

# An Empirical Study on the Impact of Forensic Medical Examinations in Preventing Deportations

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Research Paper

## Impact of forensic medical evaluations on immigration relief grant rates and correlates of outcomes in the United States

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## Access to a Doctor, Access to Justice? An Empirical Study on the Impact of Forensic Medical Examinations in Preventing Deportations

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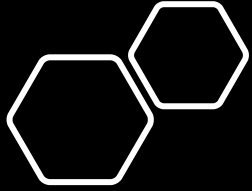
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# Theoretical Framework

U.S. immigration policy defines types of harm, suffering, and hardship = deserving of relief

Forensic medical evaluations support adjudications through which individuals moving from “undesirable alien” → “deserving immigrant”

Forensic medical evaluations are key to expanding adjudicators’ notions of harm, credibility → “deservingness”



# Many uses of a forensic medical evaluation

Assess whether harm rose to requisite level of severity

Supporting an immigrant's credibility

- By corroborating immigrant's testimony by describing whether physical/psychological findings are "consistent with" individual's account
- Document psychological conditions that may impact individual's demeanor, recall and communication.

Influence discretionary decision-making

Other "intangible" benefits (holistic care, better comms, possible therapeutic benefits of evaluation?)

Goals of the study?

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Do forensic medical evaluations make a difference to adjudicators?


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How do various individual demographic and case characteristics impact correlate with successful outcomes?

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Did adjudicators differentiate between psychological and physical evaluations?

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## Data & Findings

Retrospective  
analysis of 2584 cases  
initiated by PHR  
between 2008-2018

Found that 81.6%  
had a “positive  
outcome”

Table 1. Case outcomes definitions (n = 2584).

<b>Positive Outcome</b>	<b>n</b>	<b>%</b>
Granted Asylum	1555	73.7
Granted Relief (unspecified)	233	11.0
Termination of Proceedings	80	3.8
Granted Withholding of Removal	60	2.8
Granted VAWA	43	2.0
Granted U-Visa	33	1.6
Granted Voluntary Departure	29	1.4
Granted T-Visa	21	1.0
Granted Cancellation of Removal	19	0.9
Granted CAT	19	0.9
Granted SIJS	12	0.6
Released from Detention	3	0.1
Adjustment of Status	2	0.1
<b>Total</b>	<b>2109</b>	<b>100</b>



<b>Negative Outcome</b>	<b>n</b>	<b>%</b>
Asylum Denied	180	57.5
Ordered Deported	115	36.7
Relief Denied	11	3.5
Application Denied (no deportation order)	7	2.2
<b>Total</b>	<b>313</b>	<b>100</b>

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<b>Other Outcome</b>	<b>n</b>	<b>%</b>
Administrative Closure	156	96.3
Other	6	3.7
<b>Total</b>	<b>162</b>	<b>100</b>



# Finding a control group

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Of the 2584 applicants, 67.1% (n = 1735) had a known adjudicated asylum claim.

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Of this group, 89.6% (n = 1555) were granted asylum.

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→ Compare to a national asylum grant rate of 42.4%.

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*National "Asylum Grant Rate" = Average of EOIR 45.6% success rate + USCIS 39.1% success rate during study period*

# INDIVIDUALS IN THIS DATA SET

ALL had access to counsel

92% not-detained

ALL pre-screened by PHR  
and confirmed to have  
considerable psych/phys  
symptoms

Individuals who receive such  
screenings may be eligible  
for forms of relief that are  
more generously granted by  
IJs and adjudicators, i.e. Us  
and Ts

Most evaluations were  
centered in NE and West  
Coast, loosely more  
favorable circuits.

# Access to Counsel

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Average of 81.05% of asylum seekers in immigration court were represented by counsel in the studied period between 2008 and 2018. (TRAC)

- 53.88% received an asylum grant
- 44.13% were denied relief.
  - Compare to PHR study denial rate of 6.9%

# Detention Status

15.5%

- Asylum grant rate for asylum seekers in detention who were detained and never released

44.42%

- Asylum grant rate for those detained and then released in the general pool of individuals appearing before EOIR during this period.

72.7%.

