

September 2008

# U.S. ASYLUM SYSTEM

Agencies Have Taken  
Actions to Help  
Ensure Quality in the  
Asylum Adjudication  
Process, but  
Challenges Remain



G A O

Accountability \* Integrity \* Reliability



Highlights of [GAO-08-935](#), a report to congressional requesters

## Why GAO Did This Study

Each year, tens of thousands of noncitizens apply in the United States for asylum, which provides refuge to those who have been persecuted or fear persecution. Asylum officers (AO) in the Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services (USCIS), and immigration judges (IJ) in the Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR) assess applicants' credibility and eligibility. GAO was asked to evaluate aspects of the asylum system. This report addresses the extent to which quality assurance mechanisms have been designed to ensure adjudications' integrity, how key factors affect AOs' adjudications, and what key factors affect IJs' adjudications. To conduct this work, GAO reviewed agency documents, policies, and procedures; surveyed all AOs, supervisory AOs, and IJs; and visited three of the eight Asylum Offices. These offices varied in size and percentage of cases granted asylum. Results of these visits provided additional information but were not projectable.

## What GAO Recommends

GAO recommends that the Asylum Division, among other things, solicit information from officers on their training needs, develop a plan to implement local quality reviews in all offices, and determine how much time is needed to adjudicate a case in a manner consistent with procedures and training. DHS and USCIS concurred with GAO's recommendations.

To view the full product, including the scope and methodology, click on [GAO-08-935](#). For more information, contact Richard M. Stana at (202) 512-8777 or stanar@gao.gov.

# U.S. ASYLUM SYSTEM

## Agencies Have Taken Actions to Help Ensure Quality in the Asylum Adjudication Process, but Challenges Remain

### What GAO Found

USCIS and EOIR have designed quality assurance mechanisms to help ensure the integrity of asylum adjudications, but some can be improved. While 75 percent of AO survey respondents reported that basic training prepared them at least moderately well to adjudicate cases, they also reported that despite weekly training, they needed additional training to help them detect fraud, conduct security checks, and assess the credibility of asylum seekers. The Asylum Division does not consistently solicit AOs' and supervisory AOs' input on a range of their training needs. Without this, the Asylum Division lacks key information for making training decisions. The Asylum Division has designed a quality review framework to ensure the quality and consistency of asylum decisions. Although supervisors review all cases and headquarters reviews certain cases, other local quality assurance reviews rarely took place in three of the eight Asylum Offices primarily due to competing priorities. By fully implementing its quality review framework, the Asylum Division would better identify deficiencies, examine their root causes, and take action. The majority of IJ survey respondents reported that training enhanced their ability to adjudicate asylum cases, although the majority also reported having additional training needs. EOIR expanded its training program in 2006, particularly for newly hired IJs, and annually solicits IJs' views on their training needs.

Asylum officers reported challenges in identifying fraud and assessing applicants' credibility, as well as time constraints, as key factors affecting their adjudications. The majority of AO survey respondents reported it moderately or very difficult to identify various types of fraud, despite mechanisms designed to help identify fraud and assess credibility. Further, assistance from other federal entities to AOs in assessing the authenticity of asylum claims has been hindered in part by resource limitations and competing priorities. With respect to time constraints, 65 percent of AOs and 73 percent of supervisory AOs reported that AOs have insufficient time to thoroughly adjudicate cases—that is, in a manner consistent with procedures and training—while management's views were mixed. The Asylum Division set a productivity standard equating to 4 hours per case in 1999 without empirical data. Without empirical data on the time it takes to thoroughly adjudicate a case, the Asylum Division is not best positioned to know if its productivity standard reflects the time AOs need for thorough adjudications.

Verifying fraud, assessing credibility, and time constraints are also key factors affecting IJs' adjudications. IJ survey respondents cited verifying fraud (88 percent) and assessing credibility (81 percent) as a moderately or very challenging aspect of asylum adjudications. Responding to 2006 Attorney General reforms, EOIR implemented a program to which IJs can refer instances of suspected fraud and receive information to aid in fraud detection. Eighty-two percent of IJs reported time limitations as moderately or very challenging aspects of their adjudications. EOIR has detailed IJs to courts with high caseloads and plans to hire additional staff, but it is too soon to know the extent to which additional staff will alleviate IJs' time challenges.

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## Abbreviations

AO	asylum officer
AOBTC	Asylum Officer Basic Training Course
BIA	Board of Immigration Appeals
CCD	Consular Consolidated Database
DACS	Deportable Alien Control System
DHS	Department of Homeland Security
DOJ	Department of Justice
EOIR	Executive Office for Immigration Review
FDL	Forensic Document Laboratory
FDNS	Office of Fraud Detection and National Security
FDNS-IO	Office of Fraud Detection and National Security immigration officer
FLETC	Federal Law Enforcement Training Center
FMFIA	Federal Managers' Financial Integrity Act of 1982
FPC	Fraud Prevention Coordinator
IBIS	Interagency Border Inspection System
ICE	U.S. Immigration and Customs Enforcement
IJ	immigration judge
NACARA	Nicaraguan Adjustment and Central American Relief Act
NAIJ	National Association of Immigration Judges
QA/T	Quality Assurance and Training Coordinator
RAPS	Refugees, Asylum, and Parole System
State	Department of State
USCIS	U.S. Citizenship and Immigration Services
US-VISIT	U.S. Visitor and Immigrant Status Indicator Technology

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United States Government Accountability Office  
Washington, DC 20548

September 25, 2008

The Honorable Steve King  
Ranking Member  
Subcommittee on Immigration, Citizenship, Refugees, Border Security,  
and International Law  
Committee on the Judiciary  
House of Representatives

The Honorable F. James Sensenbrenner, Jr.  
House of Representatives

Each year, tens of thousands of individuals representing over 100 nationalities apply for asylum in the United States. U.S. immigration law provides that noncitizens who are in this country—regardless of whether they entered legally or illegally—may be granted humanitarian protection in the form of asylum if they demonstrate that they cannot return to their home country because they have a well-founded fear of persecution.<sup>1</sup> Federal adjudicators—asylum officers in the U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security (DHS) and immigration judges in the Executive Office for Immigration Review (EOIR) within the Department of Justice (DOJ)—assess whether asylum applicants' claims are legitimate and meet the eligibility criteria for asylum.

Asylum decisions can carry serious consequences. Granting asylum to an applicant with a genuine claim provides protection from being returned to a country where the individual's freedom or life could be threatened. On the other hand, granting asylum to an individual with a fraudulent claim jeopardizes the integrity of the asylum system by enabling the individual to remain in the United States, apply for certain benefits such as a Social Security card, and pursue a path to citizenship. In the worst case scenario,

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<sup>1</sup>The laws governing asylum protection were first established in statute with the passage of the Refugee Act of 1980 (Pub. L. No. 96-212, § 201, 94 Stat. 102, 102-06 (1980) (codified at 8 U.S.C. §§ 1101(a)(42), 1157-1159)). The Refugee Act provided, for the first time, a U.S. refugee policy that stated that persecuted aliens who are present in the United States and who meet the definition of a refugee can apply for asylum protection in the United States. The legal standard for a refugee and asylee are the same, but noncitizens must apply for refugee status from outside the United States, and for asylum status from within the United States. The final regulations for implementing the Refugee Act of 1980 were issued in 1990.

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this could pose a threat to our national security or public safety. The 1993 bombing of the World Trade Center, the 1993 killings of CIA employees, and a plot to bomb New York landmarks were all undertaken by individuals who had applied for asylum. Although none of these individuals was granted asylum, the attacks of September 11, 2001, have heightened fears that terrorists might enter the United States with false documents, file fraudulent asylum claims, and become embedded in the U.S. population.

The very nature of the asylum system puts adjudicators in the position of trying to make quality decisions with imperfect information. Asylum law states that testimonial information alone can be sufficient for asylum applicants to meet the burden of proof for establishing asylum eligibility, in part because applicants may not be able to present documents if they fled their country of persecution without them, came from countries where documentary evidence was not available, or fled with fraudulent documents to hide their true identity. As such, adjudicators must make decisions at times without documentation to support or refute an applicant's claim. Furthermore, economic incentives for a better life in the United States can make it attractive for aliens to fraudulently apply for asylum status and, according to some academic journals and policy reports, fraudulent asylum claims are easy to make and difficult to detect. Together, these factors create a challenging environment in which adjudicators must attempt to reach the best decisions they can.

You requested that we review aspects of the asylum system. This report addresses the following questions:

- To what extent have quality assurance mechanisms been designed within the U.S. asylum system to ensure the integrity of the adjudication process?
- How do key factors affect asylum officers' adjudication of asylum cases?
- What key factors affect immigration judges' adjudication of asylum cases?

To address the first two questions, we reviewed applicable laws, regulations, and agency documents, including asylum adjudication policies and procedures, asylum officer training materials, and fraud referral data. We compared USCIS and EOIR quality-assurance mechanisms with



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criteria in GAO Standards for Internal Control in the Federal Government.<sup>2</sup> We also reviewed governmental and nongovernmental reports and academic journals on asylum issues. In addition, we surveyed all 256 asylum officers and all 56 supervisory asylum officers who were on board as of September 30, 2006, to obtain their views on quality assurance mechanisms and factors that affect asylum officers' ability to adjudicate asylum cases. We obtained a 74 percent and 77 percent response rate, respectively, from the asylum officers and supervisors.<sup>3</sup> (See app. I and app. II, respectively, for the surveys we sent to asylum officers and supervisory asylum officers and their aggregate responses.) To gain a better understanding of asylum adjudications, we visited three USCIS Asylum Offices—Los Angeles, San Francisco, and New York. The views we obtained at these three offices may not be generalized to all eight Asylum Offices. However, because we selected these offices based on their diversity in size (based on the number of asylum officers and cases adjudicated), variation in the percentage of cases granted asylum, and disparate geographic location, they provided us with an overview and perspective of the asylum process as well as potential challenges facing asylum officers. At these offices, we conducted semistructured interviews with Asylum Office Directors and Deputy Directors, quality assurance and training coordinators, Fraud Detection and National Security immigration officers, and selected asylum officers and supervisory asylum officers; and observed interviews that asylum officers conducted with asylum applicants. In addition, we interviewed the asylum officer representative to the American Federation of Government Employees. We also interviewed the Directors of the other five Asylum Offices as well as headquarters officials from USCIS's Asylum Division and Office of Fraud Detection and National Security. To further our understanding of federal efforts to address fraud in the asylum system, we attended the Asylum

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<sup>2</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999). These standards, issued pursuant to the requirements of the Federal Managers' Financial Integrity Act of 1982 (FMFIA), provide the overall framework for establishing and maintaining internal control in the federal government. Also pursuant to FMFIA, the Office of Management and Budget issued Circular A-123, revised December 21, 2004, to provide the specific requirements for assessing the reporting on internal controls. Internal control standards and the definition of internal control in Circular A-123 are based on GAO's Standards for Internal Control in the Federal Government.

<sup>3</sup>Of the 189 asylum officers who responded to the survey, 171 said that, over the past year, they had adjudicated at least some asylum cases, which is the focus of our review. Similarly, of the 43 supervisory asylum officers who responded to the survey, 40 said that they had reviewed at least some asylum decisions over the past year.

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Division's December 2007 Fraud Prevention Conference. Finally, we interviewed DHS officials in the U.S. Immigration and Customs Enforcement's (ICE) Forensic Document Laboratory regarding document verification and Identity and Benefit Fraud Branch regarding asylum investigations. We interviewed officials in the Department of State (State) regarding their role in providing information that may help adjudicators distinguish between genuine and fraudulent asylum claims.

To address the third question and further examine the first question in the context of the immigration courts, we surveyed all 207 immigration judges who were on board as of September 30, 2006, and obtained a 77 percent response rate.<sup>4</sup> (See app. III for the survey we sent to immigration judges and their aggregate responses.) We reviewed EOIR documents and reports, including Statistical Yearbooks and the Immigration Judge Benchbook. We reviewed the Attorney General's 2006 reforms directed to the immigration courts and information from EOIR regarding its implementation of the reforms. We also interviewed EOIR headquarters officials. To further our understanding of factors affecting immigration judges' asylum adjudications, we interviewed representatives of the National Association of Immigration Judges. We also observed court proceedings at the Los Angeles immigration court, which included hearings on asylum cases, to enhance our understanding of the role of immigration judges. To obtain an additional perspective on factors that affect asylum adjudicators—both asylum officers and immigration judges—we interviewed ICE Assistant Chief Counsels (also known as ICE trial attorneys) associated with immigration courts in Los Angeles and San Francisco, California, and New York City, New York.

To provide additional information, we also reviewed Asylum Division as well as immigration judge caseload data for fiscal years 2002 through 2007. To assess the reliability of these data, we reviewed existing information about the data systems, analyzed the data for obvious errors in accuracy or completeness, and compared the data to other published reports. We determined that the data were sufficiently reliable for presenting overall trends in caseload.

We conducted this performance audit from December 2005 through September 2008 in accordance with generally accepted government

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<sup>4</sup>Of the 160 immigration judges who responded to the survey, 159 said that they had heard at least some asylum cases over the past year.

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auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix IV contains more details about our survey and site-visit methodology.

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## Results in Brief

To help ensure the integrity of asylum adjudications, the Asylum Division has designed training programs and quality reviews and EOIR has designed training programs, but some of these mechanisms can be improved. USCIS's Asylum Division provides centralized training to asylum officers and supervisors and directs local Asylum Offices to provide weekly decentralized training. Seventy-five percent of the 171 asylum officers who responded to our survey and 14 of the 26 supervisors who had attended supervisory training at the time of our survey reported that the centralized training they received prepared them moderately or very well for their roles in adjudicating asylum cases. Nevertheless, most asylum officer and supervisor respondents also reported areas in which asylum officers needed better or additional training to improve their ability to adjudicate cases such as in fraud detection and interviewing and assessing credibility. In addition, 88 percent of the asylum officers reported that observing skilled interviewers would help improve asylum officers' interviewing skills, yet 53 percent said they had not had this opportunity. Asylum officers not only thought it would be moderately or very useful during their first year as an asylum officer (98 percent of those who said it would be useful to observe skilled interviewers held this view), but 71 percent who reported the experience would be useful said it would be moderately or very useful during their second year on the job, and 39 percent reported it would be moderately or very useful between their 3rd and 5th years. Standards for internal control in the federal government state that federal agencies should ensure that management provides needed training to staff. Providing additional opportunities to observe skilled interviewers could improve asylum officers' ability to elicit information during the applicant interview to help distinguish between a genuine and fraudulent claim. The Asylum Division also does not have a framework for soliciting asylum officers' and supervisory asylum officers' views on their training needs in a structured and consistent manner, which would help guide headquarters and local decisions about what training to provide and whether it is needed in all offices. Surveying agency

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employees about their training needs and systematically considering them is a best human-capital practice among effective organizations.<sup>5</sup> Internal control standards also require that federal agencies design controls to assure that ongoing monitoring occurs in the course of normal agency operations. According to the Asylum Division, a “particularly high level” of quality is demanded in asylum decisions to protect the integrity of the legal immigration process and to avoid potentially serious consequences that could result if an applicant is wrongfully returned to his or her home country or an applicant who poses a threat to the United States is permitted to stay. As such, it has designed a quality review framework to ensure the quality and consistency of asylum decisions that includes supervisory review, local quality assurance personnel review, and headquarters quality review. However, although local quality assurance personnel routinely conducted reviews of a sample of asylum officers’ decisions in five of the eight Asylum Offices, they did not routinely do so in the remaining three. In two of these offices, competing work demands impeded conducting these quality reviews of asylum officers’ decisions, while in the third office the quality assurance position was vacant. In addition, although the position description for quality assurance personnel included responsibilities for observing and evaluating interviews the asylum officers conduct, local quality assurance personnel in the three offices we visited told us they did not do this, or did this rarely, because of other work demands. By more fully implementing its quality review framework, the Asylum Division would be in a better position to identify deficiencies, examine the root causes of deficiencies, and take corrective action, such as addressing deficiencies through training. Although the majority of immigration judges who responded to our survey reported that EOIR’s training and professional development opportunities enhanced their ability to adjudicate asylum cases, the majority also reported needing more training in several areas, including identifying fraud. In response to Attorney General reforms, EOIR expanded its training program in 2006 to provide additional training, primarily for new immigration judges to, among other things, increase the time immigration judges spend observing veteran immigration judges from 1 week to 4 weeks. In addition, EOIR solicits input from immigration judges on their training needs on an annual basis. Unlike asylum officers’ decisions, immigration judges’ decisions are not reviewed by a supervisor. Rather, EOIR has an appeals board that reviews immigration judges’ decisions if they are appealed.

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<sup>5</sup>GAO, *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*, [GAO-04-546G](#) (Washington, D.C.: March 2004).

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Challenges in assessing the authenticity of claims—that is, identifying fraud and assessing applicants’ credibility—and time constraints are key factors affecting asylum officers’ asylum adjudications. Many asylum officers reported difficulties carrying out their fraud-related responsibilities. For example, 73 percent of asylum officer survey respondents reported it moderately or very difficult to identify document fraud. In addition, the majority of asylum officers reported significant challenges to assessing credibility in about half or more of the cases they adjudicated in the past year. For example, 73 percent reported that insufficient time to prepare and conduct research prior to the interview presented such a challenge. Asylum officers reported facing these challenges despite mechanisms USCIS designed to help asylum officers identify fraud and assess applicants’ credibility, such as identity and security check requirements and fraud prevention teams in Asylum Offices. Federal entities outside USCIS’s Asylum Division and Office of Fraud Detection and National Security also have a role in combating fraud and confirming the validity of claims, such as authenticating documents or providing overseas information about an applicant. However, the Forensic Document Laboratory, overseas offices within State and USCIS, and ICE investigations have been hindered in providing assistance to asylum officers due in part to these organizations lacking resources and having competing priorities, according to officials from these agencies. Sixty-five percent of asylum officers and 73 percent of supervisors who responded to our survey indicated that the time asylum officers have available is insufficient to conduct adjudications that are thorough—that is, in a manner consistent with procedures and training—given the productivity standard they are to meet as part of their performance work plan. In contrast, views among Asylum Division headquarters officials and Asylum Office Directors were mixed regarding whether asylum officers have sufficient time to complete a case. Furthermore, adjudication requirements, such as added identity and security checks, have increased, while the productivity standard has remained unchanged since the Asylum Division established it in 1999 without empirical data. We have reported that time studies are generally beneficial in that they provide quantitative information that can be used to create objective and defensible measures of workload.<sup>6</sup> Having empirical data on which to base the asylum officers’ productivity standard would put the Asylum Division in a better position

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<sup>6</sup>GAO, *Federal Bankruptcy Judges: Weighted Case Filings as a Measure of Judges’ Case-Related Workload*, [GAO-03-789T](#) (Washington, D.C.: May 22, 2003).

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to know whether asylum officers have the time needed to conduct thorough asylum adjudications.

Challenges related to fraud, assessing applicants' credibility, and time constraints are also key factors that affect immigration judges' asylum adjudications. Eighty-eight percent of immigration judge survey respondents cited verifying fraud as a moderately or very challenging aspect of adjudicating asylum cases and 81 percent reported assessing credibility as moderately or very challenging. In response to Attorney General reforms, EOIR implemented a program in 2006 to which immigration judges can refer instances of suspected fraud and receive materials to aid in screening for fraud. Eighty-two percent of immigration judges also reported time limitations as moderately or very challenging aspects of their asylum adjudications and 77 percent reported that managing their caseload was moderately or very challenging. The growth in the number of immigration judges has not kept pace with the growth in their overall caseload and case completions, which may contribute to the challenge. From fiscal years 2002 through 2007, the number of immigration judges increased by less than 1 percent, while the average caseload per immigration judge rose by 13 percent, and case completions rose 20 percent. To help courts address growing caseloads, EOIR has taken steps including detailing immigration judges to courts with high caseloads and plans to hire additional staff, including immigration judges, to help immigration judges better manage their caseload. However, it is too soon to know the extent to which hiring additional staff will alleviate immigration judges' time challenges.

To improve the integrity of the asylum adjudication process, we recommend that the Asylum Division explore ways to provide additional opportunities for asylum officers to observe skilled interviewers, develop a framework for soliciting and acting on asylum officers' and supervisory asylum officers' views of their training needs in a structured and consistent manner, develop a plan to more fully implement its quality review framework, and empirically determine how long it takes to thoroughly adjudicate cases and revise the productivity standard, if warranted.

DHS and USCIS concurred with our recommendations.

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## Background

Asylum, a form of humanitarian protection, is an immigration benefit that enables certain noncitizens to remain in the United States and apply for lawful permanent residence.<sup>7</sup> Asylum provides refuge for certain individuals who have been persecuted in the past or fear persecution on the basis of race, religion, nationality, membership in a particular social group, or political opinion.<sup>8</sup>

Congress and the executive branch have acted to strengthen the U.S. asylum system against the possibility of asylum fraud and limit its vulnerability to terrorists using it as a vehicle for remaining in the United States. For example, in the mid-1990s, the Asylum Division implemented major reforms which, among other things, decoupled employment authorization from asylum requests to discourage applicants with fraudulent asylum claims from applying for asylum solely to obtain a work authorization, and established a goal of completing asylum adjudications within 180 days.<sup>9</sup> To account for such circumstances, the Asylum Division established a national goal to complete 75 percent of the cases that are interviewed at local Asylum Offices and referred to the immigration courts within 60 days of the application date;<sup>10</sup> EOIR established a goal that 90 percent of all asylum cases be completed within 180 days from the application date. The Illegal Immigration Reform and Immigrant

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<sup>7</sup>Asylees can apply for lawful permanent residency 1 year after being granted asylum.

<sup>8</sup>Certain categories of noncitizens are statutorily ineligible for asylum even if they can demonstrate past persecution or a fear of persecution. The following individuals are ineligible to apply for asylum: (1) those who have been in the United States more than 1 year without filing for asylum, unless they can demonstrate changed or extraordinary circumstances; (2) those previously denied asylum unless they can show changed circumstances; and (3) those who may be removed to a third country where they would have access to fair asylum procedures. 8 U.S.C. § 1158(a)(2). The following are ineligible for a grant of asylum: (1) persecutors of others and certain criminals; (2) those who are described in the terrorist grounds of inadmissibility or are reasonably regarded as a danger to the security of the United States; and (3) individuals who were firmly resettled in a third country prior to coming to the United States. 8 U.S.C. § 1158(b)(2)(A).

<sup>9</sup>Asylum applicants, unless otherwise eligible, may not apply for employment authorization documents until they are granted asylum or their asylum application has been pending more than 150 days. Applicants are not eligible for employment authorization documents until they have been granted asylum or their asylum application has been pending for more than 180 days.

<sup>10</sup>The Asylum Division can take 180 days to process cases that are not referred to the immigration courts. According to the Acting Deputy Chief of the Asylum Division, cases that typically do not meet the Asylum Division's 75 percent goal are cases that require review by headquarters or local fraud personnel or cases that require coordination with other federal agencies.

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Responsibility Act of 1996 generally codified some of these reforms into law and required administrative adjudication of asylum applications, not including administrative appeals, within 180 days, absent exceptional circumstances.<sup>11</sup> It also incorporated certain security provisions, including a requirement that the identity of all asylum applicants be checked against certain records or databases maintained by the federal government to determine if an applicant is ineligible to apply for or be granted asylum.

More recently, the REAL ID Act of 2005 codified existing DOJ precedent that (1) the burden is on the applicant to establish past persecution or a well-founded fear of persecution and (2) asylum adjudicators have the discretion to require documentary support for asylum claims.<sup>12</sup> Specifically, if an adjudicator determines that the applicant should provide evidence to corroborate otherwise credible testimony, such evidence is to be provided unless the applicant does not have and cannot reasonably obtain the evidence. The act also laid out the criteria to be considered in making a credibility determination, stating that adjudicators must consider the totality of the circumstances and all relevant factors. An adjudicator may base a credibility determination on inconsistencies, inaccuracies, or falsehoods without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim, as long as it is relevant to the evaluation in light of the totality of the circumstances. It also clarified the wording of the terrorist-related grounds of ineligibility for a grant.

Responsibility for the U.S. Asylum System is shared between USCIS in DHS and EOIR in DOJ, with asylum officers and immigration judges adjudicating asylum cases as well as other types of cases. In addition to asylum cases, the Asylum Division's and EOIR's caseloads also include certain applications for relief under section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA)<sup>13</sup> and credible and reasonable fear cases. NACARA cases involve certain individuals from Guatemala and El Salvador and former Soviet Bloc countries who can have their removal cancelled. Credible fear cases involve individuals subject to expedited removal who express an intention to apply for asylum

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<sup>11</sup>Pub. L. No. 104-208, div. C, § 604(a), 110 Stat. 3009-546, 3009-690 to 94.

<sup>12</sup>Pub. L. No. 109-13, div. B, § 101(a)(3), 119 Stat. 302, 303.

<sup>13</sup>Pub. L. No. 105-100, tit. II, § 203, 111 Stat. 2160, 2196-99 (1997).



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or state that they have a fear of persecution or torture. Reasonable fear cases involve individuals subject to administrative removal or reinstated orders of removal who have expressed a fear of persecution or torture if removed. In addition to these cases, immigration judges also hear other types of immigration cases.

The Asylum Division and its eight Asylum Offices—Arlington, Chicago, Houston, Los Angeles, Miami, New York, Newark, and San Francisco—reside within USCIS. Asylum officers are assigned to these eight offices and periodically travel to other locations to conduct interviews when applicants live outside the general geographic area of these offices. In fiscal year 2008, the Asylum Division received about \$61 million all from USCIS fee-based funding, although no fee is charged to apply for asylum.<sup>14</sup> Within EOIR, immigration judges are positioned organizationally under the Office of the Chief Immigration Judge, which is responsible for 54 administrative immigration courts.<sup>15</sup> The Board of Immigration Appeals (BIA) also resides within EOIR and is responsible for hearing appeals of immigration judges' asylum decisions, among other kinds of appeals. In fiscal year 2008, EOIR received about \$238 million to fund all of its activities.

