

Immigration Bond Analysis: Methodology

Executive Summary

This report provides a summary of methodological steps the ACLU Analytics team used to calculate the number of immigrants detained discretionarily by ICE over time, the distribution of bond amounts assigned and the number of immigrants detained after being assigned a bond they could not afford. We relied on data in four tables from the Executive Office for Immigration Review's (EOIR) public immigration court dataset with the guidance of ACLU Immigration Rights attorneys.

For the purposes of our report, based on the expectation that immigrants who could afford their bond would choose to pay before being detained, we made the assumption that people who did not pay their bond within 5 days could not afford them. We identified over 44,000 immigrants that were unable to afford their bonds within 5 days and over 9,000 immigrants that were unable to afford their bonds within a month since 2016. We also found that the majority of bond amounts fell between \$5,000 - \$10,000. Lastly, we found that one's chances of affording a bond assigned differ by court location and immigration judge. Because this data comes from the immigration courts and, in some cases, lacks detention date information, our detention-length calculations are likely conservative estimates -- that is, we believe they underestimate the number of individuals detained on unaffordable bonds. Sadly, the reality may be even worse than we demonstrate in our analysis.

Data

We received data from the Executive Office for Immigration Review (EOIR), originally through FOIA requests, but eventually made available at the EOIR [website](#) through the link titled "EOIR Case Data (February 2019)." The data included information through February, 2019. We used tables titled "A_TblCase", "B_TblProceeding," "D_TblAssociatedBond" and "tbl_CustodyHistory" for this analysis. These tables provided data about each individual's nationality, proceedings, bond hearings and custody history.

Data Processing

Discretionary Detention

Discretionary detention is the detention of individuals whom ICE is not required, by statute, to detain. These individuals are eligible for bond redetermination hearings before an immigration judge, and we therefore identified discretionary detainees as individuals who had a bond hearing that ended with any decision other than "no jurisdiction" (a "no

jurisdiction” decision indicates that the immigration judge decided that an individual was not eligible for bond). We reduced our dataset to immigrants whose first bond hearing met this criterion and used their “Notice to Appear” issuance date to plot the number of these cases over time.

Bond Amounts

For analyses of bond amounts, we first populated as many bond values as possible. If there was an empty “new bond” value, but a filled-in value for an individual’s “initial bond” set, and the immigration judge had decided there was “no change” or “no action,” then we set the “new bond” value to that of the “initial bond.” If there *was* a decision of change or action in one’s bond set, but no “new bond” value, we weren’t able to determine the bond amount. We eliminated the few bonds with values below \$1,500, the legal minimum, to capture the most commonly set bonds. Again, we considered only the first bond hearing (that met our conditions described above) at which a bond was set. See the table below for a visual example of how we populated bond values.

Bond Decision	Initial Bond	New Bond	Final Bond Amount
No change	\$1,000	NA	\$1,000
New amount	\$4,000	NA	NA
New amount	\$5,000	\$3,000	\$3,000

Individuals Who Had Bond Hearings and Had a Bond Set

We joined together the tables tracking merits cases and proceedings with the table tracking bond proceedings and the table tracking detention and release dates to identify the group of people detained after a bond hearing. We used the following filter criteria:

- We considered only “removal” case types. Of those, we excluded cases where individuals had a later bond hearing at which the immigration judge (IJ) denied bond (in order to eliminate cases where that later decision, as opposed to an unpaid bond, was the reason an individual remained detained).
- We filtered out bond proceedings with the bond decisions of “no jurisdiction,” (indicating the individual was not eligible for a bond hearing) “own recognizance” (since it was impossible that these individuals could not afford their bond; these decisions are also rare) or “no bond” (indicating that the IJ denied bond).
- We considered only bond hearings with above-zero bond amounts set, because zeros in this case suggest missing data rather than a zero-dollar bond.

Individuals Detained For Over 5 or 30 Days After Bond

To determine whether an immigrant remained detained after bond was set, we joined the table tracking custody history to the tables tracking bond, case, and proceedings

information. Because the EOIR data does not include release dates for every case, we used two strategies to determine whether people were detained for over 5 or 30 days after having had a bond set:

1. We identified the first “release date” from the custody history table after an individual’s bond hearing. If, however, that individual had *both* a proceeding completion date and a release date that came after his/her bond hearing(s), we chose the earliest of the two as that person’s “detention end date” to be conservative. The existence of a release date in the custody history table for an individual was enough for us to believe that he/she was held in custody for some period of time.
2. When individuals lacked release dates in the custody history table but were detained throughout their proceedings (according to the custody marker in the proceedings table), we identified their detention end date as the first existing proceeding completion date after their bond completion date.

We then combined the two groups described above and filtered out any bond hearing that led to detention for fewer than either 6 or 31 days. If the individual had multiple bond hearings that fit our criteria, we chose the *first* bond hearing that met all criteria (because the period of detention on an unaffordable bond begins with the first hearing at which bond is set, even if there are subsequent hearings). Though imperfect, this filtering process allowed us to choose the shortest possible detention time for each individual (i.e., the conservative choice).

With any additional questions about this methodology, please contact Sophie Beiers, ACLU Data Journalist: analytics@aclu.org.