- Grant rate for those detained at time attorney requested PHR Eval



## Physical vs. Psychological

**Physical evaluations correlated with a higher rate of positive outcomes than psychological affidavits.**

Psych Only → 79.7% grant rate

Phys Only → 86.4% grant rate

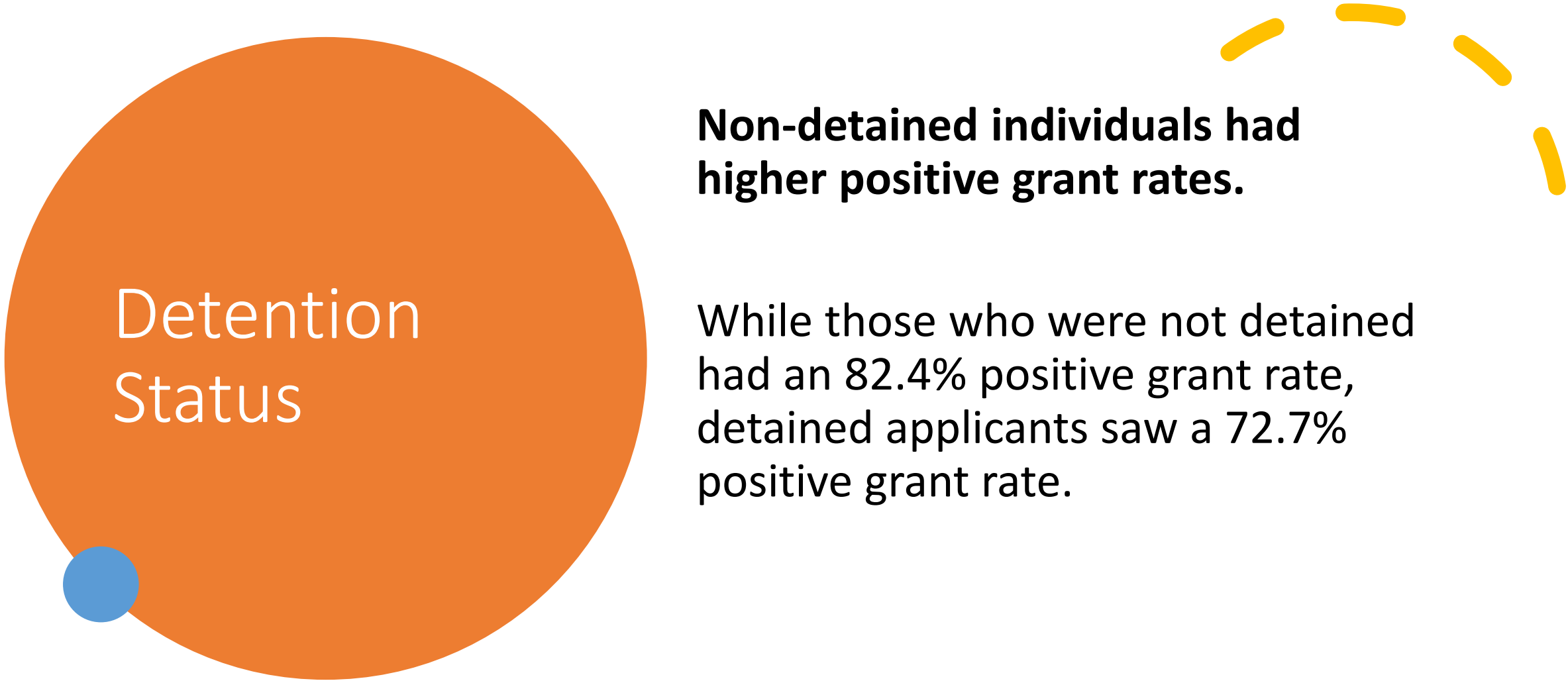
Phys + Psych → 87.8% grant rate



## Race & Anti-Blackness

**Those from countries in Africa had higher odds of receiving a positive outcome, at 90.5%.**

Note the absence of Afro-Caribbean immigrants and other black populations immigrating from non-African countries.



## Detention Status

**Non-detained individuals had higher positive grant rates.**

While those who were not detained had an 82.4% positive grant rate, detained applicants saw a 72.7% positive grant rate.



Findings  
from other  
independent  
variables



**Those identifying as female had higher odds of receiving a positive outcome.**

When analyzed by gender, those who identified as female received a positive outcome rate of 83%, whereas those who identified as male were slightly lower at 80.1%.





Findings  
from other  
independent  
variables



**Spanish speakers had lower odds of receiving a positive outcome.**

As compared to English, French, and “Other” languages, those who spoke Spanish had the lowest grant rate of 74.4%.



Findings  
from other  
independent  
variables

**Those who included claims related to persecution on account of sexual orientation had higher positive grant rates.**

Those whose claims included being targeted on account of sexual orientation had a 10% higher chance of receiving a positive outcome, 90.8%, than those who did not, 80.7%.



Findings  
from other  
independent  
variables



**Gang-based claims had a detrimental impact on possibilities of success.**

Those who included gang-violence as part of the harm from which they were fleeing had the lowest rate of success at 66.4%. In contrast, 86.5% of those who did not include gang violence as a basis for relief had positive outcomes.



Findings  
from other  
independent  
variables

**Foreign detention correlated with higher grant rates.**

Those who included foreign detention as part of the harm from which they were fleeing had a slightly higher rate of success, 87.9%, versus those who did not include foreign detention, 80.9%.

# Next Steps & Implications

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The results of the PHR-CUNY Study provide tangible quantitative support for the benefits medico-legal collaboration in immigration representation:

- strengthen critical legal arguments related to “persecution,” “hardship,” “discretion,” and “substantial harm” in immigrant defense.
- increase adjudicator awareness re: trauma-informed practices and impacts on credibility
- lead to the development of favorable case law and policies
- draw attention to specific harms immigrants seeking humanitarian relief have survived that may be otherwise overlooked



Are adjudicators holding immigrants to unrealistic evidentiary standards, constructively creating norms which require immigrants with temporary or no immigration status to gain access to health professionals with the requisite training, competencies, and capacity to evaluate them?