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## DHS Has a Nonadversarial Adjudication Process

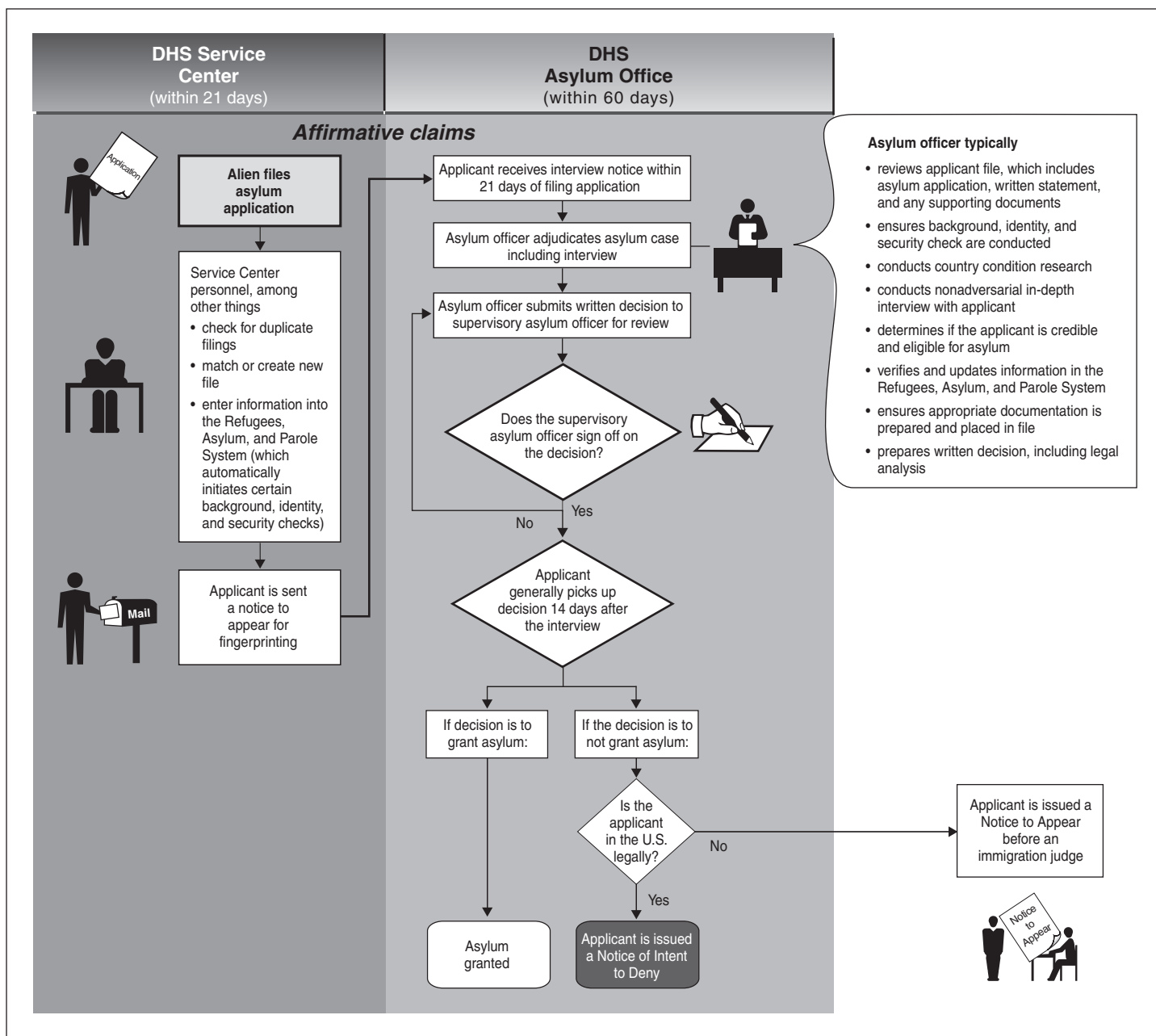
DHS's asylum adjudication process involves affirmative asylum claims—that is, claims that are made at the initiative of the alien who is in the country either legally or illegally and filed directly with USCIS. The affirmative asylum process is nonadversarial in that no government official argues in opposition to the asylum applicant, and the asylum officer is to be a neutral decision maker. Figure 1 provides an overview of the steps typically involved in DHS's asylum process. For more detailed information on the asylum process, see appendix V.

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<sup>14</sup>The Asylum Division does not receive any direct appropriations for adjudication of asylum applications. Rather, USCIS collects and uses fees from the filing of other immigration benefit applications to cover adjudication costs, including those associated with asylum and refugee applicants.

<sup>15</sup>The Office of the Chief Immigration Judge is to provide overall program direction, articulate policies and procedures, and establish priorities for immigration judges in the immigration courts across the country.

**Figure 1: Steps in the DHS Asylum Process**



Source: GAO analysis of USCIS data; Art Explosion.

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The Asylum Division's Affirmative Asylum Procedures Manual and basic training materials for asylum officers identify the various tasks asylum officers are to perform in adjudicating an asylum case. Asylum officers are required to conduct an asylum interview, prior to which they must, among other things, review the applicant's file and check databases to (1) determine who is included on the application, (2) determine when the applicant claims to have entered the United States and when he or she filed the asylum application,<sup>16</sup> (3) become familiar with the applicant's background and claim, and (4) identify issues to cover during the interview. In addition, if the asylum officer is unfamiliar with country conditions relevant to the applicant's claim, the officer should research conditions in that country. During the interview, in addition to hearing the applicant's testimony, the asylum officer must also explain the process, verify basic and biographical information provided on his or her application, and place the applicant, the applicant's interpreter, and the interpreter monitor under oath. After the interview, the asylum officer must update the Refugees, Asylum, and Parole System (RAPS); write a decision that includes a legal analysis and in most cases citations to country conditions; and prepare a decision letter. In making a decision, an asylum officer must make a determination of the credibility of the applicant and consider if any false submission of information is relevant to the claim. On average, asylum officers have about 4 hours to complete these tasks for each case. The 4-hour average is based on the productivity standard that requires management to assign asylum officers work equivalent to 18 asylum cases in a 2-week period and allows for 4 hours of training each week. In addition, the Asylum Division generally requires that asylum officers submit their written decisions to their supervisor within 4 days of conducting an applicant interview.

Affirmative asylum applicants are almost never detained while their asylum application is pending. Applicants are free to live in the United States pending the completion of their asylum processing. DHS's

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<sup>16</sup>The asylum officer must determine whether the applicant met the requirement to file the asylum application within 1 year of his or her last arrival into the United States and, if not, whether an exception to that filing requirement applies.

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affirmative asylum process can result in asylum officers making one of the following decisions regarding the applicant and qualifying dependents:<sup>17</sup>

*Grant of asylum.* The asylum officer grants asylum when he or she determines that the applicant is eligible for asylum. The asylees can remain in the United States indefinitely unless their asylum is terminated.<sup>18</sup> Asylees are eligible for certain benefits, such as an Employment Authorization Document, an unrestricted Social Security card, and medical and employment assistance.<sup>19</sup> Within 2 years of being granted asylum, asylees can petition for a spouse or child who was not included in the original grant of asylum to also obtain asylum. In addition, they may also apply for lawful permanent residency 1 year after being granted asylum and, ultimately, United States citizenship.

*Recommended approval of asylum.* The asylum officer issues a recommended approval of asylum when he or she determines that the applicant is eligible for asylum, but USCIS has not received the results of a mandatory FBI name check. The decision to change a recommended approval to an asylum grant is contingent on a favorable result from background, identity, and security checks (referred to throughout this report as identity and security checks). An applicant who receives a recommended approval may apply for an Employment Authorization Document, but not for other benefits.

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<sup>17</sup>The applicant may include as dependents on the asylum application his or her spouse and unmarried children under the age of 21 who are present in the United States. Decisions apply to the applicant and the applicant's dependents if included on the applicant's asylum application and the applicant established a qualifying relationship to them by a preponderance of evidence.

<sup>18</sup>The Asylum Office initiates a proceeding to terminate asylum status when evidence indicates that one or more grounds for termination of asylum status may apply. Grounds for termination include cases in which there is a showing of fraud in the alien's application such that the applicant was not eligible for asylum at the time it was granted. Depending on when the applicant filed for asylum, other grounds for termination may apply. For applications filed on or after April 1, 1997, asylum may be terminated when conditions described in section 208(c)(2) of the Immigration and Nationality Act exist, which include, for example, the alien no longer meets the definition of a refugee due to a fundamental change in circumstances or the alien is a persecutor, danger to the security of the United States, inadmissible under terrorist grounds, or firmly resettled in another country; or the alien was convicted of a particularly serious crime or there are serious reasons to believe the alien committed a serious nonpolitical crime outside the United States. An immigration judge or the BIA may reopen a case for the purpose of terminating a grant of asylum by the immigration judge or the BIA upon a motion from DHS.

<sup>19</sup>The Department of Health and Human Services' Office of Refugee Resettlement administers medical and employment assistance programs for refugees and asylees.

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*Referral to immigration court.* The asylum officer makes a referral to the immigration court when the applicant is in the United States illegally and the officer determines that the applicant is ineligible for asylum. The asylum officer prepares a Notice to Appear before an immigration judge. A referral is not a denial of asylum; rather the applicant and any of the applicant's dependents also in the United States illegally are placed in removal proceedings where an immigration judge reviews the asylum case de novo.<sup>20</sup>

*Denial of asylum.* The asylum officer denies asylum when the applicant is in the United States legally and the officer determines that the applicant is ineligible for asylum. The asylum officer prepares a Notice of Intent to Deny, and the applicant is given 16 days to rebut the finding. If the applicant submits a rebuttal, the asylum officer reviews it and then approves or denies the claim. If the applicant does not rebut the finding or the rebuttal fails to overcome the grounds for denial, the applicant is denied asylum but may stay in the United States as long as the applicant remains in legal status.

Not all cases result in an asylum decision. For example, USCIS administratively closes a case if the applicant withdraws his or her asylum application. From fiscal year 2002 through 2007, the asylum grant rate for affirmative asylum applications ranged from 30 percent to 36 percent for asylum cases that resulted in a decision.<sup>21</sup>

From fiscal years 2002 through 2007, the Asylum Division received about 400,000 new or re-opened asylum, NACARA, and credible and reasonable fear cases and completed approximately 750,000 cases.<sup>22</sup> During this same period, authorized staffing levels for asylum officers ranged from a high of 332 officers in 2004 to a low of 291 officers in 2007. See appendix VI for more information on the Asylum Division's caseload and staffing levels.

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<sup>20</sup> A de novo review means that the immigration judge is to evaluate the applicant's claim anew, as the determination the asylum officer made in referring the case to immigration court is not binding on the immigration judge.

<sup>21</sup> The grant rate is calculated as the percentage of cases that resulted in a grant divided by the total number of cases that resulted in a decision (a grant, denial, or referral to an immigration court in a case in which the applicant was interviewed).

<sup>22</sup> According to the Asylum Division, it completed a large number of cases during this time period as a result of its plan to eliminate its backlog. By fiscal year 2007, the Asylum Division's caseload was approximately the same size as the number of cases completed.

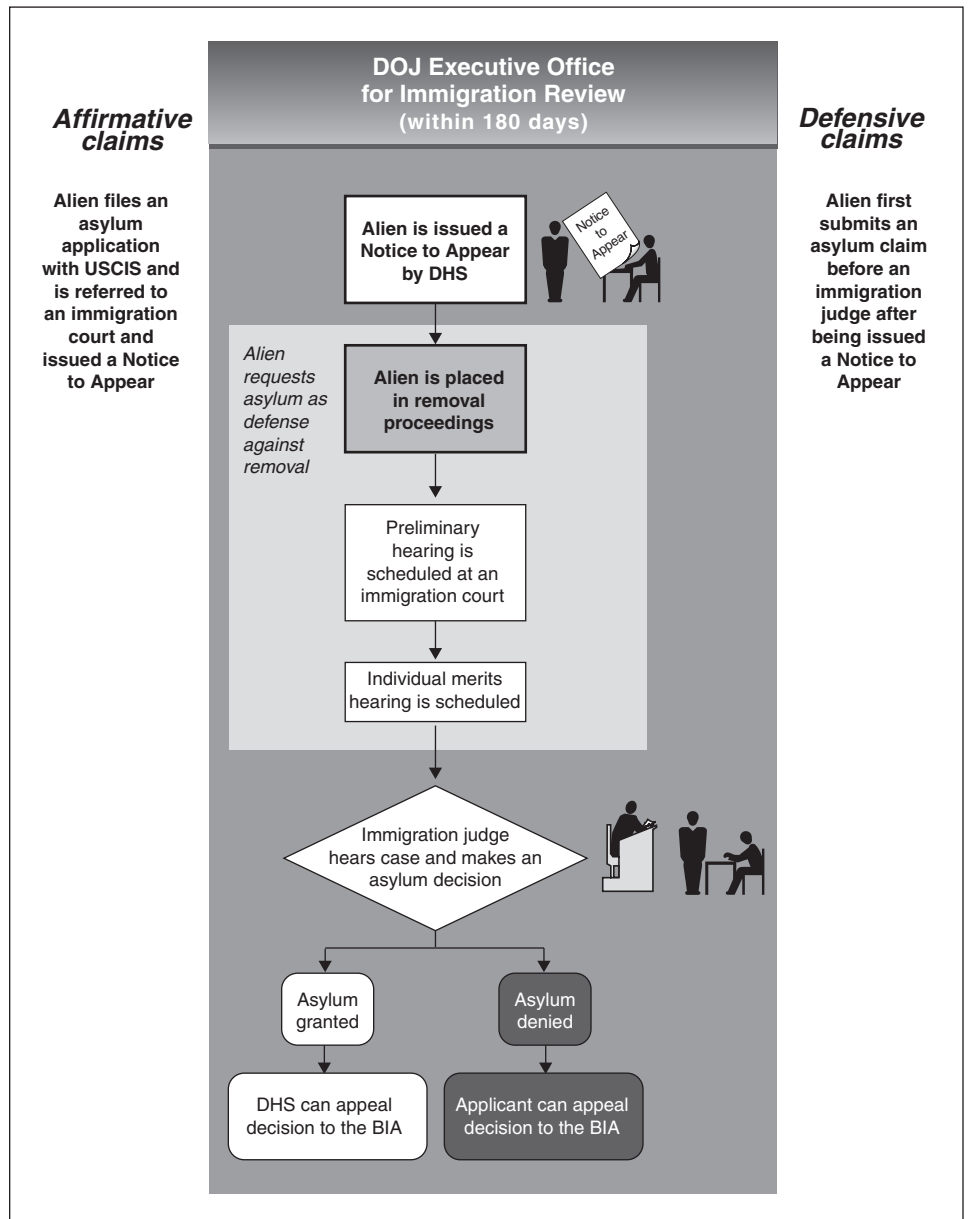
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## DOJ Has an Adversarial Adjudication Process

In contrast to DHS's process, DOJ's asylum adjudication process is adversarial in that individuals appear in removal proceedings before EOIR immigration judges to defend themselves against removal from the United States. Immigration judges hear both affirmative asylum claims that have been referred to them by an asylum officer as well as defensive asylum claims. A defensive claim is made by an alien who first requests asylum while in removal proceedings. An alien making a defensive claim may have been placed in removal proceedings after having been stopped at the border without proper documentation, identified as present in the United States illegally, or identified as deportable on one or more grounds, such as certain kinds of criminal convictions. Applicants who filed for asylum affirmatively with USCIS, but were referred to an immigration court and placed in removal proceedings, continue to be considered "affirmative" asylum applicants. Affirmative and defensive claims follow the same procedures in removal proceedings.

During immigration court proceedings, immigration judges hear witness testimony and cross-examinations and review evidence. ICE Assistant Chief Counsels, also known as ICE trial attorneys, represent DHS in these proceedings. ICE trial attorneys are also responsible for ensuring identity and security checks are completed. An applicant in immigration proceedings may be represented by an attorney of his or her choosing at no cost to the government. Figure 2 provides an overview of the steps typically involved in EOIR's asylum process. For more detailed information on the asylum process, see appendix V.

**Figure 2: Steps in the DOJ Asylum Process**



Source: GAO analysis of USCIS data; Art Explosion.

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EOIR's asylum adjudication process can result in immigration judges making one of the following decisions regarding the applicant and qualifying dependents:

*Grant of asylum.* The immigration judge grants asylum when he or she determines that the applicant is eligible for asylum. The asylees can remain in the United States indefinitely, unless DOJ terminates asylum. A grant of asylum from an immigration judge confers the same benefits on an asylee as a grant of asylum from an asylum officer, which are discussed earlier in this report.

*Denial of asylum.* The immigration judge denies asylum when he or she determines that the applicant is ineligible for asylum and may order the applicant to be removed from the United States unless the immigration judge grants the applicant another form of relief from removal.<sup>23</sup>

EOIR may also close a case without making a decision for such reasons as a request to move a case from one court to another or the applicant withdrawing or abandoning his or her application for asylum. From fiscal years 2002 through 2005, the asylum grant rate in the immigration courts remained fairly consistent at around 37 percent, and increased to 45 percent in 2006 and 46 percent in 2007.<sup>24</sup>

From fiscal years 2002 through 2007, the immigration courts received about 1.9 million newly filed or reopened immigration cases, and completed about the same number of cases. During this same time, the number of authorized immigration judges increased from 216 in fiscal year 2002 to 251 in fiscal year 2007. See appendix VI for more detailed information on EOIR's caseload and staffing.

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<sup>23</sup>For example, ineligible asylum applicants may qualify for withholding or deferral of removal if the immigration judge determines that it is more likely than not that the applicant would be tortured if removed to the proposed country of removal. However, this form of relief does not allow the applicant to apply for lawful permanent residency.

<sup>24</sup>The grant rate is calculated as the percentage of cases that resulted in a grant out of the total number of cases that resulted in a decision of a grant or denial.



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## The Asylum Division and EOIR Have Designed Quality Assurance Mechanisms to Help Ensure the Integrity of Asylum Adjudications, but Some Can Be Improved

To help ensure quality in adjudications, the Asylum Division has designed training programs and quality reviews and EOIR has designed training programs, but some can be improved. The Asylum Division has designed a framework for training asylum officers and their supervisors. However, despite general satisfaction with the initial training that officers receive, many asylum officers and supervisors agreed that asylum officers needed additional training in a number of areas—such as identifying fraud, conducting identity and security checks, and assessing credibility—to improve their ability to carry out their responsibilities. Also, 88 percent of asylum officers expressed the view that observing skilled interviewers would help improve their interviewing skills, yet 53 percent of asylum officers reported they had not had the opportunity to do so. Furthermore, the Asylum Division does not have a framework in place to solicit asylum officers’ or supervisors’ views on training needs in a structured and consistent manner. The Asylum Division has designed a framework for quality reviews, including those conducted by supervisors and other local and headquarters personnel. Although supervisors review all asylum officer decisions and headquarters personnel review certain cases, other quality reviews had not occurred in three of the eight Asylum Offices. With respect to EOIR, although the majority of immigration judges reported the training they received enhanced their ability to adjudicate asylum cases, the majority reported needing additional training in several areas, including identifying fraud. EOIR expanded its training program primarily for new immigration judges in 2006 and annually solicits input from immigration judges on their training needs. According to EOIR, BIA reviews of appealed cases provide another means of quality assurance.

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## Asylum Officers and Supervisors Receive Training, but Most Reported Having Additional Training Needs

The Asylum Division provides training to asylum officers and supervisory asylum officers (i.e., centralized training) and directs local Asylum Offices to provide weekly training (i.e., decentralized training), but most asylum officers and supervisors who responded to our survey reported that better or more training was needed, particularly in the area of fraud, to improve asylum officers’ ability to adjudicate asylum cases. The mix of centralized and decentralized training that officers receive reflects elements of a strategic approach to training that we have described in previous work.<sup>25</sup> Centralized training consists of a 5-week Asylum Officer Basic Training Course (AOBTC) that addresses most facets of the asylum adjudication process and is usually offered about twice each year at the Federal Law

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<sup>25</sup> [GAO-04-546G](#).

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Enforcement Training Center (FLETC) to recently hired asylum officers. To adjudicate asylum claims, asylum officers must either complete this training program or be certified at their respective Asylum Office.<sup>26</sup> In addition, a 5-week basic training course on immigration law for USCIS adjudications officers and asylum officers is generally provided at FLETC or another USCIS facility within an asylum officer's first year. The Asylum Division also periodically offers a 2-week supervisory training program in Washington, D.C., for supervisory asylum officers and Asylum Office Directors and Deputy Directors that concentrates primarily on advanced asylum law issues and the review of asylum officer decisions. Additionally, USCIS said that the Asylum Division created a new management position—a Chief of Training—to take actions to improve the training of asylum officers. The first Chief of Training came on board on August 31, 2008.

Most asylum officers and supervisory asylum officers who responded to our survey reported that the centralized training they received generally prepared them for their roles. Specifically, 75 percent of asylum officers reported that AOBTC prepared them moderately or very well to adjudicate asylum cases, a positive view of AOBTC that held regardless of their length of experience as asylum officers. However, more than 75 percent of asylum officers also believed that AOBTC needed improvement to better prepare them to identify possible fraud and conduct identity and security checks. Among the 26 supervisory asylum officers who had attended the supervisory training program prior to completing our survey, 14 said that, overall, the training prepared them moderately or very well to review asylum officer decisions.<sup>27</sup> Nevertheless, 13 of those who had attended the training reported that the supervisory training program needed to be improved to help them better provide feedback on asylum officer written decisions, while 12 reported improvements were needed to help them better understand and contribute to the Asylum Division's efforts to

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<sup>26</sup>To be certified, an asylum officer must demonstrate a fundamental understanding and knowledge of the principals of asylum adjudications. Certification includes, but is not limited to, reading all the AOBTC lesson plans, conducting interviews while being observed, and writing adjudication assessments. Certification is not a substitute for AOBTC, but may be used prepare asylum officers to conduct adjudications on a short-term basis while awaiting a scheduled AOBTC.

<sup>27</sup>When we conducted our survey of supervisory asylum officers during March through May 2007, 26 supervisors said they had attended the Supervisory Asylum Officer's Training Course, and 14 said they had not. According to Asylum Division officials, 13 supervisory asylum officers attended this training course when it was offered in August 2007, and they anticipated offering the course again in the first half of fiscal year 2009.

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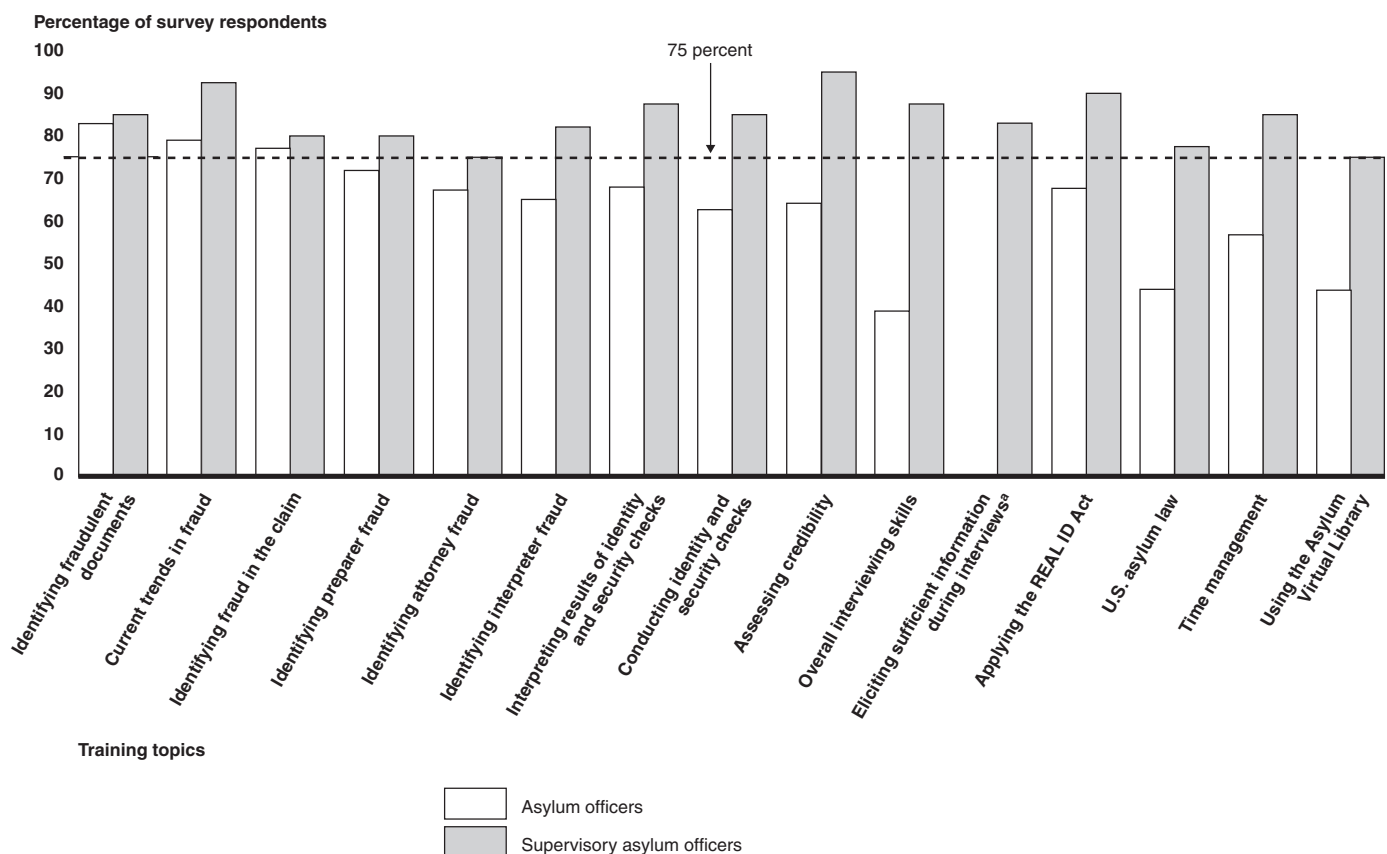
combat asylum fraud and 12 reported improvements were needed to help them better analyze credibility.

In addition to the centralized training programs, the Asylum Division requires that asylum officers and supervisory asylum officers participate in ongoing decentralized training at local Asylum Offices, where local Quality Assurance and Training Coordinators (QA/T) are responsible for developing training to meet the needs of each office. Asylum Offices are to allocate 4 hours each week for formal or informal training to asylum officers and their supervisors. The training can range from classroom instruction by the local QA/T to individual study time that officers can use for such learning activities as staying current with case law, researching conditions around the world affecting asylees and refugees, and reading new procedures issued by headquarters. Although QA/Ts, in consultation with local office management, have significant discretion in deciding what training to provide, officials from the Training, Research, and Quality Branch said they review each office's quarterly training reports to ascertain what training has been provided and is planned. In addition, the Asylum Division provides training materials to all the offices to ensure a national, consistent training approach when warranted. For example, after the REAL ID Act was passed, the Asylum Division distributed explanatory PowerPoint presentations and descriptions of the statutory changes.

Notwithstanding the training asylum officers and supervisors receive, most identified areas in which they said they needed additional training on fraud-related topics as well as other areas. As figure 3 shows, at least 75 percent of asylum officers or 75 percent of supervisory asylum officers who responded to our survey identified 15 specific topics (from about 25 training topics about which we inquired) as areas in which asylum officers needed more training to improve their ability to adjudicate asylum claims. Furthermore, supervisory asylum officers consistently viewed asylum officers' need for additional training as greater than asylum officers' perceptions of their own needs. We do not know why, in some instances, there were sizable differences between asylum officers' and supervisors' views of asylum officers' training needs. However, supervisors have a broader perspective since multiple asylum officers report to them.

