offer a comparative assessment.
55. That EOIR, as it works toward implementing electronic docketing and electric case files (which will permit ready access to documents in video proceedings), consider the interim use of document cameras in video proceedings to avoid the need to fax documents between locations.
56. That EOIR consider the feasibility of a more formal evaluation of VTC beyond the informal monitoring that it says it conducts today, not for the purpose of revisiting the use of VTC, to which Congress and EOIR are committed, but rather to provide more systematic information on how to make its use more effective and to ensure against undue prejudice.

57. That EOIR encourage judges to permit counsel and respondents to use the courts' VTC technology to prepare for the hearing so that their first experience is not the high stakes hearing.
58. That EOIR should consider providing surveys or questionnaires to the parties and their witnesses to gather information about how the VTC may have impaired hearing during the proceeding. EOIR should evaluate the data collected periodically to determine if corrections to procedures or technology are warranted.

2. BIA Case Management Procedures—We describe the controversy over BIA case processing procedures and the variations in appeals from the BIA to regional courts of appeals. We make one recommendation (59), on page 91.

59. That EOIR proceed to make the 2008 proposed regulations [concerning three judge panels] final.

3. Court Performance and Immigration Court Management.
    a. We discuss the controversy over the selection of immigration judges and evaluation of their performance. We make two recommendations (60-61) concerning judicial selection at page 93.

60. That EOIR in the interests of transparency consider publishing annually, as do some courts, or posting periodically, summary and comparative data on the gender and race/ethnicity composition of categories of EOIR personnel (e.g., judges, BIA members, staff by occupational category), as well as summary information on judges' prior employment, with due attention to any statutory restrictions to protect privacy.
61. That some other group, if EOIR is disinclined to post such information, or forbidden to do so, post such information based on judges' names on the EOIR website and Internet-available biographical information.

    b. We note the controversy over the use (or not) of quantitative measures to evaluate individual judge performance but describe as well other courts' use of quantitative measures to evaluate court performance. We make one recommendation (62), at page 97.

62. That EOIR establish a committee to prepare a report assessing adaptability of performance measures used in other court systems, such as the National Center for State Courts' "Courtools," in a variety of areas. The report of this committee should be made public.

    c. We assess the separate topic of how EOIR handles complaints about judge misconduct and disability and make one recommendation (63), at page 99.

63. That EOIR, consistent with its commitment to transparency in the judicial discipline process, explain how it is barred by statute from identifying judges upon whom it has imposed formal disciplinary action. This explanation could appear on its "Immigration Judge Conduct and Professionalism" webpage, within the quarterly statistical reports, or in both places.

d. We describe the centralized management structure of the immigration courts and the use of assistant chief immigration judges. We make no recommendations on this topic, at this time.

e. We describe recommendations others have made about the proper location of the immigration removal adjudication agencies in the federal government but make no recommendations about organizational restructuring.