The training topics identified were in areas related to fraud, identity and security checks, interviewing and assessing credibility, relevant statutes, time management, and the Asylum Virtual Library—the Asylum Division's online library.

**Figure 3: Topics Asylum Officer and Supervisory Asylum Officer Survey Respondents Most Frequently Identified as Areas in Which Asylum Officers Moderately or Greatly Needed Additional Training**



Source: GAO analysis of survey data.

Notes: Asylum officer respondents: n=171.

Supervisory asylum officer respondents: n=40.

There was some item-nonresponse variation across the survey items.

The training topics included in this chart are those respondents most frequently identified—that is, at least 75 percent of asylum officers or 75 percent of supervisory asylum officers identified these topics as areas in which asylum officers moderately or greatly needed more training. We asked asylum officers about 25 training topics and asked supervisory asylum officers about those same 25 topics plus 2 additional ones. (See survey questions in app. I and app. II for the full list of training topics.)

<sup>a</sup>We asked only supervisory asylum officers about this topic.

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**Fraud-detection training.** USCIS's Strategic Plan calls for training adjudications staff, which includes asylum officers, to proactively identify fraud when considering applications for immigration benefits. However, 77 percent of asylum officers who responded to our survey reported that AOBTC's training needed to be improved with respect to identifying possible fraud. Asylum Division officials told us that despite a number of improvements, they also saw fraud-detection training as one of the areas that requires further refinement in the AOBTC curriculum but had not updated AOBTC's written lesson plan on fraud since 2002 because (1) USCIS's fraud-prevention program had been evolving since its creation of its Office of Fraud Detection and National Security (FDNS) in 2004 and placement of FDNS immigration officers (FDNS-IO) at Asylum Offices and (2) revising other lesson plans, such as those related to national security issues, had taken priority. However, they explained that despite not having updated the written lesson plan, fraud-prevention training at AOBTC had undergone significant changes since 2002 and continues to undergo change. For example, since 2002, the Asylum Division added training sessions at AOBTC on the role of FDNS-IOs in Asylum Offices, a workshop on how to make fraud referrals, a "hands on" session on identifying features of fraudulent documents, and a fraud-prevention computer lab session emphasizing the electronic resources available to asylum officers. According to Asylum Division officials, since 2006, AOBTC has dedicated 6 or more hours to fraud-detection training. Although the Asylum Division has made changes to improve fraud-detection training at AOBTC, our 2007 survey found that 70 percent (19 of 27) of new asylum officer respondents (who would have attended AOBTC since 2006) reported that fraud detection-training at AOBTC needed to be improved to better prepare them to identify fraud. Those with longer tenure (who would have attended AOBTC prior to 2006) also held this view. Eighty-one percent (79 of 98) of respondents who attended AOBTC and had been asylum officers for at least 1 year but less than 10 years, and 94 percent (30 of 32) of those who attended AOBTC and had been asylum officers for 10 years or more, reported that AOBTC fraud-detection training needed improvement.

Asylum officers' views that more fraud-related training was needed to improve their ability to adjudicate asylum claims extended beyond the AOBTC curriculum to the ongoing training sessions that take place at their respective Asylum Offices. Overall, at least 75 percent of both asylum officer and supervisory asylum officer survey respondents reported that asylum officers needed additional training on identifying fraudulent documents, current trends in fraud, and identifying fraud in the claim. In addition, the majority of asylum officers and supervisors reported, overall, that asylum officers also needed additional training on identifying preparer

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fraud (i.e., fraud perpetrated by an individual who prepared the applicant's application), attorney fraud (i.e., fraud perpetrated by an attorney representing the applicant), and interpreter fraud (i.e., fraud perpetrated by an individual who translates during the applicant's interview). These results were generally consistent across Asylum Offices—that is, at least half of the supervisors in all eight Asylum Offices reported that asylum officers needed additional training in these fraud-related topics, and the majority of asylum officers reported this need in seven of the eight offices.

According to Asylum Division officials, since 2006, the Asylum Division has required that each Asylum Office have at least two of their staff trained by ICE's Forensic Document Laboratory (FDL). These staff attend a 3-day training that focuses on methods for detecting fraudulent features in documents as well as security features in genuine documents. Staff who have completed this training are responsible for training other asylum officers and serving as in-house resources on document issues. According to Asylum Division officials, as of June 2008, the Asylum Division had 34 staff who received this FDL training.

**Identity and security checks.** Checking asylum applicants' identity against appropriate records and databases is required by asylum law and Asylum Division procedures and is a tool to help determine whether certain applicants may be ineligible for asylum protection. The results of required checks may uncover, for example, that an applicant may be barred due to national security concerns. Despite their importance to the integrity of the asylum process, 63 percent of asylum officers and 85 percent of supervisory asylum officers (34 of 40)<sup>28</sup> who responded to our survey reported that asylum officers moderately or greatly needed additional training on conducting identity and security checks.

AOBTC provides a general exposure to the topic of databases and identity and security checks, and, according to 76 percent of asylum officer respondents, this was an area that needed to be improved at AOBTTC to better prepare them to make asylum decisions. The latest AOBTTC

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<sup>28</sup>Percentages for data from relatively small populations, such as supervisory asylum officers, may convey a level of precision that can be misleading because they can change greatly with minor changes in the data. Therefore, throughout this report, we generally identify the number in addition to the percentage of supervisory asylum officers who responded to a question in a particular way.

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Validation Study,<sup>29</sup> which was completed in 2003, noted that completing identity and security checks was among the critical tasks asylum officers perform and recommended that asylum officers receive basic orientation to this task at AOBTC, followed by on-the-job training at their local Asylum Office. Officials from the Asylum Division's Training, Research, and Quality Branch explained that new asylum officers should receive local training on databases because the databases asylum officers are required to check are not all accessible at AOBTC. Further, the expertise for teaching how to conduct and interpret the results of identity and security checks resides among staff at local Asylum Offices.

Most asylum officers who responded to our survey reported that they understood the information in the databases they check, yet the majority of asylum officer and supervisor respondents said that asylum officers still needed more training on identity and security checks. Eighty-eight percent of asylum officer respondents reported that they moderately or greatly understood the type of information contained in the various databases or systems they check as well as the results they receive. Nevertheless, 68 percent of asylum officers thought additional training was moderately or greatly needed at their local offices on interpreting the results of identity and security checks—a view held by 88 percent of supervisors (35 of 40). Sixty-three percent of asylum officer respondents thought more training was moderately or greatly needed locally on conducting these checks—a view held by 85 percent of supervisors (34 of 40). This view was fairly consistent across all eight Asylum Offices—that is, at least half of the supervisors reported this training need for asylum officers in all eight Asylum Offices, while the majority of asylum officers reported this need in seven of the eight offices. In providing survey comments, one asylum officer expressed the opinion that training is needed on how to read the results from all the identity and security checks because, although officers do these checks as required, they do not know what to do if they get a hit that indicates that the applicant may be a national security or public safety threat. In an effort to keep asylum officers informed of policies and procedures for conducting checks, the Asylum Division issued an Identity

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<sup>29</sup> As part of this training validation (required by the Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. pt. 1607), a Critical Task Selection Board, generally comprised of subject matter experts, a union representative, headquarters staff, and training academy personnel, selects critical tasks for the asylum officer position and recommends a training location for these tasks. The Asylum Division plans to initiate the next validation study in fiscal year 2009.

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and Security Checks Procedures Manual in 2005 and has updated it three times between March 2007 and May 2008.

**Interviewing and assessing credibility.** Assessing credibility involves a determination of whether all of the evidence indicates that the applicant's testimony is credible. An asylum officer may find the applicant to be credible if he or she determines, upon considering the totality of the circumstances and all relevant factors, that an applicant's testimony is consistent, detailed, and plausible. The ability to elicit information through applicant interviews is a critical component of an asylum officer's ability to distinguish between genuine and fraudulent claims. Internal control standards for the federal government state that agencies should, among other things, ensure that management identifies skills personnel need to perform jobs and provide the needed training to staff.<sup>30</sup>

Responses from asylum officers and supervisors to several survey questions pointed to the need for additional training or learning opportunities to improve asylum officers' interviewing skills, including assessing credibility. Sixty-four percent of asylum officers who responded to our survey reported a moderate or great need for more training on assessing credibility. To a much greater extent, supervisors, who are required to observe one interview each month conducted by each asylum officer they supervise, thought that asylum officers needed more interview-related training. Furthermore, 95 percent of supervisor respondents (38 of 40) reported that asylum officers moderately or greatly needed additional training in assessing credibility—more than in any of the 27 training areas about which we inquired—to improve their ability to adjudicate asylum claims. Eighty-eight percent of supervisors (35 of 40) reported that asylum officers needed more training in overall interviewing skills and 83 percent of supervisors (33 of 40) thought asylum officers needed more training on eliciting sufficient information during interviews. According to a supervisory asylum officer with local anti-fraud responsibilities, interviewing is the only realistic basis for fraud deterrence and new officers should be informed from the start that if they cannot develop sophisticated fraud-sensitive interviewing skills, they will not be able to make meaningful adjudications.

According to 88 percent of asylum officers who responded to our survey, having the opportunity to observe interviews conducted by skilled

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<sup>30</sup> [GAO/AIMD-00-21.3.1](#).



interviewers would be a moderate to very useful way to improve officers' interviewing skills, yet 53 percent reported not having had the opportunity to do so. Of those asylum officers who said observing skilled interviewers would be useful, 98 percent reported this would be moderately or very useful during their first year on the job and many thought this would be of value beyond their first year, as shown in table 1. Standards for internal control in the federal government state that federal agencies should ensure that management provides needed training to staff. Providing additional opportunities to observe skilled interviewers would help asylum officers refine their interview techniques to elicit information to use in assessing credibility, determining eligibility, and distinguishing between genuine and fraudulent claims.

**Table 1: Asylum Officers Reporting When in Their Career as an Asylum Officer It Would Be, or Would Have Been, Moderately or Very Useful to Observe Skilled Interviewers**

Stage in asylum officer career	Percentage of asylum officers reporting moderately or very useful
During 1st year	98
During 2nd year	71
Between 3rd and 5th year	39
After 5th year	32
When returning to affirmative asylum adjudications after other assignments or rotations	54

Source: GAO analysis of survey data.

**Relevant statutes (the REAL ID Act and U.S. asylum law).** Given that writing a legal analysis is part of every asylum decision they make, asylum officers must know how to read and interpret precedent decisions and stay current with case law. The REAL ID Act of 2005 made changes that apply to asylum adjudications of applications filed on or after May 11, 2005. In addition to developing AOBTC lesson plans, the Asylum Division developed training materials on the REAL ID Act and required that all Asylum Offices provide local training no later than May 30, 2006. Nevertheless, when we conducted our surveys in March through May 2007, 68 percent of asylum officers and 90 percent of supervisory asylum officers (36 of 40) who responded reported that asylum officers had a moderate or great need for additional training on how to apply the REAL ID Act in adjudicating asylum decisions. Further, 44 percent of asylum officers and 78 percent of supervisory asylum officers (31 of 40) who responded to our survey indicated that asylum officers had a moderate or

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great need for additional training on U.S. asylum law, in general—for example, on case law and statutory and regulatory changes.

**Time management.** Fifty-seven percent of asylum officer respondents and 85 percent of supervisory asylum officer respondents (34 of 40) reported that asylum officers had a moderate or great need for additional training on time management. An Asylum Office Deputy Director explained that without good time management skills, asylum officers can easily fall behind on their workload and it can be impossible to catch up. Later in this report we will discuss, in depth, how time constraints challenge asylum officers and how this affects their adjudications.

**Using the Asylum Virtual Library.** The Asylum Virtual Library is an online collection of documents produced and collected by the Asylum Division and Asylum Offices. Documents in the online library are organized into folders and include case law, country-conditions information, decision-writing templates, forms, policies and procedures, statistics, and training materials. Asylum Office personnel can find information by browsing through the folders or by conducting searches. Forty-four percent of asylum officers and 75 percent of supervisors (30 of 40) who responded to our survey reported that asylum officers had a moderate or great need for additional training on using the Asylum Virtual Library.<sup>31</sup>

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## Asylum Division Does Not Solicit Officers' Views on Training in a Structured and Consistent Manner

Although our surveys of asylum officers and supervisors revealed some widely held views about asylum officers' and supervisors' training needs, the Asylum Division does not have a framework in place for soliciting asylum officers' and supervisors' views on their training needs in a structured and consistent manner. Obtaining information in this manner would improve headquarters' and Asylum Offices' knowledge of asylum officers' and supervisory asylum officers' ongoing training needs and the ability to use training to meet those needs. We have previously reported that a best human-capital practice among effective organizations is to survey or interview agency employees to obtain their views on training programs that might be needed and systematically consider and act on employees' suggestions for improving or developing training, when

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<sup>31</sup>According to Asylum Division officials, headquarters personnel traveled to every Asylum Office to conduct training on the Asylum Virtual Library in May and June 2008.

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appropriate.<sup>32</sup> The Asylum Division requests general written feedback from new asylum officers on the training they received at AOBTC.<sup>33</sup> In addition, all eight Asylum Office Directors stated that their offices had used ad hoc methods to obtain input from officers on unmet training needs, such as asking for feedback at training sessions or periodically e-mailing officers for training suggestions. However, these methods varied among offices and were not done in a consistent manner using a structured approach to collect the information.

Nevertheless, 63 percent of the asylum officers who responded to our survey said their Asylum Office had not solicited their views on what training should be offered locally. Responses varied by Asylum Office. In four of the eight offices, between half and three-fourths of the asylum officers said their views had been solicited; but in the remaining four offices, no more than 15 percent said their views had been solicited. Training, Research, and Quality Branch officials said that, at the national level, they rely on Asylum Office Directors for feedback on whether they are meeting officers' needs and also request information on asylum officer training needs and activities during monthly conference calls with local QA/Ts.

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### The Asylum Division Designed a Framework for Quality Reviews, but Local Quality Assurance Reviews Do Not Always Occur

The Asylum Division has designed a three-tiered framework for conducting quality reviews in Asylum Offices and headquarters to help ensure the quality and consistency of asylum decisions, but local quality assurance reviews—one of the three tiers—do not always occur. According to the Asylum Division, a “particularly high level” of quality is demanded in asylum decisions to protect the integrity of the legal immigration process and to avoid potentially serious consequences that could result if an applicant is harmed after being wrongfully returned to his or her home country or if an applicant who poses a threat to the United States is wrongfully permitted to stay. As such, it has designed a quality review framework that includes supervisory review, local QA/T review, and headquarters quality review. Together, these reviews are intended, among other things, to help ensure quality and consistency as well as identify deficiencies that might be addressed through training. This framework is in keeping with internal control standards for the federal

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<sup>32</sup>GAO-04-546G.

<sup>33</sup>The Asylum Division asks six open-ended questions about AOBTC such as “What did you like most about the training?” and “What would you change about the training?”

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government, which state that agencies should assure that ongoing monitoring occurs in the course of normal operations.<sup>34</sup>

**Supervisory review.** The Asylum Division requires a supervisory asylum officer to sign off on every asylum decision to indicate that it is supported by law and that procedures are properly followed.<sup>35</sup> Supervisory review is intended to assure quality and provide consistency in decision making—not to ensure the supervisor agrees with the specific decision the asylum officer reached. Asylum Office Directors generally agreed that the 100 percent supervisory review requirement was important for reasons that included the complexity of asylum adjudications. One Asylum Office Director characterized the requirement as the key to the Asylum Division’s success. The majority of the 171 asylum officers and 40 supervisory asylum officers who responded to our survey considered these reviews as moderately or very effective in ensuring compliance with procedures (72 percent and 90 percent, respectively) and improving the quality of decisions (53 percent and 83 percent, respectively). Further, 37 percent of asylum officers and 73 percent of supervisors reported that the supervisory review promoted consistency in decision making.<sup>36</sup>

**Local quality-assurance review.** The Asylum Division created the QA/T position in each Asylum Office to, among other things, review a sample of asylum decisions for quality and consistency and observe asylum officer interviews to assess interview techniques. According to the Chief of the Training, Research, and Quality Branch, QA/T reviews are similar to supervisory reviews in that both assess the legal sufficiency of decisions. In addition, QA/Ts are in a position to take a broader view by looking for consistency across each Asylum Office and identifying office training needs that may surface from their quality reviews. The 1997 QA/T position description outlined quality assurance review responsibilities in addition to training responsibilities as including (1) reviewing a representative sample of written decisions for quality, consistency, and timeliness with an emphasis on identifying patterns of inconsistency, faulty legal analysis, trends, misuse of country-conditions information, or procedural or

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<sup>34</sup> [GAO/AIMD-00-21.3.1](#).

<sup>35</sup> Supervisory asylum officers’ performance work plans also require that they observe the equivalent of one interview each month conducted by each asylum officer they supervise.

<sup>36</sup> We recognize that not all asylum officers are in a position to assess whether supervisory review promoted consistency because, for example, a newer asylum officer may have worked for only one supervisor.

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technical errors; (2) reviewing sensitive cases before they are forwarded to Asylum Division headquarters for review (see the following section on headquarters quality review for more on these sensitive cases); and (3) observing interviews conducted by asylum officers to identify strengths and weaknesses in interviewing techniques. It further stated that QA/T responsibilities included developing weekly training sessions that address, among other things, the interviewing and adjudication deficiencies noted during quality assurance reviews. Thus, by having responsibility for reviewing asylum officers' decisions and observing interviews, as well as providing training, it was intended that the QA/T would be in a position to ensure any observed deficiencies could be addressed through training and brought to local management's attention.

In 1998, the Asylum Division also communicated that quality assurance responsibilities should occupy the greatest portion of a QA/Ts' time, in contrast to the time they are to spend on their other responsibilities, including training. It further communicated that a proper role for the QA/T is to help the Asylum Office Director monitor the quality assurance of each supervisory asylum officer. According to the Chief of the Training, Research, and Quality Branch, QA/Ts are to look for ways to improve the quality of each office's adjudications and identify training needs. Furthermore, the Chief stated that each office is to develop its own QA/T performance work plan and decide how many cases a QA/T should review for quality, including how to select cases for review.

As a result of the discretion given to Asylum Offices, expectations for QA/T reviews of a sample of decisions varied among Asylum Offices. QA/T performance work plans either included the expectation that QA/Ts evaluate the quality and consistency of written decisions, or note procedural or technical errors and deficiencies.<sup>37</sup> QA/T reviews of a sample of decisions were routinely conducted in five of the eight offices, according to Asylum Office Directors and QA/Ts. For example, we were told that in one office, QA/Ts randomly reviewed 2 to 3 decisions each week; in another office, the QA/T randomly reviewed 12 cases each week; and in a third office, the QA/T reviewed all decisions that had been reviewed by a supervisor on 1 day every 2 weeks, focusing on a particular aspect of the decision. According to two QA/Ts, the deficiencies they most frequently identified involved asylum officers' credibility assessments. For

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<sup>37</sup>In three of the Asylum Offices, QA/T work plans also specified the number of cases that were to be reviewed.

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example, one explained that asylum officers were not being sufficiently rigorous in pursuing applicants' credibility. Although both QA/Ts said their reviews usually revealed minor deficiencies, one noted that egregious problems did occasionally surface, such as a decision that is not consistent with the latest case law. In three offices QA/T reviews were not being done routinely. In two of these offices, competing work demands reportedly precluded QA/Ts from performing quality reviews or limited their frequency. For example, in one office, the QA/T was expected to evaluate an average of five or more decisions each week for quality and consistency to receive the highest rating in the related performance element. However, the Director of that office indicated the QA/T had been unable to meet that expectation because of the time demands of other responsibilities involving reviewing sensitive cases and training-related tasks. The Asylum Office Director of the third office told us in August 2007 of plans for that office to establish a process for the QA/T to randomly review two to four decisions each week. Although this Director informed us in August 2008 that the QA/T had begun conducting these reviews, the Director stated the position had become vacant during the past year and thus local quality assurance reviews were not taking place. In addition, in six of the eight offices, including two that we visited, performance work plans included local expectations that QA/Ts observe and evaluate asylum officer interviews.<sup>38</sup> However, in all three offices we visited, the QA/Ts told us they did not observe or evaluate asylum officer interviews, or did so only on occasion, because of other work demands. Therefore, the Asylum Division's quality review framework was not being fully implemented in all the offices. Implementing the quality review framework would better position the Asylum Division to examine the root causes of deficiencies and take corrective action, such as addressing deficiencies through training.

A recent study of asylum adjudications by Georgetown University researchers<sup>39</sup> found that there was considerable variability among individual adjudicators in Asylum Offices as well as in the immigration

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<sup>38</sup>In three of the Asylum Offices, QA/T work plans specified the number of interviews to be observed.

<sup>39</sup>Jaya Ramji-Nogales, Andrew I. Schoenholtz, and Philip G. Schrag, "Refugee Roulette: Disparities in Asylum Adjudication," *Stanford Law Review*, vol. 60, no. 2 (2007), 295–412.

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courts and the U.S. Courts of Appeals.<sup>40</sup> Asylum Office Directors generally agreed that grant rates can legitimately vary among officers in one office as well as across offices. Nevertheless, four either expressed concern about inconsistencies that result from differences among some asylum officers or supervisory asylum officers in their office or said that headquarters should be doing more to improve the consistency of asylum decisions or review the quality of work. According to the Asylum Division's Deputy Chief, headquarters does not monitor asylum officers' grant rates or decision patterns, which would provide some information regarding consistency in asylum decisions, in part because it does not want to suggest that there is a particular grant rate that is correct or desirable. Further, we asked six Asylum Office Directors if they monitored the grant rates of asylum officers in their offices and five said they did not. The Asylum Division is considering developing a training course for QA/Ts and creating a new senior asylum officer position that, among other things, would have the authority to assess the consistency of supervisory decisions.

**Headquarters quality review.** To help ensure consistency in novel or complex areas of the law, the Asylum Division reviews all asylum cases categorized as "sensitive" before an asylum decision is issued. Local Asylum Offices are required to submit certain categories, established by headquarters, of sensitive cases to the Asylum Division's Training, Research, and Quality Branch in headquarters for quality review. Sensitive cases include, for example, those involving issues related to national security, applicants involved in persecutor or human rights violations, diplomats or other high-level government or military officials or family members, and principal applicants who are under 18 years of age.

In fiscal year 2007, Asylum Offices sent the Asylum Division 384 of these sensitive asylum cases for review, of which 28 percent were designated as national security cases. National security cases include cases in which the applicant may be a persecutor, terrorist, or risk to the security of the

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<sup>40</sup>In addition, we have examined the outcomes of immigration court decisions in asylum cases. Our analysis of more than 12 years of EOIR data showed that even after we statistically controlled for the effects of a number of factors associated with asylum outcomes (e.g., applicant's nationality, time period of asylum decision, representation, and immigration judges' gender and experience), there were substantial differences across both immigration courts and immigration judges in the likelihood of asylum applicants being granted asylum. (GAO, *U.S. Asylum System: Significant Variation Existed in Asylum Outcomes across Immigration Courts and Judges*, [GAO-08-940](#), (Washington, D.C.: Sept. 25, 2008).)

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United States. In the previous fiscal year, Asylum Offices sent 263 such cases to the Asylum Division for review, of which 41 percent were considered national security cases. Asylum Division data indicate that, in fiscal year 2007, headquarters concurred with 86 percent of the decisions asylum officers made and, in fiscal year 2006, it concurred with 83 percent of asylum officers' decisions. The data further indicate that when the Asylum Division did not concur, it generally required that the applicant be interviewed again or the written decision be modified, and that the decision then be resubmitted to headquarters for further review.

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### Majority of Immigration Judges Reported Needing Additional Training; EOIR Expanded Training for New Immigration Judges and Solicited Input on Training Needs

Although the majority of immigration judges reported that EOIR's training for newly hired immigration judges and annual training enhanced their ability to adjudicate asylum cases, the majority reported needing additional training in several areas, including identifying fraud. EOIR expanded its training program primarily for new immigration judges in 2006 and annually solicits input from immigration judges on their training needs.

Since 1997, EOIR has sent newly hired immigration judges to a week-long training at the National Judicial College, which includes courses on immigration court procedures, immigration law, ethics, caseload management, and stress management. The training is delivered in a workshop format and incorporates lecture instruction, small-group exercises, and court-hearing demonstrations. Of the 67 immigration judges who came on board since 1997 and responded to our question about this training, 66 percent reported that the National Judicial College moderately or greatly enhanced their ability to adjudicate asylum cases.

In addition to the new immigration judge training program, EOIR also holds an annual conference for all immigration judges. This conference is generally a week-long training that includes lectures and presentations. During the 2007 conference, topics covered included immigration law and procedure, ethics, religious freedom, disparities in asylum adjudications and forensic analysis. Eighty percent of immigration judges who responded to our survey reported that attending the annual conference in person either moderately or greatly enhanced their ability to adjudicate asylum cases. Although immigration judges generally attend this conference in person, the in-person conference was canceled in fiscal years 2003 through 2005 and again in 2008 because of budget constraints. In its place, a virtual conference was held in fiscal years 2004 and 2005, and included recorded presentations in place of the in-person conference. EOIR officials told us that because of budget constraints, a virtual

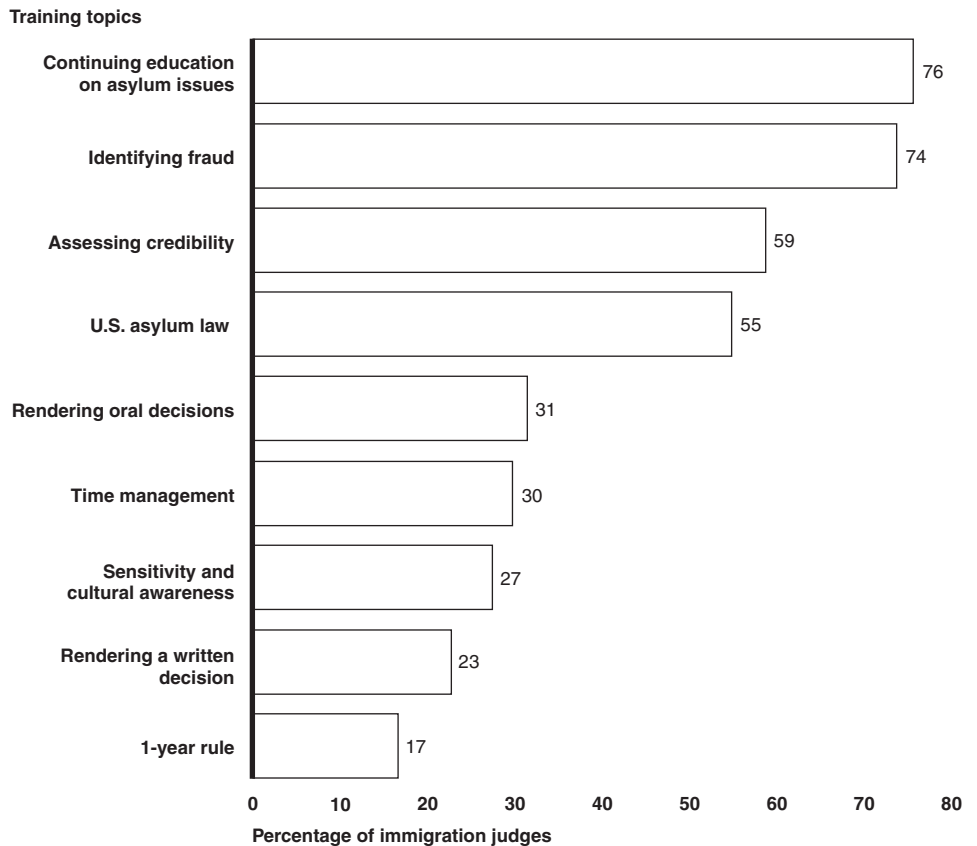


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conference was also offered in August 2008. The virtual conference included interactive computer-based training addressing asylum issues before the courts and a multimedia presentation that emphasizes the importance and effect of immigration judge asylum decisions. Fifteen percent of immigration judges reported that a virtual conference moderately or greatly enhanced their ability to adjudicate asylum cases.

Although the majority of immigration judges who responded to our survey reported that EOIR's new hire training and in-person annual conference enhanced their ability to adjudicate asylum cases, as shown in figure 4, the majority of immigration judges also reported needing additional training in certain areas. Seventy-six percent reported moderately or greatly needing additional continuing education on asylum issues, 74 percent reported that additional training on identifying fraud was moderately or greatly needed, 59 percent reported additional training on assessing credibility was moderately or greatly needed, and 55 percent reported that additional training on U.S. asylum law was moderately or greatly needed to enhance their ability to adjudicate asylum cases. National Association of Immigration Judges (NAIJ) representatives we interviewed, who also serve as immigration judges, stated that immigration judges could benefit if time were allotted each week for self-study and they received more training on assessing credibility.

**Figure 4: Immigration Judge Survey Respondents' Views on Topics for Which They Reported a Moderate or Great Need for Additional Training**



Source: GAO analysis of survey data.

Note: n=159. There was some item-nonresponse variation across the survey items.

Beyond these specific training topics, immigration judges who responded to our survey also identified the need for other professional development opportunities to enhance their ability to adjudicate asylum cases. For example, 75 percent of immigration judges reported that informal meetings with other immigration judges were moderately or greatly needed. NAIJ representatives stated that EOIR's training program lacks opportunities for immigration judges to meet and communicate with other immigration judges in their same circuit and that a circuit-specific regional conference, offered quarterly, would address this need. Other forms of training that many immigration judge survey respondents thought were moderately or greatly needed included opportunities to be detailed to the BIA (62 percent) and attending intergovernmental agency conferences (55

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percent). With respect to opportunities for immigration judges to be detailed to the BIA, according to EOIR, two immigration judges were serving on the BIA as of August 2007.<sup>41</sup>

EOIR implemented several changes to its training program in response to reforms directed by the Attorney General in 2006<sup>42</sup> and in alignment with EOIR's 2005–2010 Strategic Plan to prioritize training for EOIR adjudicators, which was issued in 2004. In September 2006, EOIR expanded its training for newly hired immigration judges by requiring an additional week of courses. It also extended the time newly hired immigration judges observed hearings from 1 week to 4 weeks. These changes were implemented after most of the immigration judges in our survey population would have received new hire training.<sup>43</sup> Sixty-three percent of those responding to our survey reported that observing hearings conducted by other immigration judges moderately or greatly enhanced their ability to adjudicate asylum cases.

EOIR also recognizes that new developments in immigration law necessitate that immigration judges receive timely, current, circuit-specific legal updates. As such, it distributes case summaries on a weekly basis and, in response to reforms directed by the Attorney General in 2006, launched a monthly publication that provides a more in-depth analysis of legal issues, case law, and statutory and regulatory developments. According to EOIR, although it has neither the time nor the funds to expand immigration judges' opportunities to interact with each other outside their court locations, it thinks it would be of immense value. Lacking the opportunity in fiscal year 2008 for such interactions through an immigration judge conference and having received feedback that

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<sup>41</sup>8 C.F.R. §1003.1(a)(4) allows the Director of EOIR to designate immigration judges, retired BIA members, retired immigration judges, and administrative law judges employed within, or retired from, EOIR to act as temporary BIA members. These provisions offer a mechanism through which the department can provide the BIA temporary assistance to respond to an unanticipated increase or temporary surge in the number, size, or type of cases, and other short-term circumstances that might impair the BIA's ability to adjudicate cases in a manner that is both timely and fair.

<sup>42</sup>In 2006, the Attorney General initiated a review of the quality and performance of the immigration courts and the BIA. Based on the results of the review, the Attorney General directed the implementation of 22 new measures, including the improvement of training for new immigration judges and the development of a continuing education program for veteran immigration judges.

<sup>43</sup>Four immigration judges in our survey population were appointed in September 2006—the same month EOIR implemented changes to its training for new immigration judges.

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immigration judges would like to observe another immigration judge, EOIR is structuring opportunities for peer court observation to take place within each immigration judge's court.<sup>44</sup>

EOIR's 2005–2010 Strategic Plan calls for EOIR to annually identify training needs for all immigration court staff and, as such, EOIR uses a structured questionnaire to solicit immigration judges' training needs at both the new immigration judge training and the immigration judges' annual training conference. According to EOIR, it receives continuous training recommendations from immigration judges in the field, NAIJ, the Immigration Judges Advisory Committee, and new immigration judges' training faculty. Further, Assistant Chief Immigration Judges may observe immigration court proceedings to determine whether immigration judges need additional training.<sup>45</sup> However, according to EOIR, budget cuts resulted in reductions in spending in fiscal year 2008, including canceling planned conferences and curtailing training.

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## BIA Reviews Immigration Judge Decisions That Are Appealed

According to EOIR, another means of providing quality assurance resides in its formal appeals board, the BIA. The BIA is the highest administrative body for immigration issues and is responsible for applying immigration and nationality laws uniformly throughout the United States. Unlike asylum officers' decisions, all of which are reviewed by supervisors, the BIA reviews decisions when DHS or the asylum applicant appeals a decision. In addition, according to EOIR, when a decision is appealed to the BIA, a transcript of the decision is sent to the immigration judge's Assistant Chief Immigration Judge who may review any or all of the transcribed decisions for quality assurance. Overall, 10 percent of all immigration judges decisions, which include asylum decisions, were appealed to the BIA in fiscal year 2007.

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<sup>44</sup>For courts where only one immigration judge is assigned, supervisors are to make arrangements for immigration judges to observe an immigration judge in a different court.

<sup>45</sup>Assistant Chief Immigration Judges have supervisory authority over the immigration judges, the court administrators, and judicial law clerks. They serve as the principal liaison between the Office of the Chief Immigration Judge and the immigration courts.

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## Challenges in Assessing the Authenticity of Claims and Time Constraints Are Key Factors Affecting Asylum Officers' Adjudications

Asylum officers reported difficulties in assessing the authenticity of asylum claims, despite mechanisms USCIS designed to help asylum officers assess claims, and also reported time constraints in adjudicating cases. Mechanisms USCIS designed included, for example, identity and security checks and fraud prevention teams. Federal entities outside USCIS's Asylum Division and FDNS also have a role in combating fraud and confirming the validity of claims, but their ability to provide assistance to asylum officers has been hindered due to a lack of resources, competing priorities and, in some cases, confidentiality requirements intended to protect asylum applicants and their families. In addition, asylum officers and supervisors reported that asylum officers do not have sufficient time to adjudicate cases in a manner consistent with their procedures manual and training, although management's views were mixed. Furthermore, the Asylum Division established the productivity standard for asylum officers without the benefit of empirical data.

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## Asylum Officers Reported Difficulties Assessing the Authenticity of Claims Despite USCIS Mechanisms and Assistance from Other Federal Agencies

### Asylum Officers Reported Facing Challenges Assessing the Authenticity of Claims

Asylum officers face challenges in assessing the authenticity of claims—that is, identifying fraud and assessing credibility. The very nature of the asylum system, which does not require applicants to submit documentation to support their claim, presents a challenge. Furthermore, economic incentives and benefits that accompany asylum can make the system a target of fraud. Abuse of the asylum system by particular groups has been reported in the past. For example, in 1999, a large-scale federal investigation began that resulted in the prosecution and conviction in 2005 of 23 individuals, including immigration brokers and consultants who aided thousands of Indonesian immigrants living in the United States in

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fraudulently applying for government benefits, including asylum.<sup>46</sup> In a 2006 document prepared by FDNS staff at a USCIS service center, a particular nationality was identified as using fraudulent documents for the purpose of applying for asylum and establishing residency in the United States. According to the report, “the issues identified . . . constitute widespread abuse of the asylum system” by applicants from that country.

In responding to our survey, many asylum officers reported difficulties carrying out their fraud-related responsibilities and, as discussed earlier in this report, many reported needing more or better fraud-related training. According to the Asylum Division, asylum officers must consider whether fraud exists in the applicant’s claim, identity documents, or other documents provided to support the claim. Asylum applicants’ use of a fraudulent document does not necessarily constitute fraud in their overall claim. Even after identifying fraud, asylum officers must determine if the fraud was made knowingly to obtain an immigration benefit for which the applicant was not entitled.<sup>47</sup> As shown in figure 5, asylum officers who responded to our survey most frequently (73 percent) identified document fraud as moderately or very difficult for them to identify. In September 2007, we reported that the ease with which individuals can obtain genuine identity documents for an assumed identity creates a vulnerability that terrorists can exploit to enter the United States with legal status.<sup>48</sup>

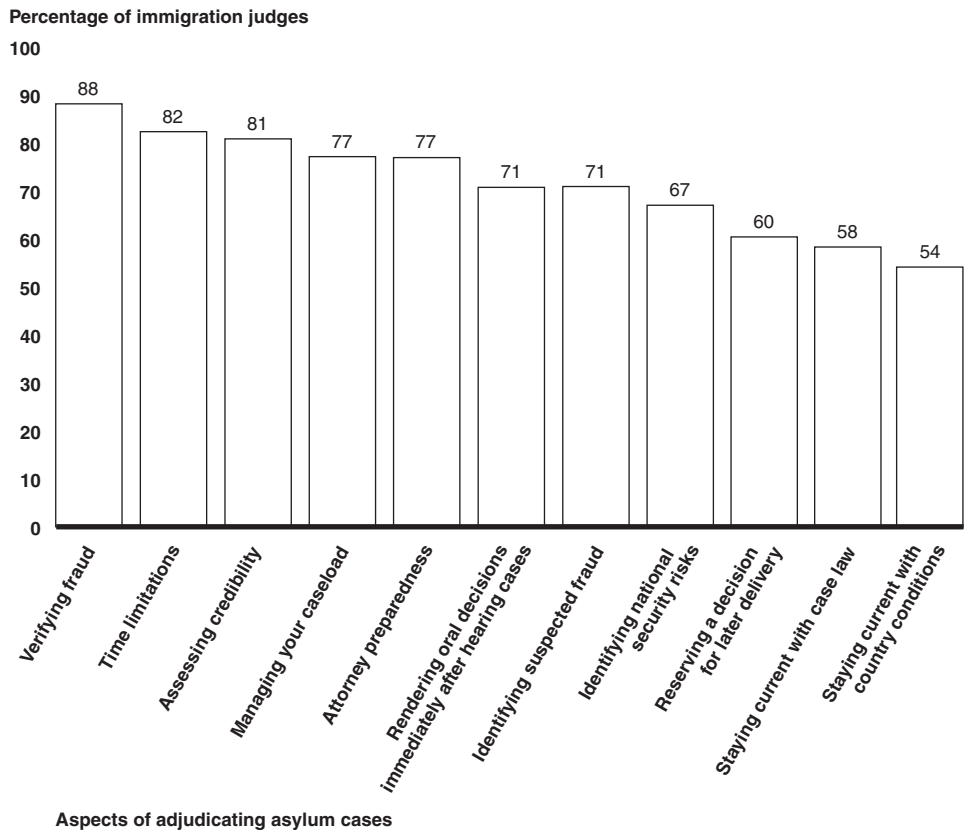
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<sup>46</sup>The investigation found that fraudulent asylum applications were routinely prepared for \$2,000 or more and that counterfeit Indonesian documents, such as birth certificates and police reports, often were provided to support the claims. According to Asylum Division officials, the Asylum Division was provided evidence from the investigation, examined cases known to be associated with the fraud ring, and initiated termination proceedings or other action for cases in which benefit eligibility may have been affected.

<sup>47</sup>Even when asylum officers identify fraud that is relevant to the claim, the applicant may still establish eligibility for asylum. In cases when applicants submit materially false evidence, asylum officers are instructed to give applicants the opportunity to provide an explanation. If the applicant provides a reasonable explanation, the asylum officer must take it into account in assessing the applicant’s credibility. For example, an applicant might explain that he or she obtained and submitted a fraudulent document to support a story of persecution, thinking that asylum would not be granted without documentation to support the claim.

<sup>48</sup>GAO, *Border Security: Fraud Risks Complicate State’s Ability to Manage Diversity Visa Program*, [GAO-07-1174](#) (Washington, D.C.: Sept. 21, 2007).

**Figure 5: Types of Fraud That Asylum Officer Survey Respondents Reported as Moderately or Very Difficult to Identify**



Source: GAO analysis of survey data.

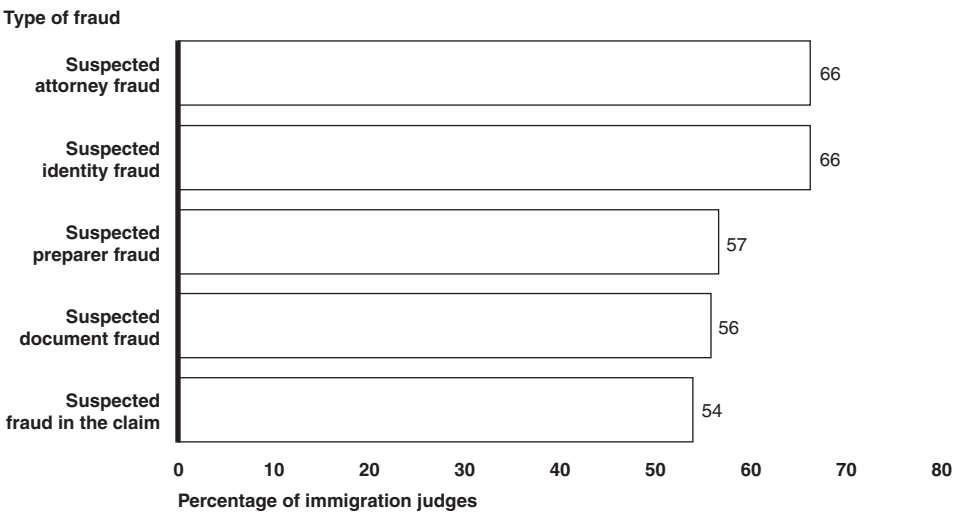
Note: n=171. There was some item-nonresponse variation across the survey items.

The figure also shows that about half of asylum officer survey respondents identified attorney fraud (53 percent) and identity fraud (49 percent) as moderately or very difficult for them to identify. According to Asylum Division data for fiscal year 2007, 38 percent of the applicants brought an attorney with them to their asylum interview; in fiscal year 2006, 30 percent did so. An unscrupulous attorney might prepare false asylum applications, including supporting affidavits and documents, which may be difficult to identify. For example, in February 2008, an attorney was indicted for preparing fraudulent asylum applications that included false documents with forged notary stamps and signatures. With respect to identity fraud, asylum officers we interviewed explained that the identity of an applicant is sometimes hard to determine and applicants may falsely

claim to be from one country where persecution is known to occur, yet really be from another country in that region.

In addition to identifying fraud, assessing credibility poses a challenge to asylum officers in making asylum decisions. As previously discussed in this report, asylum officers must make a credibility assessment regarding every applicant they interview. As shown in figure 6, the majority of asylum officers who responded to our survey reported significant challenges to assessing credibility in about half or more of the cases they adjudicated in the past year, including insufficient time to prepare and conduct research prior to the interview (73 percent), insufficient time to conduct the interview (63 percent), the lack of information regarding document validity (61 percent), and the lack of documents provided by applicants (54 percent). According to the Asylum Division, given the preponderance of evidence standard, it is possible to have reasonable doubts about whether applicants meet the definition of a refugee and still correctly find that applicants met their burden of establishing that their claim is true.

**Figure 6: Percentage of Asylum Officer Survey Respondents Who Reported Significant Challenges to Assessing Credibility in about Half or More of the Asylum Cases They Adjudicated over the Past Year**



Source: GAO analysis of survey data.  
Note: n=171. There was some item-nonresponse variation across the survey items.

Supervisory asylum officers also reported difficulties in carrying out their fraud-related responsibilities. Supervisors are responsible for identifying



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possible fraud trends as they review asylum cases from multiple asylum officers and can identify patterns individual asylum officers may not observe. Nevertheless, in responding to our survey, 54 percent of supervisors (21 of 39) reported it moderately or very difficult to identify emerging trends in fraud in the time they have available.

While asylum fraud presents a challenge to officers, its full extent is not known and is being systematically assessed for the first time. In March 2005, FDNS undertook an Asylum Benefit Fraud Assessment because, according to FDNS, asylum was a benefit program historically considered to be one of USCIS's most fraud-prone or high-risk programs<sup>49</sup> and reliable and comprehensive information about the types and prevalence of fraud in asylum applications was not available. The assessment randomly sampled 239 affirmative asylum applications filed during a 6-month period in 2005 that were either issued a final decision or placed on hold. FDNS Immigration Officers (FDNS-IO) were required to conduct a series of identity and security checks, some of which were mandatory at the time of adjudication, as well as additional checks and research. The FDNS-IOs also requested overseas document verification when they believed relevant information that would substantiate a fraud finding could be obtained. However, according to FDNS officials, as of July 2008, FDNS had not received a response on almost half of the 72 documents it sent overseas for verification. Other factors can also make it difficult to assess the full extent of asylum fraud. As FDNS officials explained, an asylee's petition for overseas relatives to join the asylee in the United States—a process that can take years—can reveal that the stories of persecution an asylee presented when applying for asylum are not always consistent with information later provided by his or her relatives. The Director of Fraud Prevention Programs in State's Bureau of Consular Affairs confirmed that the petition process has uncovered information that clearly demonstrated that the principal applicant's asylum claim was fraudulent, including cases where personnel reached this conclusion after interviewing relatives or conducting investigations. As of July 2008, FDNS had not finalized the Asylum Benefit Fraud Assessment and had not decided whether to do so without information from approximately 10 asylum termination interviews

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<sup>49</sup>FDNS planned to conduct six benefit fraud assessments; three had been issued as of July 2008.

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## USCIS Designed Mechanisms to Help Asylum Officers Assess the Authenticity of Claims

to be completed as a result of information obtained during the Asylum Benefit Fraud Assessment.<sup>50</sup>

In April 2005, the Asylum Division conducted a review of past cases in which asylum applicants had alleged ties with terrorists or engaged in terrorist activity, although ties may not have been known at the time of adjudication. As a result, it identified vulnerabilities to terrorism in the U.S. asylum system and found that many of the vulnerabilities it identified were resolved with the 1995 asylum reforms.<sup>51</sup> However, the report also identified vulnerabilities that remained postreform, including the lack of checks to identify individuals, the possibility of an applicant's interpreter perpetrating fraud, and vulnerabilities outside of its control.<sup>52</sup> According to information the Asylum Division provided, it has since taken steps to address vulnerabilities within its control. Some of these, and other mechanisms it has designed, can help asylum officers identify fraud and assess credibility—specifically, identity and security check requirements, fraud prevention teams with anti-fraud responsibilities, monitoring applicants' interpreters during asylum interviews, and tracking preparers suspected of fraud. However, because the extent of asylum fraud and how it has changed over time is not known, it is difficult to assess the effect of these measures on the identification of fraud. Furthermore, it is difficult to know the extent to which any of these measures have deterred fraud.

**Identity and security checks.** Security check requirements have increased, particularly since the terrorist attacks of September 11, and asylum staff at all levels viewed them as helping ensure the integrity of asylum decisions. Asylum officers are required to ensure multiple identity and security checks are conducted to confirm an applicant's identity, identify applicants who pose a national security or public safety risk, and resolve certain eligibility issues. Asylum officers must confirm that all

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<sup>50</sup>The Asylum Office initiates a proceeding to terminate asylum status when evidence indicates, for example, that fraud exists in an alien's application such that the alien was not eligible for asylum at the time asylum was granted.

<sup>51</sup>The Asylum Division found that most of these applicants had not been granted asylum and those granted asylum by the Asylum Division later had their asylum status terminated after terrorism investigations uncovered asylum fraud by the applicant. The assessment did not contain information on whether asylum was terminated for cases granted by immigration judges.

<sup>52</sup>The Asylum Division stated that some of the vulnerabilities it identified were outside of its control, such as detaining and removing applicants denied asylum, which fall under ICE's jurisdiction.

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checks are initiated prior to issuing a decision and obtain cleared results of checks before issuing a grant of asylum.<sup>53</sup>

Some identity and security checks are automatically initiated immediately after an applicant files an asylum application at the USCIS Service Center;<sup>54</sup> however, many are initiated and completed during the adjudication process. According to Asylum Office Directors, in six of the eight Asylum Offices, asylum officers conduct the required identity and security checks for the cases they adjudicate. In the remaining two offices, asylum officers are designated, on a rotational basis, to conduct identity and security checks for all asylum officers in the office; however, each asylum officer must still review the results of these checks for each case he or she is assigned. Each supervisor must confirm that documentation of the security checks is accurately completed in accordance with the decision being issued before signing off on the decision.

The Asylum Division has worked with other federal entities to provide asylum officers with access to databases to conduct identity and security checks and expanded and implemented new identity and security check requirements on existing checks. Some of these checks are required for all USCIS adjudications; others are required only in an asylum adjudication. Since that time, the Asylum Division has required asylum officers to check the following databases:

- *Interagency Border Inspection System (IBIS)*. IBIS is a multi-agency database aimed at improving border enforcement and facilitating inspections of applicants for admission into the United States by identifying threats to national security or public safety. The database interfaces with another system that includes law enforcement data, including information on immigration law violators, individuals with a criminal history or who are subject to criminal investigations, or suspected terrorists.
- *U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT)*. In 2004, the Asylum Division and the Department of Homeland Security's US-VISIT office worked together to develop a mechanism to provide asylum officers with access to the US-VISIT database through a web-based interface tool, US-VISIT SIT. US-VISIT collects, maintains, and shares

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<sup>53</sup>Automated controls preclude a final grant of asylum from being entered into RAPS until certain security checks have been cleared.

<sup>54</sup>Several security checks are initiated automatically when the applicant's information is entered into RAPS.

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biometric and other information on certain foreign nationals entering and exiting the United States. This tool allows asylum officers to ensure that the applicant is not identified by US-VISIT as a national security or public safety threat and that the applicant who appears for the interview is the same individual who appeared earlier for fingerprinting.

- *State's Consular Consolidated Database (CCD)*. The Asylum Division worked with State to provide asylum officers with access to information in the CCD, which contains records about visa applications. The database may contain biometric data and copies of information an applicant presented to a State Consular Officer when applying for the visa. Such data may be valuable to asylum officers in providing information about the identity, previous travel history, method of entry into the United States, or background of an asylum applicant.

The Asylum Division has also made several changes expanding the requirements for several existing identity and security checks, including the following:

- Since February 2003, asylum officers have been required to check the name of every asylum applicant against the Deportable Alien Control System (DACS) prior to adjudicating an asylum case in addition to when the asylum application was filed.<sup>55</sup> DACS contains records of individuals who have been detained by ICE or placed in removal proceedings. Prior to 2003, asylum officers completed this check when the asylum application was filed and repeated the check only for cases resulting in a grant of asylum.
- Since November 2006, asylum officers have been required to verify that every asylum applicant aged 14 to 75 has been fingerprinted prior to the asylum interview in addition to obtaining fingerprint results prior to issuing a grant of asylum.<sup>56</sup> This gives the asylum officer the opportunity to review any available information associated with the applicant's fingerprint records prior to or at the time of the interview. The asylum officer must reschedule the interview if an applicant has failed to be fingerprinted in advance. Prior to this change, the requirement called only

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<sup>55</sup>On August 11, 2008, ICE's Office of Detention and Removal Operations deployed a new system—ENFORCE Alien Removal Module—to replace DACS. Prior to its deployment, the Asylum Division issued revised procedures for using the system in conducting identity and security checks, and asylum officers received training on the system.

<sup>56</sup>Asylum officers do not need to obtain fingerprint results before issuing a denial of asylum or referring a case to the immigration courts, however, an asylum officer may not issue a grant of asylum until fingerprint results have cleared.

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for asylum officers to obtain fingerprint results in cases that resulted in a grant of asylum.

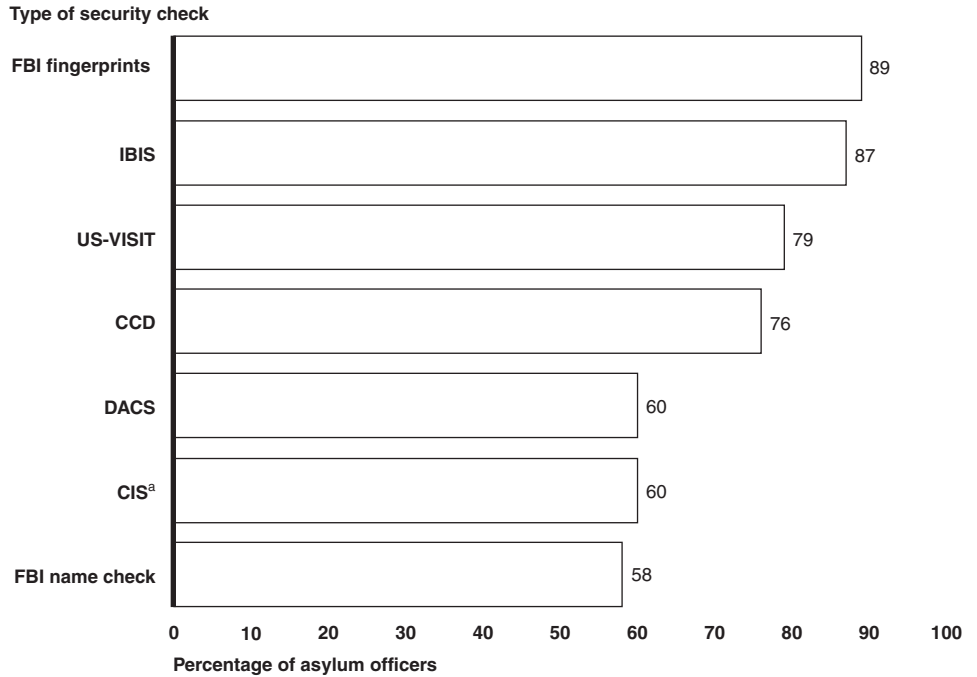
- When an asylum application is filed, RAPS automatically requests an FBI name check for every applicant aged 14 to 79. Since 2002, asylum officers have been required to obtain the results of the FBI name check before granting asylum. Prior to 2002, this check was initiated at the time an applicant filed an asylum application, but obtaining a result was not necessary before issuing a grant. Since 2005, RAPS has automatically initiated FBI name checks on aliases, maiden names, and alternate dates of birth.<sup>57</sup>

Seventy-eight percent of asylum officers who responded to our survey reported that, overall, they found that identity and security checks were moderately or very useful in identifying or providing information on individuals who pose a risk to national security or public safety. Moreover, as figure 7 shows, the majority found each of the required identity and security checks to be moderately or very useful. However, as noted by an asylum officer we interviewed, applicants who enter the United States without inspection or who use a false identity are less likely to be identified by these checks.

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<sup>57</sup>Delays in receiving FBI name check information has been reported as a significant problem in immigration benefit programs. According to the Asylum Division's Deputy Director, such delays had been problematic for asylum adjudicators, but only in relatively few cases compared with other immigration benefit types.

**Figure 7: Security Checks Asylum Officer Survey Respondents Viewed as Moderately or Very Useful in Providing Information on Individuals Who Pose a Risk to National Security or Public Safety**



Source: GAO analysis of survey data.

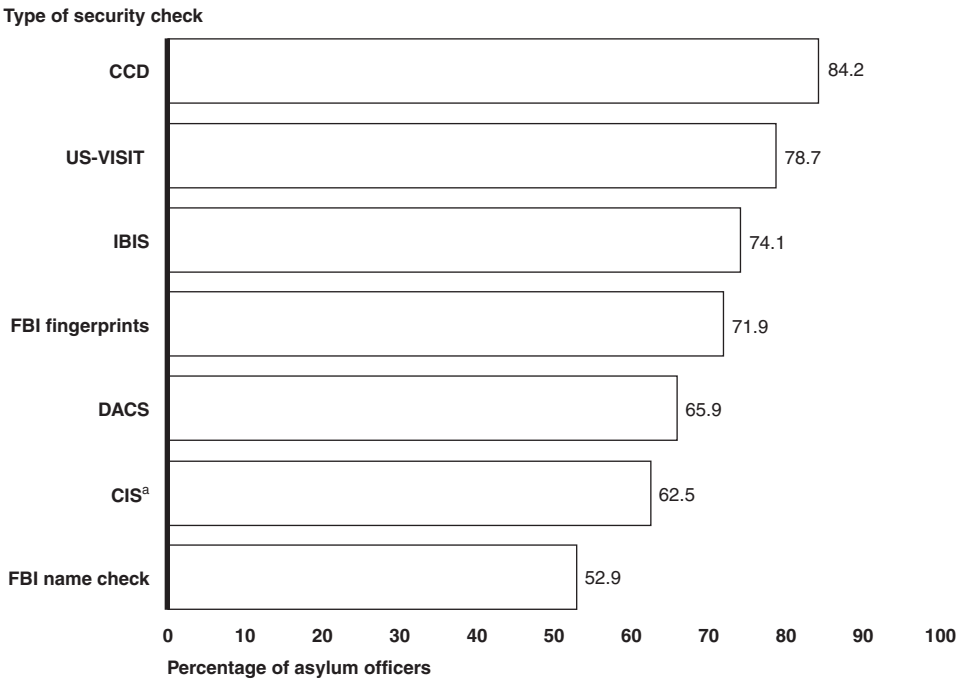
Note: n=171. There was some item-nonresponse variation across the survey items.

<sup>a</sup>The Central Index System (CIS) is a database maintained by USCIS that captures biographic and historical information on the status of applicants seeking immigration benefits and other individuals subject to the provisions of the Immigration and Nationality Act, and tracks the location of case files.

According to the Asylum Division, checking applicants in the US-VISIT system had significantly mitigated existing vulnerabilities in the program by locking in an applicant's identity through fingerprint and photograph at the earliest point possible in the application process and searching against other biometric databases to confirm an applicant's identity and identify potential derogatory information. The Asylum Division further noted that, while the US-VISIT system is vast, it is not an exhaustive warehouse of biometric prints obtained by all U.S. government agencies or by other governments. According to an Asylum Office Director, between fingerprints, FBI name checks, IBIS, US-VISIT, and CCD, it would be reasonable to expect that a national security risk would be identified if such information were contained in one of the security databases.

In addition, 72 percent of asylum officers who responded to our survey reported that, overall, they found identity and security checks to be moderately or very useful in providing information regarding an applicant’s eligibility for asylum. At least half of the respondents found each of the required checks to be useful for this purpose, as shown in figure 8.

**Figure 8: Security Checks Asylum Officer Survey Respondents Viewed as Moderately or Very Useful in Providing Information on an Applicant’s Eligibility for Asylum**



Source: GAO analysis of survey data.

Note: n=171. There was some item-nonresponse variation across the survey items.

<sup>a</sup>The Central Index System (CIS) is a database maintained by USCIS that captures biographic and historical information on the status of applicants seeking immigration benefits and other individuals subject to the provisions of the Immigration and Nationality Act, and tracks the location of case files.

**Fraud-prevention teams.** Asylum Offices have fraud-prevention teams comprised of at least one FDNS immigration officer (FDNS-IO) and one Fraud Prevention Coordinator (FPC) who are tasked with anti-fraud responsibilities. USCIS assigned responsibilities to FDNS-IOs at Asylum Offices that included tracking fraud patterns for FDNS, apprising Asylum Offices of fraud trends, resolving national security “hits,” addressing fraud-

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related leads provided by asylum officers, liaising with law enforcement entities, and referring cases of suspected fraud to ICE. FDNS-IOs are precluded from performing routine functions associated with the adjudication process, such as the resolution of non-national-security-related background checks or the review of suspect documents. The work of FDNS-IOs is directed by local Asylum Office management and by FDNS headquarters. As of July 2008, a total of 14 FDNS-IOs were located in Asylum Offices and, according to Asylum Division staff, additional positions may be authorized in the future. In addition, each Asylum Office has at least one FPC, usually a supervisory asylum officer with additional fraud-related responsibilities as a collateral duty. Duties vary and are directed by local office management. FPCs may work closely with FDNS-IOs but, in contrast to FDNS-IOs, FPCs have a direct role in supporting asylum officers in their adjudication decisions. According to an official in the Asylum Division's Operations Branch, FPCs may also review fraud referrals that asylum officers make to the FDNS-IOs to ensure quality and determine fraud trends.

The specific tasks performed by anti-fraud staff and who performs them varied across offices. For example, either a FDNS-IO or a FPC might prescreen applications for fraud indicators, coordinate requests for document verification or overseas information, track interpreters or preparers suspected of fraud, communicate fraud trends to asylum officers, review national security "hits," participate in or communicate with interagency task forces, or provide fraud-related training to office staff.

**Interpreter monitors.** In an effort to combat the Asylum Division's concern regarding fraud and quality of interpretation among some of the interpreters that non-English speaking applicants are required to bring to their interview, the Asylum Division began phasing in the use of contracted telephonic interpreter monitors in the first half of 2006. According to the Asylum Division's 2003 report on its interpreter monitoring pilot program, investigations revealed that interpreters were engaging in fraudulent behavior, such as altering asylum applicants' testimony and coaching applicants during interviews. In May 2006, the Asylum Division reported that the interpreter monitoring contractor had been unable to accommodate 11 to 13 percent of requests for interpreter monitors in March and April 2006, and thus did not meet its goal to provide monitors 90 percent of the time. The interpreter monitoring program was intended as an interim step in combating interpreter fraud and ensuring accurate interpretation in the interview. USCIS plans to issue a rule that would require the Asylum Division to provide professional interpreters.



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According to Asylum Division officials, the Asylum Division has prepared a request for a multiple-award contract for interpreter services and expects to have the contract in place by the end of September 2008. As such, it would curtail its approach of monitoring applicants' interpreters.

Nevertheless, asylum staff indicated that interpreter monitors have improved the interviewing process and helped combat fraud. After an initial assessment of the interim project in May 2006, the Asylum Division concluded that monitors were successful in assisting asylum officers in obtaining information from applicants and deterring fraudulent interpreters, although the deterrent effect could not be quantified. Asylum officers who responded to our survey also viewed interpreter monitoring as successful in combating interpreter fraud and helping genuine refugees communicate their claim. Specifically, 87 percent indicated that interpreter monitors were very or moderately useful in deterring interpreters from intentionally misinterpreting, while 55 percent reported that it is very or moderately easy to identify interpreter fraud when interpreter monitors are used. Eighty-two percent reported that interpreter monitors were very or moderately useful in helping genuine refugees clearly communicate their claim and avoid misunderstandings due to poor interpretation.

**Tracking preparers.** To help identify applications completed by suspicious fraudulent preparers, in July 2007, the Asylum Division began systematically tracking information on the preparer of each asylum application. The Asylum Division noted the difficulties of addressing fraud perpetrated by preparers—that is, individuals who assist asylum applicants with the completion of their asylum applications. Preparers of fraudulent claims have been known to produce applications containing, for example, false claims of persecution and coach applicants on how to exploit the sympathies of asylum officers. The Asylum Division issued guidance in July 2007 that introduced new procedures to collect preparer information and instructed asylum officers to verify that USCIS Service Centers entered preparer information into RAPS. The guidance instructs asylum officers to gather information during the interview regarding the circumstances under which the application was prepared, including who prepared the application. According to the Asylum Division's Deputy Chief at the time of our review, the division anticipates this effort will allow the collection and analysis of data on preparers and could help identify applications prepared by preparers determined to be fraudulent.

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Assistance from Other Federal  
Entities That Could Help  
Asylum Officers Assess the  
Authenticity of Claims Is Not  
Always Available

**Other planned initiatives.** The Asylum Division is also considering various other anti-fraud efforts that are in various stages of planning and have been highlighted as key initiatives for fiscal year 2008. These plans include working with the Department of Defense to develop a systematic way of processing fingerprints for asylum seekers through Department of Defense systems, using software to scan applications to identify common text and data, and furthering the exchange of information with Canada and other countries. With respect to exchanging information with Canada, for example, USCIS is exploring the feasibility of systematically exchanging with Canada information submitted by asylum seekers.<sup>58</sup>

Federal entities outside the Asylum Division and FDNS also have a role in combating fraud and confirming the validity of claims, but their assistance to asylum officers has been hindered by a lack of resources, competing priorities, and—in some cases—confidentiality requirements intended to protect asylum applicants and their families.

**ICE's Forensic Document Laboratory (FDL).** Although the majority of asylum officers who responded to our survey reported it was difficult for them to identify fraudulent documents, the ability of the federal government's forensic crime laboratory dedicated to detecting fraudulent documents to assist asylum officers has been hindered by competing priorities and a lack of exemplar documents—an authentic travel or identity document FDL uses to make comparisons in forensic examinations. Due to resource limitations, FDL prioritizes cases so that those in which the individual is detained receive highest priority and requests from asylum officers—those involving individuals with no set court date—are among those receiving the lowest priority. According to FDL data for fiscal year 2007, when FDL responded to requests from Asylum Offices and other entities with the same relative priority, it took an average of 122 days, with response times ranging from 1 to 487 days. Because the Asylum Division recognizes it is unlikely that FDL will respond to a document examination request before an adjudication decision must be made given asylum processing time requirements, asylum officers are instructed to submit documents to FDL if they or their supervisor believe that the analysis may change the outcome of the decision.

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<sup>58</sup>USCIS entered into an agreement with the Department of Citizenship and Immigration Canada in 2003 that permits the United States and Canada to share asylum-related information on a case-by-case and systematic basis subject to confidentiality provisions in existing law.

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In addition, according to FDL's Unit Chief, FDL often does not have the kinds of documents asylum seekers often submit to asylum officers to support their claims, such as overseas birth certificates, marriage certificates, or medical records. Recognizing that FDL's ability to verify certain types of documents is hindered by its lack of relevant exemplars, the Asylum Division requires each Asylum Office to have at least two FDL-trained staff to provide training to other officers, as discussed earlier in this report. In addition to assisting officers in identifying fraudulent documents, these staff are to advise officers on whether FDL is likely to have an exemplar for the document they want verified.

**State and USCIS overseas offices.** State and USCIS overseas offices<sup>59</sup> can play an important role in helping asylum officers distinguish between genuine and fraudulent claims by providing overseas information on asylum applicants and their claims. According to USCIS officials we interviewed, overseas investigations may be one of the best methods of verifying the facts alleged by applicant. A FDNS official further explained that far more fraud could be uncovered if more work were conducted overseas, and this is especially true for asylum cases. State and USCIS may be able to provide information on a particular asylum case by verifying or obtaining overseas documents, such as medical or employment records, by providing an assessment of the accuracy an applicant's assertion about country conditions or the applicant's situation, or by engaging in investigations.<sup>60</sup>

In our surveys we asked asylum officers and supervisory asylum officers about the usefulness of obtaining overseas medical and employment records, or verification of such records. Eighty-two percent of asylum officers and 90 percent of supervisory asylum officers (36 of 40) who responded thought that these records or verification of these records would be moderately or very useful in adjudicating cases. Several respondents explained that overseas information can help them verify accounts of medical treatment, encounters with police or military forces, or political affiliation that relate to an applicant's claim. Furthermore,

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<sup>59</sup>Requests for overseas assistance on specific asylum cases are directed to USCIS when it has a presence in the requisite location; if not, requests are directed to State. USCIS's International Operations Division has 30 field offices that are located in embassies and consulates in various locations around the world.

<sup>60</sup>In addition to responding to case-specific requests, State issues annual Country Reports on Human Rights Practices and International Religious Freedom Reports, Profiles of Asylum Claims and Country Conditions, and fraud summary reports.

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about half the asylum officers indicated they needed, but did not have such information (53 percent for medical records; 49 percent for employment records) in about half or more of the cases they adjudicated in the past year. Preliminary results of the Asylum Benefit Fraud Assessment further suggest the value of obtaining overseas information on asylum applications. USCIS reported preliminary data in January 2007 that indicated they received an overseas response for 13 requests for document verification, of which 9 were found to support a finding that the asylum claim was fraudulent. USCIS's Refugee, Asylum, and International Operations Directorate, of which the Asylum Division is a component, proposed creating 54 new positions in fiscal year 2008, including positions in several overseas posts to be focused on fraud detection and national security. The fiscal year 2008 plan requires approval from State for the overseas positions. As of July 2008, State had approved most of them. According to the Asylum Division's Acting Deputy Chief, the increased capacity may enable increased assistance to asylum officers, although it is too early to determine to what degree.

Despite adjudicators' views that overseas information can be useful, overseas offices' ability to respond to asylum officers' requests for assistance has been hindered due to competing priorities, resource constraints, and challenges associated with respecting the confidentiality of asylum applicants to avoid placing them or their relatives at a greater risk of harm. Recognizing demands on overseas resources, the Asylum Division instructs asylum officers to limit overseas requests to those cases where such information is essential to making a final asylum determination. According to State procedures, in answering requests for specific information on asylum cases, it generally gives priority to requests from immigration courts over requests from asylum officers, although it also gives priority to requests from Asylum Division headquarters regarding sensitive cases. A Deputy Director within State explained that requests from immigration courts are given higher priority because individuals appearing before an immigration judge face the possibility of deportation. Confidentiality requirements designed to protect applicants' safety can further constrain obtaining overseas information because making such inquiries of agencies of foreign governments can put asylum applicants or their families at risk by releasing information to the public or alleged persecutors.

These limitations notwithstanding, USCIS and State have worked together to improve asylum officers' access to information regarding asylum applicants' visa applications. Since May 2006, asylum officers have had access to State's CCD. Because not all information included on the visa

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application is captured in CCD, the Asylum Division issued procedures in March 2007 on how asylum officers can request full visa application information from State if such additional information is material to the applicant's claim and can influence the adjudication decision. These procedures were disseminated close to the time we conducted our surveys. Ninety-one percent of asylum officers and 93 percent of supervisory asylum officers (37 of 40) who responded thought that having the entire visa application in addition to what is available in CCD would be moderately or very useful in adjudicating cases. Fifty-five percent of asylum officers said they needed, but did not have, the entire visa application in about half or more of the cases they adjudicated in the past year.

The process for requesting overseas information on asylum applicants, other than visa applications, varies among Asylum Offices, and USCIS and State have been working on improving procedures for making these requests. According to Asylum Division officials, asylum officers are to consult their supervisors when they desire overseas assistance. However, the process for initiating requests for overseas information—that is, whether requests are made through FDNS or Asylum personnel—varies among Asylum Offices. Seventy-four percent of asylum officers and 43 percent of supervisors (16 of 37) said they did not understand or had no more than a slight understanding of the process their office used for requesting overseas verification services. In June 2008, the Asylum Division's Acting Deputy Chief told us that USCIS and State were in the process of developing procedures that streamline the current process for requesting overseas assistance. According to an Operations Branch official, once the procedures are updated, the Asylum Division plans to provide training on the new procedures.

**ICE's Office of Investigations.** USCIS and ICE have an agreement that USCIS will refer articulated suspicions of fraud to ICE, which will make a decision whether to accept or decline a case for investigation within 60 days. If ICE declines a case or does not respond within that time, the FDNS-IO is responsible for taking further action.<sup>61</sup> According to the Chief of FDNS, ICE declines about two-thirds of FDNS's requests for investigation. FDNS data showed that of the 58 requests that FDNS-IOs at

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<sup>61</sup>According to the Chief of FDNS, as of August 2008, ICE and USCIS were in the final stages of reviewing a new Memorandum of Understanding that will no longer refer lower-level (single-scope) cases to ICE. Instead these cases will be worked and tracked by USCIS.

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Asylum Offices sent to ICE for investigation during fiscal year 2007, ICE had declined 33, accepted 12, and had not made a decision to accept or decline 13 requests as of July 2008. According to the Acting Chief of ICE's Identity and Benefit Fraud Unit, ICE data showed that in fiscal year 2007, ICE opened 128 asylum fraud investigations, 70 of which were based on USCIS referrals. ICE investigations of asylum fraud can result from fraud referrals made by confidential informants, federal and local law enforcement personnel, as well as USCIS personnel. USCIS referrals can include those from asylum officers, FDNS-IOs, or district examiners. However, officials from the Identity and Benefit Fraud Unit explained it is difficult for ICE to identify the exact number of asylum fraud investigations because of the way a case may be recorded. Cases involving asylum fraud often involve other types of fraud, such as identity or marriage fraud, and may be recorded under a category relating to other fraud found in the investigation. Furthermore, a single conviction may involve an individual who was associated with numerous sham asylum applications.

According to ICE officials, resource constraints preclude ICE from investigating all fraud referrals. Asylum fraud is difficult to investigate and resource-intensive because asylum claims often lack supporting evidence to facilitate investigations, according to the Acting Chief of ICE's Identity and Benefit Fraud Unit. These investigations can take several years to complete. According to ICE, its investigations of asylum fraud most often target larger-scale conspiracies, and individual applicants are given a lower priority. ICE also gives asylum cases special attention when asylum applicants from certain countries might pose a threat to national security.<sup>62</sup>

Asylum Division personnel and Asylum Office fraud staff view ICE investigations of asylum fraud as a critical component in combating asylum fraud and, along with prosecutions, the best way to deter it. At one Asylum Office we visited, the Director stated that she believed prior local ICE activity had deterred fraudulent asylum applications. Furthermore, 42 percent of 107 asylum officers and 45 percent of 33 supervisory asylum officers who provided survey comments regarding what can be done to deter or cut down on asylum fraud shared views that actions such as investigating, prosecuting, or assigning penalties are needed to help deter

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<sup>62</sup>In addition to conducting investigations, ICE also participated in some coordinated efforts in various local interagency fraud task forces with USCIS, including 17 multiagency Document and Benefit Fraud Task Forces led by ICE that were created in fiscal years 2006 and 2007 to detect and prosecute fraud.

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fraud. In March 2006, we reported that taking appropriate and consistent actions against immigration benefit violators is an important element of fraud control and deterrence.<sup>63</sup>

Representatives from these and other federal entities outside USCIS participated in the Asylum Division's Fraud Prevention Conference in December 2007, where conference leaders acknowledged that combating fraud requires both intra- and intergovernmental efforts. They further stressed the importance of finding administrative solutions to fraud, as prosecutions of asylum fraud are infrequent. The conference provided a forum for fraud detection and prevention personnel, investigators, attorneys, and personnel from USCIS, ICE, DOJ, and State to share information on current fraud trends, including specifics on suspected preparers who assisted, recruited, and sometimes duped clients to make fraudulent claims; methods used to make fraudulent claims; and indicators used to detect fraud.

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## Asylum Officers Report Time Constraints Affect Adjudications; Adjudication Requirements Have Increased While the Productivity Standard Is Unchanged

Asylum Officers and Supervisors Report Asylum Officers Have Insufficient Time to Thoroughly Adjudicate Cases, but Management Views Are Mixed

The majority of asylum officers and supervisory asylum officers who responded to our survey reported that the 4 hours, on average, they have to complete an asylum case is insufficient to be thorough—that is, to complete the case in a manner consistent with their procedures manual and training—although views among managers varied. The 4-hour average is based on the productivity standard, which requires management to assign asylum officers work equivalent to 18 asylum cases in a 2-week period, allowing for 4 hours of training each week. The productivity standard is one of the elements in the asylum officers' performance work

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<sup>63</sup>GAO, *Immigration Benefits: Additional Controls and a Sanctions Strategy Could Enhance DHS's Ability to Control Benefit Fraud*, [GAO-06-259](#) (Washington, D.C.: Mar. 10, 2006).

plan that is used to rate an asylum officer’s performance. As table 2 shows, 28 percent of asylum officers and 28 percent of supervisory asylum officers (11 of 40) reported that asylum officers need about 4 hours or less to complete an asylum case. However, 65 percent of asylum officers and 73 percent of supervisors (29 of 40) reported that asylum officers needed more than the standard 4 hours to complete a case.<sup>64</sup>

**Table 2: Asylum Officer and Supervisory Asylum Officer Survey Respondents’ Views on the Time Asylum Officers Need to Complete an Asylum Case**

Estimated hours needed to complete asylum cases	Percentage of asylum officers	Percentage of supervisory asylum officers
About 4 hours or less	28	28
About 5–6 hours	48	58
About 7 hours or more	17	15
Unable to estimate	8	0

Source: GAO analysis of survey data.

Notes: Asylum officer responses: n=171.

Supervisory officer responses: n=40.

There was some item-nonresponse variation across the survey items.

Percentages may not sum to 100 because of rounding.

Many asylum officer survey respondents indicated time constraints hindered their ability to thoroughly adjudicate cases. For example, of 138 respondents who provided narrative comments explaining how they manage their caseload when they have insufficient time, 39 percent wrote that they rush through their work or cut back on doing country-condition research, interviewing, completing identity and security checks, or writing the assessment. Moreover, 43 percent of asylum officers reported that, during the past year, productivity standards hindered their ability to properly adjudicate in about half or more of their cases.

Asylum Officers are taught at AOBTC that they must work under time constraints and develop interviewing skills that will enable them to gather all the information they need. However, they are also informed of the

<sup>64</sup>There was some variation by office. For example, in five offices, 61 to 87 percent of asylum officers reported needing about 5 hours or more to complete an asylum case. In the other three offices, 50 to 57 percent of the officers reported that they needed 4 hours or less. Survey responses did not provide enough information to explain these differences.



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danger in rushing through an interview, which could lead the asylum officer to incorrectly assess credibility. In conducting interviews with asylum officers, we asked 12 officers how much time they spend conducting an asylum interview. Eleven of the 12 asylum officers said that, of the 4 hours they generally have available for a case, they typically spend between 1 and 2 hours conducting the applicant interview. Nearly 30 percent of asylum officers reported that they were able to elicit sufficient information in asylum interviews to properly evaluate the claim no more than about half of the time. Further, 92 percent reported that having more time to probe in an interview would moderately or greatly help them elicit better information during the asylum applicant interview to properly evaluate the claim, including assessing the applicant's eligibility and credibility. The same percentage reported that having more time to prepare for and conduct research prior to an interview would moderately or greatly help them elicit better information during the asylum applicant interview to properly evaluate the claim, including assessing the applicant's eligibility and credibility.

In addition, when asked what would help them better identify fraud, asylum officer survey respondents who provided comments most frequently said that having more time would help them better identify fraud, with about 40 percent of the 98 respondents making such comments. For example, an asylum officer explained that although more tools to detect fraud are always useful, they are of little or no use if asylum officers are not given either time or correct training to use such tools. Another asylum officer stated that attorneys and preparers know that asylum officers do not have time to check into the claim and, thus, the "system is perpetuating fraud by not giving [asylum officers] time to concentrate on the adjudication." Sixty-four percent of supervisors (25 of 39) who responded to our survey indicated that asylum officers were not always completing a fraud referral sheet when they should in at least some of the cases they reviewed. Of the 111 asylum officer survey respondents who explained what prevented them from referring suspected fraud cases to their FDNS-IO, about half attributed this to time limitations.

One of USCIS's strategic goals is to combat fraud and, in 2007, the Asylum Division included measures for combating fraud in its performance work

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plan for supervisory asylum officers;<sup>65</sup> however, it has not explicitly included measures for combating fraud in its performance work plan for asylum officers. Several asylum officers who provided comments to our survey explained that a disincentive exists to take the time to make a fraud referral when they suspect fraud. According to one asylum officer, there is no reason to make a fraud referral because the performance work plan does not reward it and it takes a lot of extra time. In October 2007, in response to a DHS Office of Inspector General recommendation,<sup>66</sup> USCIS stated it plans to ensure that adjudicators' performance work plans include a measure for fraud detection—a recommendation that USCIS concurred with and plans to address. We reported in March 2003 that organizations should align individual performance expectations with organizational goals to improve performance by helping personnel connect their daily activities and organizational goals and encourage them to achieve these goals.<sup>67</sup> As such, we agree with the Office of the Inspector General's recommendation. Asylum Division officials told us in July 2008 that they had begun discussing this recommendation with USCIS and were looking to USCIS to take the lead on addressing the issue.

Although most asylum officers and supervisors reported that asylum officers needed more time to thoroughly adjudicate asylum cases, management views were mixed. Five of the eight Asylum Office Directors said that they believed that the 4 hours asylum officers are given to complete a case was not reasonable, while three considered it to be reasonable. One Asylum Office Director elaborated that asylum officers do not struggle to complete cases within 4 hours, in part because the majority of the asylum cases adjudicated in that office are older cases that are usually easier to adjudicate. This Director explained that older cases may be easier if country conditions have changed so dramatically over time that the asylum claim can no longer be sustained, or if they were filed before asylum reform solely for the purpose of obtaining employment authorization. In the latter case, often the asylum claim is easily

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<sup>65</sup> According to Asylum Division officials, beginning with the 2006–2007 rating cycle, the standard performance work plan for Asylum Office Directors and Deputy Directors hold these officials accountable for anti-fraud measures, although each Asylum Office personalizes the work plans based on its workload.

<sup>66</sup> Department of Homeland Security, Office of Inspector General, *Review of the USCIS Benefit Fraud Referral Process*, OIG-08-09, (April 2008).

<sup>67</sup> GAO, *Results-Oriented Cultures: Creating a Clear Linkage between Individual Performance and Organizational Success*, [GAO-03-488](#) (Washington, D.C.: Mar. 14, 2003).

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Adjudication Requirements  
Have Increased, While the  
Productivity Standard, Which  
Was Established Without  
Empirical Data, Has Remained  
the Same

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determined to be unsupported. The Asylum Division recognizes that asylum officers must work under time constraints and that the tasks and time involved in completing a particular case may increase due to factors such as a complicated story that takes additional time to fully elicit or several dependents being listed on an application. Nevertheless, the Chief of the Asylum Division said that the 4-hour average was sufficient and was not convinced that more time would lead to increased adjudication quality. Also, asylum officer performance work plan guidance states that under extenuating circumstances, supervisors can allow asylum officers to take more than the 4 days they typically have to provide their written decision to their supervisor.<sup>68</sup>

Since 1999, asylum adjudication requirements have increased while the productivity standard, which was established without empirical data, has remained unchanged. As previously discussed in this report, since September 11, 2001, the Asylum Division added requirements for asylum officers to check additional identity and security databases and increased the procedural requirements regarding when to conduct certain checks. The Asylum Division estimates that 10 percent of asylum officers' time would be needed to conduct security checks and, in 2004, began including this in making staffing projections. We discussed this projection with five of the eight Asylum Office Directors we interviewed. Three of the five Asylum Office Directors estimated that asylum officers spent 10 percent of their time conducting security checks, and two stated that asylum officers spent more than 10 percent of their time conducting these checks. According to one of these Directors, 30 minutes of the 4 hours asylum officers generally have to complete a case is needed to conduct identity and security checks, and a QA/T explained that if the results of an identity and security check identifies a potential concern, resolving that concern can add an hour to the adjudication process. In addition, beginning in 2007, asylum officers have been required to confirm that Service Center staff entered preparer information in RAPS and question the applicant if no information was entered, as well as contact, swear in, and document contact with interpreter monitors. Furthermore, all of the eight Asylum Office Directors we interviewed commented that, over time, asylum cases have become more complex or that requirements for completing cases have increased. According to one Asylum Office Director, while tools have

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<sup>68</sup>Asylum officers generally have 4 hours to adjudicate asylum cases over a 4-day period. Extenuating circumstances for exceeding the 4-day timeframe include excused leave and other higher-priority responsibilities.

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been provided to deal with the increased complexity of fraud in asylum applications, the asylum officers have not been given more time to use these tools.

**A Supervisory Asylum Officer on the 4-Hour Case Model**

The four hour case model has been used for many years, however over those years, many procedures have been added to the cases, many cases have become more complicated than those the Asylum Division handled at the inception of the asylum program, and the law has also evolved and become more complex. The applicants have become more sophisticated in their attempts at committing fraud, as well, and this development has caused a need for more investigation into the cases and more detailed lines of questioning. Additionally, since 9/11, [asylum officers] have been given more responsibility with regard to the review of computer security checks and identity checks, which takes extra time . . . All of this adds time to a case adjudication, yet we are still following the four hour case model.

—Supervisory asylum officer survey respondent

Although the overall caseload of the Asylum Division has steadily declined from about 450,000 cases in 2002 to 83,000 cases in 2007, this has not translated into asylum officers having more time to adjudicate asylum cases.<sup>69</sup> If local management is not able to assign asylum officers 18 asylum cases per 2-week period, it assigns asylum officers other Asylum Division work that is equivalent to 18 asylum cases to compensate for fewer asylum cases. Given the other work assigned, asylum officers continue to have an average of 4 hours under the productivity standard to complete each asylum case assigned. According to six of the eight Asylum Office Directors, asylum officers in their offices are generally being assigned work that equates to 18 asylum cases—that is, they are assigned asylum interviews in combination with other work. To compensate for being assigned fewer than the 18 asylum cases, asylum officers adjudicated nonasylum cases (i.e., credible fear, reasonable fear, and NACARA cases) and performed additional work such as administrative closures and research projects. Because of the decline in overall caseload, the Asylum Division plans to take on new responsibilities for asylum officers that is similar to their current work, such as adjudicating Refugee/Asylum Relative Petitions. The adjudication of these petitions will be modeled on

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<sup>69</sup> Caseload includes pending and new receipts for asylum, credible and reasonable fear, and NACARA cases. An asylum case consists of the principal applicant and any dependents listed on the asylum application. This is different than EOIR's definition of a case, which includes only one individual.

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the current asylum adjudication process, requiring interviews and checks against US-VISIT, in addition to the other mandatory identity and security checks. The division also increased the number of asylum officers assigned to overseas details from about 12 officers in 2007 to 40 officers in 2008.

According to the Asylum Division Chief, the productivity standard was established in 1999 as the result of discussions with the asylum officers' union and management's judgment. The Asylum Division had not conducted a time study or gathered empirical data. At that time, the productivity standard was reduced from 24 cases to 18 cases in a 2-week period. Asylum Division training materials explain that the productivity standard helps the Asylum Division achieve its mission of protecting refugees, while meeting quality and timeliness goals. Further, if the productivity standard is set too low, the Asylum Division would not have a reasonable ability to keep pace with new receipts given the staff available, whereas if it is set too high, the quality of adjudications would likely suffer. Asylum Division officials further explained that setting the productivity standard too low could result in adjudication delays that might encourage spurious filings of asylum applications for the purpose of obtaining employment authorizations. In May 2003, we reported that time studies, in general, have the substantial benefit of providing quantitative information that can be used to create objective and defensible measures of workload and can account for time differences in completing work that can vary in complexity. However, such studies do place some burden on personnel during data collection and involve other costs as well.<sup>70</sup> Without empirical data on which to base the asylum officer's productivity standard, the Asylum Division is not in the position to know whether asylum officers have sufficient time to conduct thorough asylum adjudications.

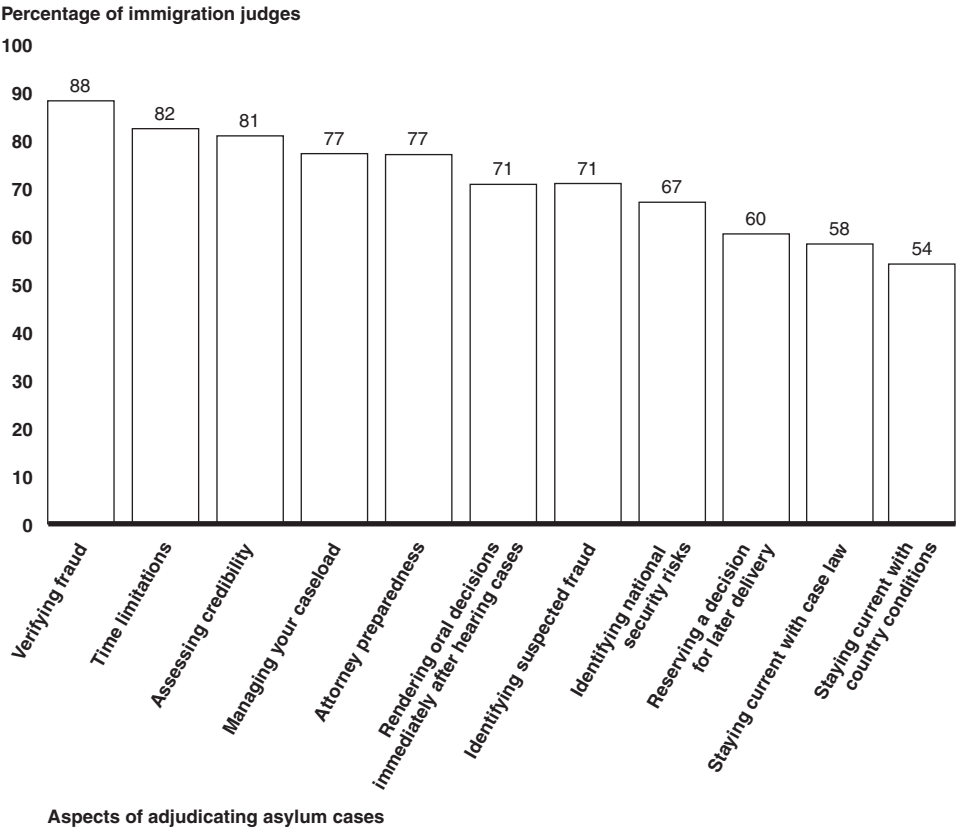
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<sup>70</sup> [GAO-03-789T](#).

# Key Factors Affecting Immigration Judge Adjudications Are Similar to Those Identified by Asylum Officers

Immigration judges’ responses to our survey indicated that key factors affecting their adjudications were similar to those that asylum officers identified. As shown in figure 9, of the 11 aspects of adjudicating asylum cases we inquired about in our survey, immigration judge survey respondents most frequently cited verifying fraud (88 percent) as a moderately or very challenging aspect of adjudicating asylum cases. The vast majority also reported time limitations (82 percent) and assessing credibility (81 percent) as moderately or very challenging.

**Figure 9: Percentage of Immigration Judge Survey Respondents Who Reported Aspects of Adjudicating Asylum Cases to Be Moderately or Very Challenging**



Source: GAO analysis of survey data.  
Note: n=159. There was some item-nonresponse variation across the survey items.

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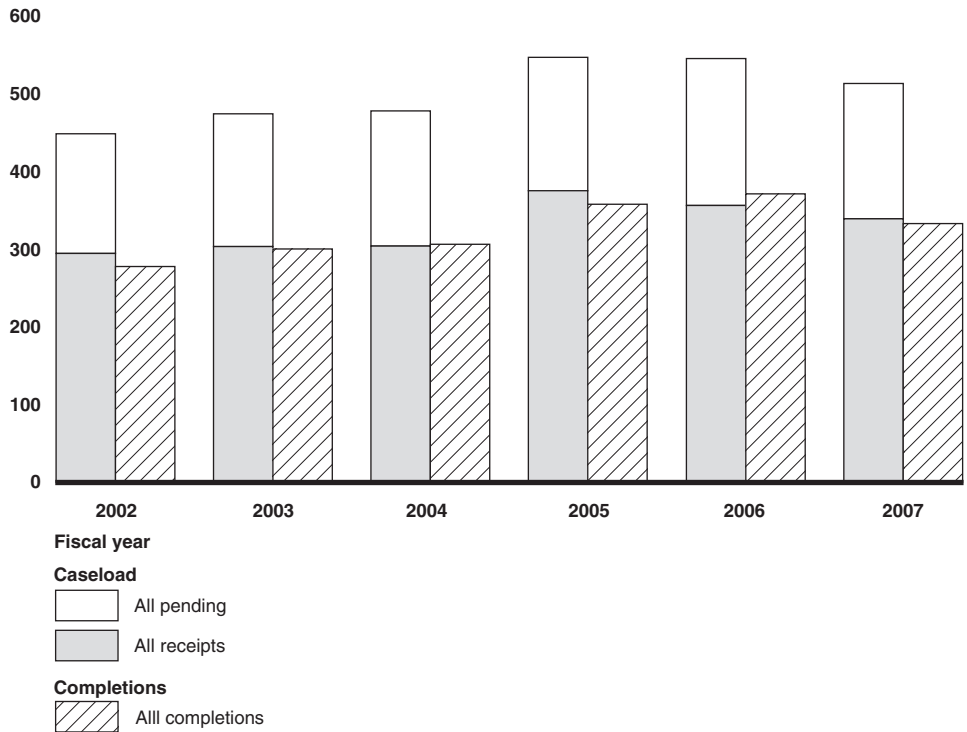
## Immigration Judges Reported Challenges in Identifying Fraud and Assessing Credibility

Most immigration judges who responded to our survey identified fraud and assessing credibility as significant challenges in adjudicating asylum cases. In assessing an applicant's eligibility for asylum, immigration judges consider adverse factors, including the use of fraud to gain admittance to the United States and inconsistent statements made by the asylum applicant. As an immigration judge respondent explained, "it is very easy to suspect fraud, but as in all civil cases, fraud is one of the most difficult things to actually prove. Unless the DHS . . . can prove fraud by a preponderance of the evidence, or a respondent admits facts constituting fraud, the suspicion of fraud will remain just that."

Of the various types of fraud that we inquired about in our survey, the majority of immigration judges who responded reported that all the types of fraud were moderately or very difficult to identify, with attorney fraud (66 percent) and identity fraud (66 percent) most frequently reported as difficult to identify, as shown in figure 10.

**Figure 10: Types of Suspected Fraud That Immigration Judge Survey Respondents Reported as Moderately or Very Difficult to Identity**

Number of cases (in thousands)



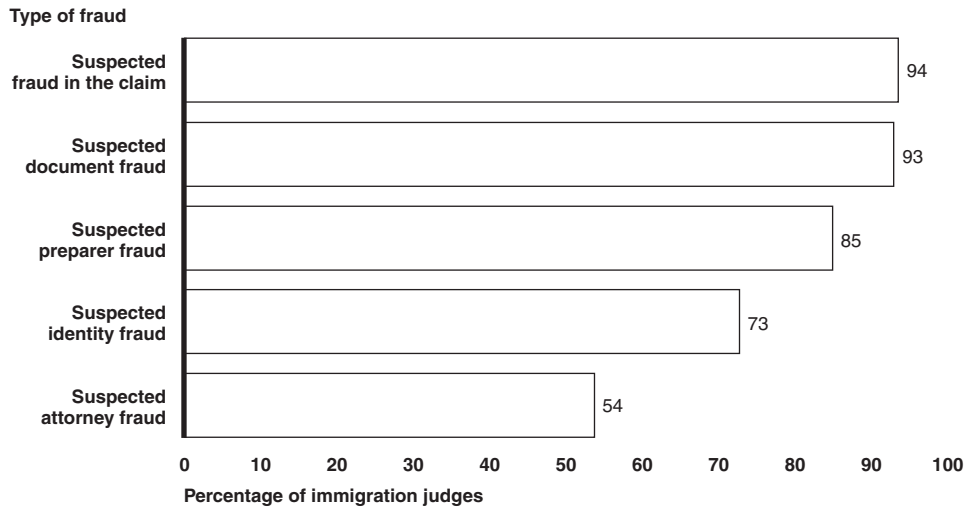
Source: GAO analysis of EOIR data.

Note: n= 159. There was some item-nonresponse variation across the survey items.

Of the various types of fraud that we inquired about in our survey, the majority of immigration judges reported that all the types of fraud presented a challenge in at least some of the cases that they adjudicated over the last year. For example, as shown in figure 11, in at least some of the cases they adjudicated over the past year, 94 percent of immigration judges reported that suspected fraud in the claim presented a challenge, and 93 percent reported that suspected document fraud presented a challenge.



**Figure 11: Types of Suspected Fraud That Immigration Judge Survey Respondents Reported as Presenting a Challenge in Some or All of the Cases They Adjudicated over the Past Year**



Source: GAO analysis of survey data.

Note: n=159. There was some item-nonresponse variation across the survey items.

Most immigration judges who responded to our survey also reported assessing credibility as a challenging aspect of adjudicating asylum cases. In each decision, an immigration judge must include a detailed credibility finding. Eighty-one percent of immigration judges reported that assessing credibility was a moderately or very challenging aspect of adjudicating asylum cases and an area in which they needed additional training. Further, 48 percent of immigration judges cited assessing credibility as one of their top three greatest challenges in adjudicating asylum cases. In addition, a NAIJ representative stated that assessing credibility is very difficult and that immigration judges would be better able to explore issues relevant to credibility if they had more time in court to review testimony and evidence.

The majority of immigration judges who responded to our survey reported impediments to assessing credibility in about half or more of the cases they adjudicated over the past year, including a lack of documentary evidence (70 percent), lack of other overseas information on applicants (61 percent), and lack of document verification from overseas (56 percent), as shown in figure 12. An immigration judge survey respondent shared the view that because of a high level of fraud and abuse in asylum cases and in the process, any case-specific evidence the ICE trial attorneys

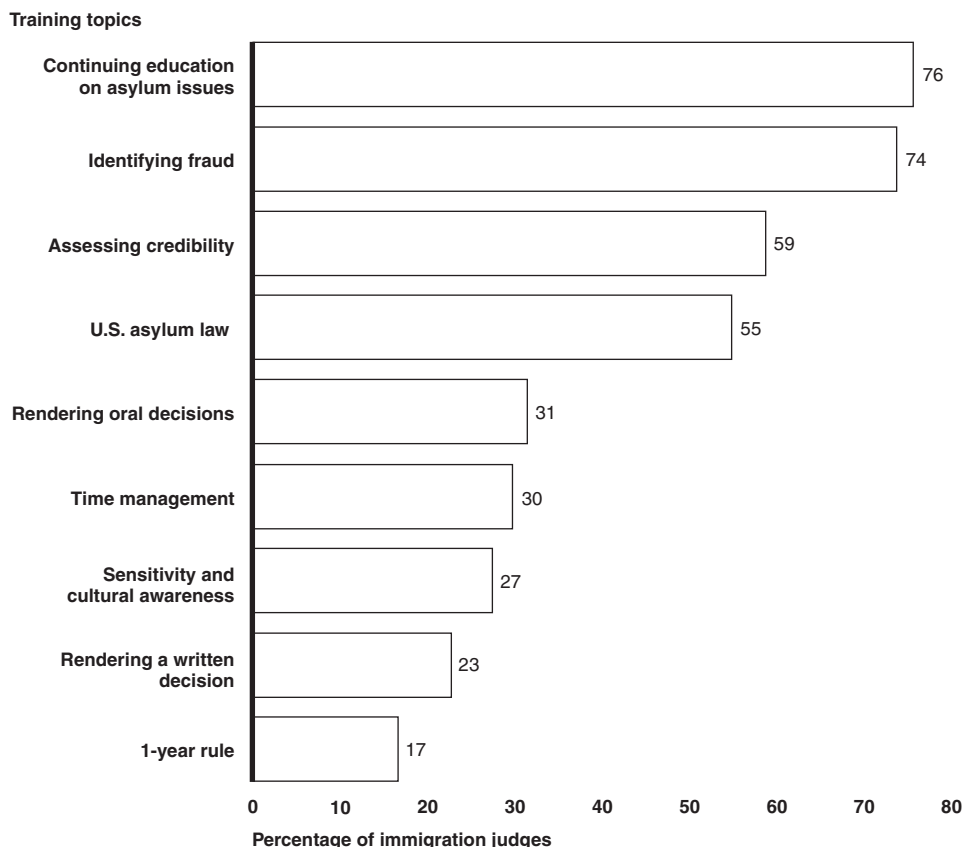
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could present to prove or disprove an asylum applicant's case would be extremely useful in trying to reach a fair and just result for the parties. Although lack of overseas information was reportedly an impediment to immigration judges' ability to assess credibility, according to EOIR, it is the role of the ICE trial attorney or the asylum applicant to gather information from overseas agencies and verify the authenticity of documents.<sup>71</sup>

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<sup>71</sup>Immigration judges who feel they need more information than is provided in the Country Reports on Human Rights Practices or Profiles of Asylum Claims may make specific requests on an individual case basis to State.

**Figure 12: Percentage of Immigration Judge Survey Respondents Who Reported Impediments to Assessing Credibility in about Half or More of the Asylum Cases They Adjudicated over the Past Year**



Source: GAO analysis of survey data.

Note: n=159. There was some item-nonresponse variation across the survey items.

In response to reforms directed by the Attorney General in 2006, EOIR designed the Fraud and Abuse Program that established a formal procedure for immigration judges, BIA members, and other EOIR staff to report suspected instances of immigration fraud or abuse. Prior to the implementation of this new program, immigration judges reported suspected fraud on an ad hoc basis primarily through management channels or EOIR's Attorney Discipline Program.

The goals of the Fraud and Abuse Program include

- protecting the integrity of proceedings before EOIR;

- 
- referring, where appropriate, information to either law enforcement or a disciplinary authority;<sup>72</sup>
  - encouraging and supporting investigations and prosecutions; and
  - providing immigration judges, BIA members, and other EOIR staff with source materials to aid in screening for fraudulent activity.

According to EOIR, the program improves immigration judges' ability to identify fraud by providing examples of prevalent forms of fraud and abuse and suggestions for the screening of boilerplate claims and common addresses. The program issues a monthly newsletter conveying such information and has also established a Web site.

EOIR provided some training on the Fraud and Abuse Program. Although the majority of immigration judges who responded to our survey reported being somewhat or not at all familiar with EOIR's new Fraud and Abuse Program, EOIR was in the process of informing immigration judges of this program when we conducted our survey during May through July 2007. As of July 2008, the manager of the program had conducted presentations at 26 immigration courts and at the annual immigration judge conference. A NAIJ representative stated that the Fraud and Abuse Program presentation that immigration judges received during the annual immigration judge conference was useful, but because the program was new, NAIJ had not received feedback from immigration judges indicating their use of the program.

According to EOIR, the Fraud and Abuse program is tracking all incoming referrals. As of July 2008, the program had received 132 referrals, including referrals of suspected asylum fraud and document fraud. Twenty-six of the 132 referrals were made by immigration judges. Patterns in referrals will be used to alert EOIR staff and other entities to fraud schemes. According to EOIR, as the Fraud and Abuse Program is relatively new, it remains flexible to respond to agency needs. The program has surveyed staff who attended the presentations at immigration courts about additional services they would like from the program and, according to EOIR officials, solicited immigration judges' input in July 2008 to develop ideas for additional training, among other things. EOIR officials stated that the Fraud and Abuse Program Manager has developed internal benchmarks of

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<sup>72</sup>An immigration judge who makes a referral to the Fraud and Abuse Program is not required to delay adjudication of the case.

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performance to assess the program, such as responding to all referrals within 5 days and reviewing inactive cases every 60 days.

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### Immigration Judges Reported Facing Time Constraints and EOIR Has Taken Some Steps to Address This Challenge

Most immigration judges who responded to our survey reported time constraints as a challenge in adjudicating asylum cases, and EOIR has taken some steps to mitigate these challenges. Specifically, 82 percent of immigration judges who responded to our survey reported that time limitations were moderately or very challenging in adjudicating asylum cases and 77 percent reported that managing caseload was moderately or very challenging. The fact that the growth in the number of onboard immigration judges has not kept pace with overall growth in caseload and case completions, which include asylum cases, may contribute to this challenge. While, from fiscal years 2002 through 2007, the number of onboard immigration judges increased by 2 (from 214 to 216 immigration judges), caseload, which includes newly filed and reopened cases and cases pending from prior years, rose 14 percent from about 442,000 to about 506,000 and completions rose 20 percent from about 274,000 to about 328,000. The average caseload per onboard immigration judge rose 13 percent from 2,067 cases in fiscal year 2002 to 2,343 cases in fiscal year 2007.

According to a NAIJ representative, time constraints can have an effect on the quality of decisions. The representative further explained that if a case needs to be delayed or rescheduled, it may be rescheduled as much as a full year later because of the volume of cases on an immigration judge's schedule. According to EOIR, both an immigration judge's overall caseload and the way the immigration judge manages that caseload affects the pressures the immigration judge experiences on the bench. A heavy caseload may limit an immigration judge's ability to manage comfortably.

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### **A U.S. Court of Appeals Chief Judge on Time Constraints Facing Immigration Judges**

A single [Immigration] Judge has to dispose of 1,400 cases a year or nearly twenty-seven cases a week, or more than five each business day, simply to stay abreast of his docket. I fail to see how immigration judges can be expected to make thorough and competent findings of fact and conclusions of law under these circumstances. This is especially true given the unique nature of immigration hearings. Aliens frequently do not speak English, so the immigration judge must work with a translator, and the immigration judge normally must go over particular testimony several times before he can be confident that he is getting an accurate answer from the alien. Hearings, particularly in asylum cases, are highly fact intensive and depend upon the presentation and consideration of numerous details and documents to determine issues of credibility and to reach factual conclusions. This can take no small amount of time depending on the nature of the alien's testimony.

—The Honorable John M. Walker, Jr., Chief Judge, U.S. Court of Appeals for the 2nd Circuit in addressing the U.S. Senate Committee on the Judiciary, April 2006

Nearly all immigration judge survey respondents also reported needing more than the 4 hours off the bench that is provided for them to handle administrative matters.<sup>73</sup> Fifty-two percent reported that they need more than 8 hours per week for administrative tasks and 45 percent said they need about 5 to 8 hours. Sixty-nine percent reported that they did not use their administrative time as intended about half the time; instead, they used that time to hear cases.

According to EOIR, EOIR monitors the caseload of each immigration court to identify courts that have been unable to meet their established goals for timely case adjudication and provides assistance to help those courts meet these goals. In 2006, we reported that EOIR helped courts address growing caseloads by detailing immigration judges, using technology, transferring responsibility for hearing locations, and establishing new courts.<sup>74</sup> EOIR informed us in 2007 that it continues to employ these mechanisms. In 2007, when we surveyed immigration judges, 57 percent reported that having a visiting immigration judge detailed to their court somewhat or greatly helped their ability to manage their caseload, and 40 percent reported

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<sup>73</sup>According to EOIR officials, immigration judges are to schedule administrative time, or time off the bench, to adjudicate motions, write reserved opinions, meet with the court administrator, or conduct legal research. Four hours of administrative time has been the norm since 1983.

<sup>74</sup>GAO, *Executive Office for Immigration Review: Caseload Performance Reporting Needs Improvement*, [GAO-06-771](#) (Washington, D.C.: Aug. 11, 2006).

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having immigration judges from other courts hear cases via videoconference somewhat or greatly helped their ability to manage their caseload.

In addition, because of the volume of cases that immigration judges handle, EOIR advises immigration judges to issue oral decisions immediately after hearing a case, deeming it generally to be the most efficient way to complete cases.<sup>75</sup> However, 71 percent of immigration judges who responded to our survey reported that rendering an oral decision immediately after a hearing was moderately or very challenging. According to a NAIJ representative, oral decisions are difficult because immigration judges are trying to balance multiple tasks at once during a hearing—listening carefully to the testimony, asking follow-up questions, and applying case law correctly. Having time to reflect after listening to testimony, and having time to prepare a written decision would result in better decisions. However, according to EOIR, rendering oral decisions following a hearing allows both sides to hear the decision while the evidence is fresh in their minds and then make an informed choice whether to appeal the decision. Furthermore, immigration judges who reserve decisions for later quickly develop a backlog.

According to EOIR, issues resulting from heavy caseloads are best addressed by increasing the number of immigration judges and staff available. To help immigration judges better manage their caseload, EOIR requested funding to hire 240 additional staff for immigration courts. According to EOIR, in developing its request, it considered budget guidance and the number of positions it could reasonably expect to fill in a given year. One hundred and twenty new positions were requested and funded in fiscal year 2007, 20 of which were immigration judge positions. Although EOIR requested funding for the remaining 120 positions in fiscal year 2008, it did not receive its full budget request. As a result, EOIR abolished its plans to hire an additional 120 positions in fiscal year 2008, including 20 immigration judge positions. Prior to the hiring of additional staff, most immigration judges who responded to our survey reported that having additional law clerks (98 percent), additional immigration judges (84 percent), and additional administrative court staff (77 percent) would moderately or greatly improve their ability to carry out their responsibilities. According to EOIR, as of May 2008, it was in the process

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<sup>75</sup>8 C.F.R. § 1003.37(a) and 8 C.F.R. § 1240.12(a) provide that a decision of the immigration judge may be rendered orally or in writing.

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of hiring approximately 38 immigration judges, comprised of newly authorized positions and replacements for attrition. Until all authorized immigration court staff are on board, it is too soon to determine the extent to which increased staffing will affect immigration judges' ability to manage their caseload.

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## Conclusions

Adjudicating asylum cases is a challenging undertaking because asylum officers do not always have the means to determine which claims are authentic and which are fraudulent. USCIS has taken steps to instill quality and strengthen the integrity of the asylum decision-making process. However, asylum officers still face adjudication challenges, including asylum fraud, lack of information from entities outside USCIS that could help assess the authenticity of claims, and increased responsibilities without additional time to carry them out. With potentially serious consequences for asylum applicants if they are incorrectly denied asylum and for the United States if criminals or terrorists are granted asylum, asylum officers must make the best decision they can within the constraints that are placed on them.

The mechanisms USCIS designed to promote quality and integrity in decision making can be better utilized to decrease the risk that incorrect asylum decisions are made. Eliciting information through applicant interviews is a challenging and critical component of an asylum officer's ability to distinguish between genuine and fraudulent claims. By supplementing existing training with additional opportunities for asylum officers to observe skilled interviewers, the Asylum Division could improve asylum officers' ability to elicit needed information during an applicant interview to help distinguish between a genuine and fraudulent claim. In addition, by developing a framework to solicit asylum officers' and supervisors' views of their training needs in a structured and consistent manner, the Asylum Division would help ensure that headquarters and Asylum Offices have more complete information from which to make training decisions. Furthermore, by more fully implementing its quality review framework, the Asylum Division would be in a better position to identify deficiencies in the quality of asylum decisions asylum officers make, identify the root causes of such deficiencies, and take appropriate action, such as focusing training opportunities.

Insufficient time for asylum officers to adjudicate cases can undermine the efficacy of the tools that asylum officers do have, as well as USCIS's goals to ensure quality and combat fraud. We recognize that conducting an



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empirical study of the time asylum officers need to complete a thorough adjudication, including conducting increased security checks and referring instances of suspected fraud when appropriate, would involve some expenditure of resources. However, doing so would better position the Asylum Division to know whether it is providing asylum officers with the time needed to do their job in accordance with their procedures manual and training. More recent tools, such as additional identity and security check information and the placement of FDNS immigration officers in Asylum Offices can be valuable, but only if asylum officers have the time to fully utilize them.

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## Recommendations for Executive Action

To improve the integrity of the asylum adjudication process, we recommend that the Chief of the Asylum Division take the following five actions:

- explore ways to provide additional opportunities for asylum officers to observe skilled interviewers;
- develop a framework for soliciting information in a structured and consistent manner on asylum officers' and supervisors' respective training needs, including, at a minimum, training needs discussed in this report;
- ensure that the information collected on training needs is used to provide training to asylum officers and supervisory asylum officers at the offices where the information shows it is needed or nationally, when training needs are common;
- develop a plan to more fully implement the quality review framework—and complement existing supervisory and headquarters reviews—to include, among other things, how to ensure that in each Asylum Office a sample of decisions of asylum officers are reviewed for quality and consistency and interviews conducted by asylum officers are observed; and
- develop a cost-effective way to collect empirical data on the time it takes asylum officers to thoroughly complete the steps in the adjudication process and revise productivity standards, if warranted.

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## Agency Comments

We requested comments on a draft of this report from DHS, DOJ, and State. The departments did not provide official written comments to include in our report. However, in e-mails received September 12, 2008, the DHS and USCIS liaisons stated that DHS concurred with our recommendations. DHS and EOIR provided written technical comments, which we incorporated into the report, as appropriate.

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We are sending copies of this report to interested congressional committees, the Secretary of Homeland Security, the Attorney General, and the Secretary of State. We will also provide copies to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. For further information about this report, please contact Richard M. Stana, Director, Homeland Security and Justice Issues, at (202) 512-8777 or at [stanar@gao.gov](mailto:stanar@gao.gov). GAO staff members who were major contributors to this report are listed in appendix VII.



Richard M. Stana, Director  
Homeland Security and Justice Issues

# Appendix I: Survey of Asylum Officers

We sent our Web-based survey to all asylum officers who were in their position at the end of fiscal year 2006. We received 189 responses from asylum officers, resulting in a 74 percent response rate. To ensure survey respondents had recent knowledge about the issues our survey explored, 18 of the 189 respondents were directed to not complete the rest of survey because their responses to our initial questions indicated their primary responsibilities did not include adjudicating asylum cases or they had adjudicated no, or almost no, asylum cases over the past year. Although 171 asylum officers completed the survey, the number answering any particular question may be lower, depending on how many chose to answer any given question. In addition, for certain questions, respondents were instructed to skip particular questions based on their responses to previous questions. Each question includes the number of asylum officers responding to it.

Our survey was comprised of closed- and open-ended questions. In this appendix, we include all the survey questions and aggregate results of responses to the closed-ended questions; we do not provide information on responses provided to the open-ended questions. For a more detailed discussion of our survey methodology see appendix IV.

## Background

Q1. How long have you been an Asylum Officer? (In years)

Mean	Median	Minimum	Maximum	Number of respondents
6	5	0	16	189

Q2. How long have you been an Asylum Officer with the office you are assigned to currently? (In years)

Mean	Median	Minimum	Maximum	Number of respondents
6	5	0	16	189

Q3. Over the past year, did your primary responsibilities include interviewing and adjudicating affirmative asylum, credible/reasonable fear, or NACARA cases?

Yes (percent)	No (percent)	Number of respondents
96	4	189

Q3a. Over the past year, about how many of the cases you adjudicated were affirmative asylum cases?

All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Number of respondents
36	25	22	11	6	181

## Training

Q4. Were you certified in-house before you attended the Asylum Officer Basic Training Course (AOBTC)?

Yes (percent)	No (percent)	Number of respondents
39	61	167

Q5. Overall, how well or poorly did AOBTTC prepare you to adjudicate affirmative asylum cases?

Very well (percent)	Moderately well (percent)	Neither well nor poorly (percent)	Moderately poorly (percent)	Very poorly (percent)	Not applicable, have not attended AOBTC (percent)	Don't know (percent)	Number of respondents
25	50	12	8	4	0	1	171

Q6. Do you think AOBTC needs to be improved in any of the following areas to better prepare you to make affirmative asylum decisions?

[Where Q5 is "very well", "moderately well", "neither well nor poorly", "moderately poorly", "very poorly", or "do not know"]

	Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
a. Conducting identity and security checks	76	11	13	166
b. Identifying possible issues relating to national security	66	23	10	163
c. Interviewing skills	39	56	5	163
d. Legal requirements for asylum eligibility	23	72	5	162
e. Country conditions research	29	67	4	163
f. Identifying possible fraud	77	17	6	167
g. Decision writing	33	61	6	162
h. Asylum process and procedures	37	57	6	166
i. Time management	60	34	5	164
j. Other	64	27	9	78

Q7. How much, if at all, is additional training on the following topics needed at your asylum office to improve your ability to adjudicate affirmative asylum claims?

	Greatly needed (percent)	Moderately needed (percent)	Slightly needed (percent)	Not at all needed (percent)	Don't know (percent)	Number of respondents
a. Asylum process and procedures	16	27	31	24	2	165
b. Conducting identity and security checks (i.e., database queries and any related research)	31	32	25	10	2	169
c. Interpreting the results of identity and security checks	43	25	21	10	1	169
d. One-year filing deadline	5	20	23	49	1	166
e. Mandatory bars to asylum	11	23	35	30	1	167
f. Issues related to national security	31	26	24	17	2	168
g. Interviewing skills	18	21	25	33	3	167
h. Understanding intercultural communication	13	19	22	42	4	166
i. Understanding how stress and trauma may affect the interview	16	21	23	36	4	165
j. Assessing credibility	40	24	16	18	1	165
k. Current trends in fraud	52	27	12	8	1	167
l. Identifying fraudulent documents	57	26	12	4	1	164

	Greatly needed (percent)	Moderately needed (percent)	Slightly needed (percent)	Not at all needed (percent)	Don't know (percent)	Number of respondents
m. Identifying fraud in claim	53	24	13	8	2	166
n. Identifying interpreter fraud	43	22	16	17	2	166
o. Identifying preparer fraud	51	21	16	10	2	167
p. Identifying attorney fraud	50	17	20	12	1	165
q. Using the Asylum Virtual Library	21	23	30	25	1	162
r. Other country condition research methods	14	32	23	28	2	166
s. Country condition updates	17	29	26	26	2	167
t. Applying country condition information	15	22	22	40	1	164
u. U.S. asylum law (e.g., case law, changes in statute and regulations)	18	26	31	24	1	168
v. Conducting legal research	16	28	25	29	2	167
w. Applying the REAL ID Act	41	27	20	11	1	167
x. Writing decisions	11	18	28	40	2	166
y. Time management	38	19	22	20	1	162

Q8. Are there topics, other than those listed in the previous question, that you think should be addressed through training?

Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
40	49	11	152

Q9. What other topic(s) should be addressed through training?

Q10. Has your asylum office solicited your views on what training should be offered locally?

Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
32	63	6	163

Q11. Approximately when were your views last solicited?

[Where Q10 is "Yes"]

Within the past 6 months (percent)	More than 6 months ago, but within the past year (percent)	More than 1 year ago, but within the past 2 years (percent)	More than 2 years ago, but within the past 5 years (percent)	More than 5 years ago (percent)	Don't know (percent)	Number of respondents
61	14	14	2	0	10	51

Q12. Over the past year, on average, about how many hours per week of formal training, informal training, and self-study time (e.g., conducting research, reading case law, reviewing new training materials or procedural memos) has your office provided you?

Less than 1 hour (percent)	About 1 hour (percent)	About 2 hours (percent)	About 3 hours (percent)	About 4 hours (percent)	More than 4 hours (percent)	Unable to estimate (percent)	Number of respondents
12	12	34	7	20	4	11	169

Q13. Of the training time provided during the past year, about what portion, on average, was intended for self-study (e.g., conducting research, reading case law, reviewing new training materials or procedural memos)?

All or almost all of that time (percent)	Most of that time (percent)	About half of that time (percent)	Some of that time (percent)	None or almost none of that time (percent)	Unable to estimate (percent)	Number of respondents
4	10	11	32	36	8	167

Q14. Of that self-study time, about what portion, on average, have you used to do your routine work (e.g., adjudicating cases, performing administrative tasks, checking e-mail)?

All or almost all of that time (percent)	Most of that time (percent)	About half of that time (percent)	Some of that time (percent)	None or almost none of that time (percent)	Unable to estimate (percent)	Number of respondents
41	14	6	10	21	8	159



Q15. What are the primary reasons that you use self-study time to perform other duties?

Q16. What, if anything, would make training at your asylum office more effective?

## Identity and Security Checks

Q17. Who generally conducts the identity and security checks on the affirmative asylum cases that are assigned to you?

I generally do the checks (percent)	Others generally do the checks (percent)	Generally I do some of the checks and other staff do other checks (percent)	Number of respondents
61	11	28	170

Q18. Do you think your ability to conduct and review identity and security checks would be improved by having additional time or training in the following areas?

[Where Q17 is either "I generally do the checks" or "Generally I do some of the checks and other staff do other checks"]

	Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
a. Additional time to conduct required checks	87	12	1	150
b. Additional time to conduct checks beyond those that are required	78	15	7	149
c. Additional training on conducting all required checks	61	34	5	146
d. Additional training on conducting checks beyond those that are required	66	25	9	146

	Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
e. Additional training on the type of information contained in the various databases I search	80	16	4	148
f. Additional training on how to interpret the results of checks	83	15	2	148
g. Other	63	31	6	51

Q19. Please list the checks, if any, for which you would like more time or training.

Q20. In general, how often are the identity and security checks that others conduct sufficiently thorough?

[Where Q17 is either "Others generally do the checks" or "Generally I do some of the checks, and other staff do other checks"]

Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Don't know (percent)	Number of respondents
18	42	18	14	8	0	66

Q21. In general, how easy or difficult is it for you to interpret the results of the identity and security checks that others conduct?

[Where Q17 is either "Others generally do the checks" or "Generally I do some of the checks, and other staff do other checks"]

Very easy (percent)	Moderately easy (percent)	Neither easy nor difficult (percent)	Moderately difficult (percent)	Very difficult (percent)	Don't know (percent)	Number of respondents
23	35	26	15	2	0	66

Q22. In terms of identifying applicants who should or should not receive asylum, do you think it is more effective for you to conduct your own security and identity checks, or to have others in the office conduct the checks before the case is assigned to you?

<b>It is more effective for me to conduct my own security checks (percent)</b>	<b>It is more effective to have others in the office conduct the checks before the case is assigned to me (percent)</b>	<b>It makes no difference (percent)</b>	<b>Don't know (percent)</b>	<b>Number of respondents</b>
44	42	7	7	167

Q23. When conducting identity and security checks, how well do you understand:

	<b>Greatly understand (percent)</b>	<b>Moderately understand (percent)</b>	<b>Slightly understand (percent)</b>	<b>Hardly or not at all understand (percent)</b>	<b>Number of respondents</b>
a. the type of information contained in the various databases or systems you check?	31	58	9	1	171
b. the results you receive?	30	60	8	2	164

Q24. Overall, how useful in accomplishing the following objectives do you consider the identity and security checks that you or others conduct at your office?

	<b>Very useful (percent)</b>	<b>Moderately useful (percent)</b>	<b>Slightly useful (percent)</b>	<b>Not at all useful (percent)</b>	<b>Don't know (percent)</b>	<b>Number of respondents</b>
a. Identify or provide information on individuals who pose a risk to national security and/or public safety	47	31	17	4	2	169

Appendix I: Survey of Asylum Officers

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
b. Provide information regarding applicants' eligibility for asylum	40	32	22	4	1	165

Q25. How useful do you consider each of the following databases or systems to be in identifying or providing information on individuals who may pose a risk to national security and/or public safety?

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Not applicable (percent)	Don't know (percent)	Number of respondents
a. FBI fingerprints	68	21	8	2	0	1	171
b. FBI name check	38	19	26	11	0	5	170
c. IBIS	63	25	9	2	0	1	171
d. U.S.-VISIT/SIT	53	26	12	5	0	4	171
e. CIS	38	21	22	14	1	4	169
f. DACS	34	26	24	10	1	4	169
g. CCD (Department of State's Consolidated Consular Database)	53	23	15	3	0	6	171
h. ChoicePoint	22	11	7	3	15	42	161

Q26. How useful do you consider each of the following databases or systems to be in providing information regarding an applicant's eligibility for asylum?

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Not applicable (percent)	Don't know (percent)	Number of respondents
a. FBI fingerprints	55	17	23	5	0	1	171
b. FBI name check	38	15	27	16	1	3	170
c. IBIS	49	25	18	6	0	2	170
d. U.S.-VISIT/SIT	57	22	15	5	0	2	169

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Not applicable (percent)	Don't know (percent)	Number of respondents
e. CIS	39	24	21	12	2	3	168
f. DACS	38	28	21	9	1	3	170
g. CCD (Department of State's Consolidated Consular Database)	60	25	9	2	0	5	171
h. ChoicePoint	21	12	4	6	18	38	154

Q27. Do you or others need additional data from, or access to, databases or systems in order to conduct identity and security checks?

Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
48	19	33	168

Q28. Please identify the databases or systems to which you think access is needed.

Q29. How, if at all, do you think identity and security checks can be improved?

## Case Assignment

Q30. How effective or ineffective do you think your office's current process is for assigning affirmative asylum cases to officers in:

	Very effective (percent)	Moderately effective (percent)	Neither effective nor ineffective (percent)	Moderately ineffective (percent)	Very ineffective (percent)	Don't know (percent)	Number of respondents
a. preventing fraud by asylum officers (e.g., precluding officers from arranging to adjudicate particular cases for money or other compensation)?	48	15	7	5	4	21	168

	Very effective (percent)	Moderately effective (percent)	Neither effective nor ineffective (percent)	Moderately ineffective (percent)	Very ineffective (percent)	Don't know (percent)	Number of respondents
b. ensuring equitable distribution of workload among asylum officers?	18	21	9	19	25	9	169

Q31. What, if anything, do you think could be done to improve the current process for assigning affirmative asylum cases in your office?

Q32. In how many cases, if any, do you think that asylum officers' expertise (e.g., language capability or expertise in a particular geographic area) should be considered when affirmative asylum cases are assigned to officers?

All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
20	13	6	24	31	7	167

Q33. Please discuss why you think asylum officer expertise should or should not be considered in assigning cases.

## Interviewing and Assessing Credibility

Q34. Overall, in your affirmative asylum interviews, how often do you feel you are able to elicit sufficient information to properly evaluate the claim?

Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Unable to estimate (percent)	Number of respondents
25	47	15	8	5	1	171

Q35. Since being certified to conduct interviews, have you observed, or had the opportunity to observe, interviews conducted by skilled interviewers?

I have had the opportunity to observe and have done so (percent)	I have had the opportunity but have not done so (percent)	I have not had the opportunity to do so (percent)	I don't recall (percent)	Number of respondents
44	0	52	3	162

Q36. To improve asylum officers' interviewing skills, how useful do you think it would be for asylum officers to observe interviews conducted by skilled interviewers?

Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
63	25	11	1	1	167

Q37. How useful do you think it would be, or would have been, to observe skilled interviewers at the following stages in your career as an asylum officer?

[Where Q36 is "very useful", "moderately useful", or "slightly useful"]

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
a. During my 1st year as an asylum officer	89	10	1	0	1	166
b. During my 2nd year	29	42	16	8	5	154
c. Between my 3rd and 5th year	20	20	28	22	10	148
d. After my 5th year	21	10	29	27	13	143
e. When returning to affirmative asylum adjudications after other assignments or rotations	37	17	25	12	10	155

Q38. In adjudicating affirmative asylum cases during the past year, in about how many cases did you find each of the following to be a significant challenge to assessing credibility?

	All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
a. Lack of documents provided by applicant	17	19	18	37	8	1	170
b. Insufficient time to prepare and conduct research prior to the interview	40	21	12	22	5	1	168
c. Insufficient time to probe in interview	34	20	8	28	8	1	169
d. My own inability to speak applicant's language	5	7	7	26	52	3	171
e. Lack of information regarding document validity	32	18	11	29	9	1	171
f. Lack of overseas information on applicant	32	16	11	25	14	2	170
g. Lack of information on country conditions	8	2	5	47	38	0	170
h. Other	52	7	9	14	5	14	44



Q39. How well do you understand how to apply each of the following provisions of the REAL ID Act as they pertain to adjudicating affirmative asylum cases?

	Greatly understand (percent)	Moderately understand (percent)	Slightly understand (percent)	Hardly or not at all understand (percent)	Number of respondents
a. Determining whether the applicant has established that one of the five protected grounds was or will be at least one central reason for the persecution	62	28	5	5	169
b. Determining whether the applicant should provide evidence that corroborates otherwise credible testimony	39	41	14	6	168
c. Factoring a relevant inconsistency, inaccuracy, or falsehood into a credibility determination, even if the inconsistency, inaccuracy, or falsehood does not go to the heart of the applicant's claim	45	34	13	9	168

Q40. Do you face any barriers in applying the provisions of the REAL ID Act in adjudicating affirmative asylum cases?

Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
37	41	22	162

Q40a. What barriers do you face? Please include in your response the specific provision(s) involved.

Q41. How much, if at all, would the following possible changes help you elicit better information during the asylum applicant interview to properly evaluate the claim, including assessing the applicant's eligibility and credibility?

	Greatly help (percent)	Moderately help (percent)	Slightly help (percent)	Not at all help (percent)	Don't know (percent)	Number of respondents
a. Receiving more training on interview preparation	13	21	33	31	2	167
b. Receiving more training on how to conduct the interview	12	19	34	34	2	167
c. Receiving more training on eliciting information in the interview to test credibility	32	23	24	20	1	168
d. Receiving more training on how to evaluate credibility	30	19	26	23	1	167
e. Having more time during the interview	75	17	4	4	0	168
f. Having more time to prepare and conduct research prior to the interview	76	16	6	2	0	169
g. Receiving the A-file further in advance	52	23	13	8	3	168
h. Having greater discretion to conduct additional interviews when appropriate	44	20	21	12	4	164

	Greatly help (percent)	Moderately help (percent)	Slightly help (percent)	Not at all help (percent)	Don't know (percent)	Number of respondents
i. Routinely conducting two interviews with the applicant on different dates to allow time for interim research	35	17	20	22	7	168
j. Co- conducting the interview with another officer	24	16	14	34	11	166
k. Having additional opportunities to collaborate with other officers on cases	44	23	18	12	4	167
l. Other	64	6	6	12	12	50

## Use of Contracted Interpreter Monitors

Q42. Have you had experience with using contracted interpreter monitors during your affirmative asylum interviews?

Yes (percent)	No (percent)	Number of respondents
98	2	169

Q43. In general, how useful do you think the interpreter monitors are in:

[Where Q42 is "Yes"]

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
a. deterring interpreters from intentionally misinterpreting?	60	27	8	4	1	168

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
b. helping genuine refugees clearly communicate their claim and avoid misunderstandings due to poor interpretation?	48	34	13	5	0	166
c. helping you identify fraud?	27	22	28	19	3	166
d. helping you expedite the interview?	18	17	17	44	4	168

Q44. Compared to the current practice of using interpreter monitors along with applicants' interpreters, how much do you think having only contracted telephonic interpreters would improve or worsen:

	Greatly improve (percent)	Moderately improve (percent)	Neither improve nor worsen (percent)	Moderately worsen (percent)	Greatly worsen (percent)	Don't know (percent)	Number of respondents
a. genuine refugees' ability to clearly communicate their claim?	42	25	15	9	4	5	169
b. your ability to identify fraud?	40	20	26	3	4	7	169
c. your ability to expedite the interview?	34	25	15	10	8	8	169

## Assessing Fraud

Q45. Overall, how easy or difficult is it for you to identify each of the following types of fraud in affirmative asylum cases?

	Very easy (percent)	Moderately easy (percent)	Neither easy nor difficult (percent)	Moderately difficult (percent)	Very difficult (percent)	Don't know (percent)	Number of respondents
a. Identity fraud	4	24	19	31	19	4	170
b. Document fraud	2	12	12	36	36	1	171

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	Very easy (percent)	Moderately easy (percent)	Neither easy nor difficult (percent)	Moderately difficult (percent)	Very difficult (percent)	Don't know (percent)	Number of respondents
c. Interpreter fraud (when interpreter monitors are used)	18	37	16	19	5	4	170
d. Preparer fraud	9	26	19	31	14	1	169
e. Attorney fraud	5	17	21	29	24	4	169
f. Fraud in claim	8	26	26	26	12	2	171
g. Fraud related to date or method of entry	9	29	16	30	15	1	171
h. Jurisdictional fraud (forum shopping)	8	24	20	26	18	4	170
i. Other	19	9	6	6	28	31	32

Q46. Over the past year, did you ever grant asylum for any of the following reasons, despite thinking the applicant tried to represent fraudulent documents as genuine?

	Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
a. I found the applicant's claim to be credible.	53	42	5	165
b. I found no legal basis to refer or deny.	51	44	6	162
c. My supervisor found that my reasons to refer or deny were not supported by the law or my analysis.	32	62	6	161

	Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
d. The process involved in granting asylum was easier than referring or denying.	19	80	1	161
e. I didn't have sufficient time to gather the evidence needed to refer or deny the claim.	36	61	2	166
f. The fraudulent document(s) were not material or relevant to the claim.	48	44	8	160
g. There was no way to verify whether the document(s) were truly fraudulent.	59	37	4	165
h. My supervisor did not want me to send the document(s) to the Forensic Document Laboratory (FDL) for verification.	19	79	2	157
i. Other	54	34	11	35

Q47. Over the past year, in about how many cases in which you granted asylum did you do so despite thinking you were presented with fraudulent documents?

[Where Q46 is "Yes" on one or more item]

All or almost all of the cases in which I granted asylum (percent)	Most of the cases in which I granted asylum (percent)	About half of the cases in which I granted asylum (percent)	Some of the cases in which I granted asylum (percent)	None or almost none of the cases in which I granted asylum (percent)	Unable to estimate (percent)	Number of respondents
3	5	7	49	28	8	133

Q48. Overall, how effective or ineffective do you think the FDNS-IO (Fraud Detection and National Security Immigration Officer) position is in identifying or verifying fraud?

Very effective (percent)	Moderately effective (percent)	Neither effective nor ineffective (percent)	Moderately ineffective (percent)	Very ineffective (percent)	Don't know (percent)	Number of respondents
17	32	14	8	10	20	171

Q49. What, if anything, would make the FDNS-IO position more effective?

Q50. To what extent are you encouraged to or discouraged from formally referring cases to your FDNS-IO (i.e., completing a fraud referral sheet) when you suspect fraud?

Very encouraged (percent)	Moderately encouraged (percent)	Neither encouraged nor discouraged (percent)	Moderately discouraged (percent)	Very discouraged (percent)	Don't know (percent)	Number of respondents
30	20	21	14	12	3	168

Q51. What, if anything, prevents or limits you from referring cases to your FDNS-IO?

Q52. Is there also a Fraud Prevention Coordinator in your office?

Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
85	7	8	168

Q53. Overall, how effective or ineffective is the Fraud Prevention Coordinator position in identifying fraud?

[Where Q52 is "Yes"]

Very effective (percent)	Moderately effective (percent)	Neither effective nor ineffective (percent)	Moderately ineffective (percent)	Very ineffective (percent)	Don't know (percent)	Number of respondents
17	30	13	9	11	20	143

Q54. What, if anything, would make the Fraud Prevention Coordinator position more effective?

Q55. When you have suspected or identified fraud during the past year, in how many of these cases do you think the asylum seeker was knowingly involved in the fraud?

All or almost all of these cases (percent)	Most of these cases (percent)	About half of these cases (percent)	Some of these cases (percent)	None or almost none of these cases (percent)	Unable to estimate (percent)	Number of respondents
45	27	5	16	0	7	166

Q56. How much, if at all, do you think each of the following possible changes are needed to help you identify fraud in the affirmative asylum cases you adjudicate?

	Greatly needed (percent)	Moderately needed (percent)	Slightly needed (percent)	Not at all needed (percent)	Don't know (percent)	Number of respondents
a. Additional FDNS-IO(s) in your office	37	19	8	24	13	167
b. Additional Fraud Prevention Coordinator(s) in your office	24	25	8	27	16	166
c. Additional Forensic Document Laboratory (FDL)-trained staff in your office	68	17	5	5	4	168
d. Having two or more asylum officers participate in interviews	25	9	13	40	13	165



	Greatly needed (percent)	Moderately needed (percent)	Slightly needed (percent)	Not at all needed (percent)	Don't know (percent)	Number of respondents
e. Scanning all I-589s and using software to identify boilerplates and trends	61	16	11	7	6	165

Q57. What else do you think can be done to help you better identify whether or not fraud exists in the cases you adjudicate?

Q58. What else do you think can be done to deter or cut down on fraud in affirmative asylum cases?

## Country Conditions

Q59. How useful to your country condition research is each of the following sources of information?

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
a. Information submitted by the applicant	14	22	45	19	0	168
b. Your own research done on prior case(s)	75	20	4	0	1	167
c. Information available through the Resource Information Center (RIC), including Asylum Virtual Library	34	32	28	3	3	169
d. Department of State's annual Country Reports on Human Rights Practices and International Religious Freedom reports	58	34	8	1	0	170

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
e. Department of State's Profiles of Asylum Claims and Country Conditions	42	28	13	2	15	166
f. Department of State's fraud summary reports	25	26	20	5	24	167
g. Other	74	9	9	0	9	46

Q60. Overall, how satisfied or dissatisfied are you that you have sufficient tools for doing country condition research?

Very satisfied (percent)	Moderately satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Moderately dissatisfied (percent)	Very dissatisfied (percent)	Don't know (percent)	Number of respondents
29	50	10	8	4	0	171

Q61. What, if anything, do you think can be done to help you better conduct country condition research?

Q62. How useful do you think each of the following types of case-specific information would be in adjudicating affirmative asylum cases?

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
a. Entire visa application in addition to what is available in CCD	74	17	4	2	4	171
b. Department of State advisory opinion	42	21	15	12	9	168
c. Overseas employment records or verification	70	15	10	2	4	171

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
d. Overseas medical records or verification	69	18	8	4	2	170
e. Other	72	4	0	2	21	47

Q63. Think about the affirmative asylum cases that you adjudicated in the past year. In how many of these cases did you need, but did not have, the following case-specific information?

	All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
a. Entire visa application in addition to what is available in CCD	30	16	9	26	13	7	168
b. Department of State advisory opinion	22	6	6	19	32	15	162
c. Employment records or verification	29	13	8	24	23	4	168
d. Medical records or verification	31	14	8	24	19	4	169
e. Other	43	11	3	3	14	26	35

Q64. How well do you understand the process(es) used in your office for requesting overseas verification (e.g., employment or medical records or verification)?

Greatly understand (percent)	Moderately understand (percent)	Slightly understand (percent)	Hardly or not at all understand (percent)	Number of respondents
11	15	14	60	164

Q65. How, if at all, do you think the process(es) could be improved for requesting and obtaining overseas verification?

## Workload

Q66. How easy or difficult is it for you to manage your workload?

Very easy (percent)	Moderately easy (percent)	Neither easy nor difficult (percent)	Moderately difficult (percent)	Very difficult (percent)	Don't know (percent)	Number of respondents
8	6	15	35	34	1	170

Q67. Please briefly explain why it is difficult for you to manage your workload.

Q68. What can be done to help you and other asylum officers better manage the workload?

Q69. How much time do you think you need, on average, to complete an affirmative asylum case in a manner consistent with the procedures manual and training?

(Number of respondents is 189.)

	Percent
3 hours or less	10
About 4 hours	15
About 5 hours	21
About 6 hours	22
About 7 hours	4
About 8 hours	8
More than 8 hours	3
Unable to estimate	7

Q70. If you feel you currently have insufficient time, how do you manage to complete your assigned cases?

Q71. Over the past year, in about how many cases, if any, did productivity or timeliness standards hinder your ability to properly adjudicate affirmative asylum cases in accordance with standard procedures and the law?

	All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
a. Productivity standards	20	12	11	29	23	6	160
b. Timeliness standards	21	13	13	31	17	4	163

## Decision Making

Q72. Overall, when you think about the out-of-status affirmative asylum cases you adjudicated during the past year, would you say that it has been easier for you to grant asylum or to refer a case to an immigration judge?

Much easier to grant asylum (percent)	Generally easier to grant asylum (percent)	No easier to grant than to refer (percent)	Generally easier to refer (percent)	Much easier to refer (percent)	Don't know (percent)	Number of respondents
13	14	54	10	5	2	164

Q73. If you found that it was easier to decide a case in a particular way for out-of-status applicants, please explain why.

Q74. Overall, when you think about the in-status affirmative asylum cases you adjudicated during the past year, would you say that it has been easier for you to grant asylum or to issue a notice of intent to deny (NOID)?

Much easier to grant asylum (percent)	Generally easier to grant asylum (percent)	No easier to grant than to issue a NOID (percent)	Generally easier to issue a NOID (percent)	Much easier to issue a NOID (percent)	Don't know (percent)	Number of respondents
25	16	50	4	2	3	161

Q75. If you found that it was easier to decide a case in a particular way for in-status applicants, please explain why.

Q76. Are there any factors, other than the merits of the asylum case, that influence your decisions?

Yes (percent)	No (percent)	Don't know (percent)	Number of respondents
38	58	4	162

Q77. Please explain what these factors are and the circumstances in which they arise.

Q78. Think about the affirmative asylum cases in which you granted asylum during the past year. In about how many of these cases did you grant asylum to an applicant who met the legal standard, even though you did not believe the applicant's claim?

All of almost all of the cases in which I granted asylum (percent)	Most of the cases in which I granted asylum (percent)	About half of the cases in which I granted asylum (percent)	Some of the cases in which I granted asylum (percent)	None or almost none of the cases in which I granted asylum (percent)	Unable to estimate (percent)	Number of respondents
7	9	11	45	24	4	170

Q79. In such cases, why did you grant asylum?

Q80. In general, how effective or ineffective is having supervisory asylum officers review 100 percent of affirmative asylum decisions in accomplishing each of the following objectives?

	Very effective (percent)	Moderately effective (percent)	Neither effective nor ineffective (percent)	Moderately ineffective (percent)	Very ineffective (percent)	Don't know (percent)	Number of respondents
a. Improving the quality of decisions	22	31	21	11	12	4	170
b. Promoting consistency in decisionmaking	18	19	21	11	27	5	170
c. Ensuring compliance with procedures	33	40	9	6	8	5	169

Q81. Thinking about your current supervisor, how often would you say that supervisory review of your affirmative asylum cases:

	Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Unable to estimate (percent)	Number of respondents
a. resulted in your decision being returned to you for substantive correction?	5	1	4	34	55	1	167
b. changed the outcome of your decision from a grant to a referral or denial?	4	1	2	25	67	1	169
c. changed the outcome of your decision from a denial or referral to a grant?	2	2	0	26	68	2	169

Q82. How often has the decision you reached in an affirmative asylum case been influenced by your perception of how your current supervisor would like you to decide the case?

Always or almost always (percent)	Most of the time (percent)	About half of the time (percent)	Some of the time (percent)	Never or almost never (percent)	Unable to estimate (percent)	Number of respondents
9	10	8	28	44	2	170

Q83. In cases, if any, where your decision was influenced by your perception of what your supervisor wanted, in which of the following ways did you tend to make the decision?

Granted asylum rather than referred or issued a NOID (percent)	Referred or issued a NOID rather than granted asylum (percent)	No more likely to decide one way or the other (percent)	Not applicable (percent)	Don't know (percent)	Number of respondents
25	21	28	24	2	163

## Closing

Q84. Please provide any additional comments or ideas you have for improving the quality of the asylum process or adjudications within USCIS.

# Appendix II: Survey of Supervisory Asylum Officers

We sent our Web-based survey to all supervisory asylum officers who were in their position at the end of fiscal year 2006. We received 43 responses from supervisory asylum officers, resulting in a 77 percent response rate. To ensure survey respondents had recent knowledge about the issues our survey explored, 3 of the 43 respondents were directed to not complete the rest of survey because their responses to initial questions indicated that, over the past year, they were not a first-line supervisor responsible for reviewing asylum officer decisions or had reviewed no, or almost no, asylum decisions. Although 40 supervisory asylum officers completed the survey, the number answering any particular question may be lower, depending on how many chose to answer any given question. In addition, for certain questions, respondents were instructed to skip particular questions based on their responses to previous questions. Each question includes the number of supervisory asylum officers responding to it.

Our survey was comprised of closed- and open-ended questions. In this appendix, we include all the survey questions and aggregate results of responses to the closed-ended questions; we do not provide information on responses provided to the open-ended questions. For a more detailed discussion of our survey methodology see appendix IV.

## Background

Q1. How long have you been a supervisory asylum officer? (In years)

				Number of respondents
Mean	Median	Minimum	Maximum	
6	5	0	16	43

Q2. How long have you been a supervisory asylum officer with the office you are assigned to currently? (In years)

				Number of respondents
Mean	Median	Minimum	Maximum	
6	5	0	16	42



Q3. Currently, how many asylum officers do you directly supervise?

Mean	Median	Minimum	Maximum	Number of respondents
5	5	0	9	43

Q4. Over the past year, did your responsibilities include being a first-line supervisor responsible for reviewing asylum officer decisions?

Yes (percent)	No (percent)	Number of respondents
98	2	43

Q5. Over the past year, about how many of the decisions you reviewed were affirmative asylum decisions?

All or almost all decisions (percent)	Most decisions (percent)	About half the decisions (percent)	Some decisions (percent)	No or almost no decisions (percent)	Number of respondents
33	38	21	2	5	42

## Supervisory Asylum Officer Responsibilities

Q6. How easy or difficult is it for you to carry out each of the following responsibilities in the time available?

	Very easy (percent)	Moderately easy (percent)	Neither easy nor difficult (percent)	Moderately difficult (percent)	Very difficult (percent)	Not applicable (percent)	Number of respondents
a. Supervise subordinates	0	13	20	50	18	0	40
b. Evaluate the overall performance of asylum officers you supervise	0	15	8	48	30	0	40
c. Assess asylum officers' productivity and timely case completion	5	18	18	26	33	0	39

**Appendix II: Survey of Supervisory Asylum Officers**

	<b>Very easy (percent)</b>	<b>Moderately easy (percent)</b>	<b>Neither easy nor difficult (percent)</b>	<b>Moderately difficult (percent)</b>	<b>Very difficult (percent)</b>	<b>Not applicable (percent)</b>	<b>Number of respondents</b>
d. Observe and provide feedback on an average of one interview per month for each asylum officer you supervise	0	13	10	35	43	0	40
e. Evaluate 24 written decisions per year for each of the asylum officers you supervise	0	8	20	48	23	3	40
f. Review 100 percent of written decisions of the asylum officers you supervise	0	13	15	40	33	0	40
g. Assess the legal analysis of the written decisions you review	5	28	18	43	8	0	40
h. Identify emerging trends in fraud	3	18	26	23	31	0	39
i. Assess training needs of asylum officers you supervise	10	23	31	23	13	0	39
j. Stay current with asylum regulations, case law, and procedures	3	20	18	30	30	0	40
k. Stay current with country conditions	0	18	25	40	18	0	40
l. Perform collateral duties, as assigned to you	3	5	13	35	45	0	40

**Appendix II: Survey of Supervisory Asylum Officers**

	<b>Very easy (percent)</b>	<b>Moderately easy (percent)</b>	<b>Neither easy nor difficult (percent)</b>	<b>Moderately difficult (percent)</b>	<b>Very difficult (percent)</b>	<b>Not applicable (percent)</b>	<b>Number of respondents</b>
m. Manage your own workload	0	5	25	35	35	0	40

Q7. How inherently easy or difficult do you consider each of the following responsibilities without regard for the time available to carry them out?

	<b>Very easy (percent)</b>	<b>Moderately easy (percent)</b>	<b>Neither easy nor difficult (percent)</b>	<b>Moderately difficult (percent)</b>	<b>Very difficult (percent)</b>	<b>Not applicable (percent)</b>	<b>Number of respondents</b>
a. Supervise subordinates	10	33	23	20	15	0	40
b. Evaluate the overall performance of asylum officers you supervise	13	38	20	23	8	0	40
c. Assess asylum officers' productivity and timely case completion	18	38	20	18	8	0	40
d. Observe and provide feedback on an average of one interview per month for each asylum officer you supervise	20	38	20	18	5	0	40
e. Evaluate 24 written decisions per year for each of the asylum officers you supervise	20	40	20	13	8	0	40
f. Review 100 percent of written decisions of the asylum officers you supervise	23	30	20	18	10	0	40

**Appendix II: Survey of Supervisory Asylum Officers**

	<b>Very easy (percent)</b>	<b>Moderately easy (percent)</b>	<b>Neither easy nor difficult (percent)</b>	<b>Moderately difficult (percent)</b>	<b>Very difficult (percent)</b>	<b>Not applicable (percent)</b>	<b>Number of respondents</b>
g. Assess the legal analysis of the written decisions you review	28	30	18	23	3	0	40
h. Identify emerging trends in fraud	10	33	21	23	13	0	39
i. Assess training needs of asylum officers you supervise	26	31	26	15	3	0	39
j. Stay current with asylum regulations, case law, and procedures	10	35	18	25	13	0	40
k. Stay current with country conditions	18	35	23	18	8	0	40
l. Perform collateral duties, as assigned to you	10	30	28	18	15	0	40
m. Manage your own workload	10	38	28	10	15	0	40

Q7n. For any of the responsibilities you rated as moderately difficult or very difficult in Questions 7a to 7m above, why do you consider them difficult?

Q7o. What other aspects of your job as a supervisor, if any, do you consider to be difficult and why?

Q8. Over the past year, on average, about how many hours per week did you spend carrying out collateral duties (e.g., Fraud Prevention Coordinator, Collateral Duty Safety Officer)?

(Number of respondents is 43.)

	Percent
Less than 4 hours	2
4 or more hours but less than 8 hours	21
8 or more hours but less than 12 hours	19
12 or more hours but less than 16 hours	14
16 or more hours but less than 20 hours	12
20 or more hours	26
Don't know	0

Q9. Think about the affirmative asylum decisions you reviewed over the past year. About how many of these decisions did you:

	All or almost all of the decisions I reviewed (percent)	Most of the decisions I reviewed (percent)	About half of the decisions I reviewed (percent)	Some of the decisions I reviewed (percent)	None or almost none of the decisions I reviewed (percent)	Unable to estimate (percent)	Number of respondents
a. return for correction using the Written Decision Evaluation Form?	3	3	13	66	8	8	38
b. return for correction using the Administrative Tasks Evaluation Form?	5	3	18	55	13	5	38

**Appendix II: Survey of Supervisory Asylum Officers**

	<b>All or almost all of the decisions I reviewed (percent)</b>	<b>Most of the decisions I reviewed (percent)</b>	<b>About half of the decisions I reviewed (percent)</b>	<b>Some of the decisions I reviewed (percent)</b>	<b>None or almost none of the decisions I reviewed (percent)</b>	<b>Unable to estimate (percent)</b>	<b>Number of respondents</b>
c. return without using an evaluation form?	5	3	8	55	24	5	38

Q10. Of the affirmative asylum decisions you returned to asylum officers for correction during the past year using the Written Decision Evaluation Form, about how many did you return due to deficiencies in the following areas?

	<b>All or almost all of the decisions I returned (percent)</b>	<b>Most of the decisions I returned (percent)</b>	<b>About half of the decisions I returned (percent)</b>	<b>Some of the decisions I returned (percent)</b>	<b>None or almost none of the decisions I returned (percent)</b>	<b>Unable to estimate (percent)</b>	<b>Number of respondents</b>
a. Writing style (encompasses the following standards: required elements, clear and concise, and accurate and objective)	0	3	16	47	34	0	38
b. Legal analysis (encompasses the following standards: credibility, harm, nexus, bars, and the one-year filing deadline)	24	18	21	34	3	0	38

Q11. Of the affirmative asylum decisions you returned for correction during the past year using the Written Decision Evaluation Form, in about how many did your review result in asylum officers changing the outcome of the case?

<b>All or almost all of the decisions I returned (percent)</b>	<b>Most of the decisions I returned (percent)</b>	<b>About half of the decisions I returned (percent)</b>	<b>Some of the decisions I returned (percent)</b>	<b>None or almost none of the decisions I returned (percent)</b>	<b>Unable to estimate (percent)</b>	<b>Number of respondents</b>
5	15	3	51	21	5	39

**Appendix II: Survey of Supervisory Asylum Officers**

Q12. In general, how effective or ineffective is having supervisory asylum officers review 100 percent of affirmative asylum decisions in accomplishing each of the following objectives?

	Very effective (percent)	Moderately effective (percent)	Neither effective nor ineffective (percent)	Moderately ineffective (percent)	Very ineffective (percent)	Don't know (percent)	Number of respondents
a. Improving the quality of decisions	43	40	10	5	3	0	40
b. Promoting consistency in decision making	30	43	8	10	5	5	40
c. Ensuring compliance with procedures	53	38	10	0	0	0	40

## Assignment of Cases to Asylum Officers

Q13. How effective or ineffective do you think your office's current process is for assigning affirmative asylum cases to officers in:

	Very effective (percent)	Moderately effective (percent)	Neither effective nor ineffective (percent)	Moderately ineffective (percent)	Very ineffective (percent)	Don't know (percent)	Number of respondents
a. preventing fraud by asylum officers (e.g., precluding officers from arranging to adjudicate particular cases for money or other compensation)?	68	15	5	3	8	3	40
b. ensuring equitable distribution of workload among asylum officers?	38	36	10	10	5	0	39

Q14. What, if anything, do you think could be done to improve the current process for assigning affirmative asylum cases in your office?

Q15. In about how many affirmative asylum cases, if any, do you think that asylum officers' expertise (e.g., language capability or expertise in a particular geographic area) should be considered when affirmative asylum cases are assigned to officers?

All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
3	18	5	38	33	5	40

## Asylum Officer Responsibilities

Q16. What challenges, if any, have the greatest impact on asylum officers' ability to adjudicate affirmative asylum cases in a manner consistent with the procedures manual and training?

Please identify up to 3 challenges--one challenge per response box--and answer the following questions for each:

- (a) How would you describe the challenge?
- (b) What are the impacts of this challenge? and
- (c) What, if anything, would you suggest that the Asylum Division or USCIS do to help asylum officers overcome this challenge?

Q17. In about how many cases, if any, do you think that challenges the asylum officers you supervise face hinder their ability to adjudicate affirmative asylum cases in a manner consistent with the procedures manual and training?

All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
16	26	21	34	3	0	38

Q18. In general, how well or poorly do you think the asylum officers you supervise consider each of the following aspects of the one-year rule in adjudicating affirmative asylum cases?

	Very well (percent)	Moderately well (percent)	Neither well nor poorly (percent)	Moderately poorly (percent)	Very poorly (percent)	Don't know (percent)	Number of respondents
a. Determining whether clear and convincing evidence exists that the application was filed within one year of entering the country	28	53	13	8	0	0	40



**Appendix II: Survey of Supervisory Asylum Officers**

	Very well (percent)	Moderately well (percent)	Neither well nor poorly (percent)	Moderately poorly (percent)	Very poorly (percent)	Don't know (percent)	Number of respondents
b. Determining whether evidence exists for an exception to the one-year rule	20	58	13	10	0	0	40
c. Identifying and analyzing country condition information in applying the exceptions of the one-year rule	28	43	20	10	0	0	40
d. Determining whether the delay in filing was reasonable in light of the circumstances	20	60	13	8	0	0	40

Q19. In general, how well or poorly do you think asylum officers you supervise apply each of the following provisions of the REAL ID Act in adjudicating affirmative asylum cases?

	Very well (percent)	Moderately well (percent)	Neither well nor poorly (percent)	Moderately poorly (percent)	Very poorly (percent)	Don't know (percent)	Number of respondents
a. Determining whether the applicant has established that one of the five protected grounds was or will be at least one central reason for the persecution	25	45	20	8	3	0	40

Appendix II: Survey of Supervisory Asylum Officers

	Very well (percent)	Moderately well (percent)	Neither well nor poorly (percent)	Moderately poorly (percent)	Very poorly (percent)	Don't know (percent)	Number of respondents
b. Determining whether the applicant should provide evidence that corroborates otherwise credible testimony	5	50	23	13	8	3	40
c. Factoring a relevant inconsistency, inaccuracy, or falsehood into a credibility determination, even if the inconsistency, inaccuracy, or falsehood does not go to the heart of the applicant's claim	3	50	25	18	5	0	40

Asylum Officer Workload

Q20. How much time, on average, do you think asylum officers need to complete an affirmative asylum case in a manner consistent with the procedures manual and training?

(Number of respondents is 43.)

	Percent
3 hours or less	9
About 4 hours	16
About 5 hours	33
About 6 hours	21
About 7 hours	7
About 8 hours	7
More than 8 hours	0
Unable to estimate	0

Q21. How easy or difficult do you think it is for the asylum officers you supervise to manage their workload?

Very easy (percent)	Moderately easy (percent)	Neither easy nor difficult (percent)	Moderately difficult (percent)	Very difficult (percent)	Don't know (percent)	Number of respondents
0	0	5	55	40	0	40

Q22. What, if anything, can be done to help asylum officers better manage their workload?

## Fraud

Q23. Overall, how effective or ineffective do you think the FDNS-IO (Fraud Detection and National Security Immigration Officer) position is in identifying or verifying fraud in affirmative asylum cases?

Very effective (percent)	Moderately effective (percent)	Neither effective nor ineffective (percent)	Moderately ineffective (percent)	Very ineffective (percent)	Don't know (percent)	Number of respondents
15	35	13	8	18	13	40

Q24. What, if anything, would make the FDNS-IO position more effective?

Q25. On average, how well or poorly do the asylum officers you supervise identify whether or not fraud exists in the affirmative asylum cases they adjudicate?

Very well (percent)	Moderately well (percent)	Neither well nor poorly (percent)	Moderately poorly (percent)	Very poorly (percent)	Don't know (percent)	Number of respondents
10	31	38	15	5	0	39

Q26. In about how many of the affirmative asylum decisions you reviewed during the past year did asylum officers not complete a fraud referral sheet when you thought they should have?

All or almost all of the decisions I reviewed (percent)	Most of the decisions I reviewed (percent)	About half of the decisions I reviewed (percent)	Some of the decisions I reviewed (percent)	None or almost none of the decisions I reviewed (percent)	Unable to estimate (percent)	Number of respondents
0	10	10	44	28	8	39

- Q27. What, if anything, can be done to help asylum officers better identify whether or not fraud exists in the cases they adjudicate?
- Q28. What, if anything, do you think can be done to deter or cut down on fraud in affirmative asylum cases?

Country Condition Information

Q29. How useful do you think each of the following types of case-specific information would be in adjudicating affirmative asylum cases?

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
a. Entire visa application in addition to what is available in CCD	88	5	8	0	0	40
b. Department of State advisory opinion	28	25	33	8	8	40
c. Overseas employment records or verification	88	3	10	0	0	40
d. Overseas medical records or verification	85	8	8	0	0	40
e. Other	78	0	6	0	17	18

Q30. How well do you understand the process(es) used in your office for requesting overseas verification (e.g., employment or medical records or verification)?

Greatly understand (percent)	Moderately understand (percent)	Slightly understand (percent)	Hardly or not at all understand (percent)	Number of respondents
16	41	16	27	37

Q31. How, if at all, do you think the process(es) could be improved for requesting and obtaining overseas verification?

## Training

Q32. How much, if at all, do you think asylum officers need additional training on the following topics to improve their ability to adjudicate affirmative asylum claims?

	Greatly need (percent)	Moderately need (percent)	Slightly need (percent)	Not at all need	Don't know (percent)	Number of respondents
a. Asylum process and procedures	32	29	39	0	0	38
b. Conducting identity and security checks (i.e., database queries and any related research)	23	63	15	0	0	40
c. Interpreting the results of identity and security checks	38	50	10	3	0	40
d. One-year filing deadline	13	30	48	10	0	40
e. Mandatory bars to asylum	23	50	23	5	0	40
f. Issues related to national security	33	40	28	0	0	40
g. Overall interviewing skills	53	35	13	0	0	40
h. Eliciting sufficient information during interviews	58	25	18	0	0	40
i. Remaining non-adversarial during interviews	13	35	35	18	0	40

**Appendix II: Survey of Supervisory Asylum Officers**

	<b>Greatly need (percent)</b>	<b>Moderately need (percent)</b>	<b>Slightly need (percent)</b>	<b>Not at all need</b>	<b>Don't know (percent)</b>	<b>Number of respondents</b>
j. Intercultural communication and other factors that may impede communication in the interview	20	28	40	10	3	40
k. Understanding how stress and trauma may affect the interview	23	33	40	5	0	40
l. Assessing credibility	50	45	5	0	0	40
m. Current trends in fraud	28	65	8	0	0	40
n. Identifying fraudulent documents	55	30	13	0	3	40
o. Identifying fraud in claim	43	38	18	3	0	40
p. Identifying interpreter fraud	26	56	13	5	0	39
q. Identifying preparer fraud	33	48	15	5	0	40
r. Identifying attorney fraud	33	43	20	5	0	40
s. Using the Asylum Virtual Library	30	45	25	0	0	40
t. Other country condition research methods	23	48	28	3	0	40
u. Country condition updates	23	44	31	3	0	39
v. Applying country condition information	15	59	23	3	0	39

**Appendix II: Survey of Supervisory Asylum Officers**

	<b>Greatly need (percent)</b>	<b>Moderately need (percent)</b>	<b>Slightly need (percent)</b>	<b>Not at all need</b>	<b>Don't know (percent)</b>	<b>Number of respondents</b>
w. U.S. asylum law (e.g., case law, changes in statute and regulations)	35	43	23	0	0	40
x. Conducting legal research	33	38	28	0	0	39
y. Applying the REAL ID Act	35	55	10	0	0	40
z. Writing decisions	25	45	30	0	0	40
aa. Time management	65	20	15	0	0	40

Q33. Are there topics, other than those listed in the previous question, that you think should be addressed through training for asylum officers?

<b>Yes (percent)</b>	<b>No (percent)</b>	<b>Don't know (percent)</b>	<b>Number of respondents</b>
22	44	34	32

Q34. What other topic(s) should be addressed through training for asylum officers?

Q35. Have you attended the Asylum Division's 2-week Supervisory Asylum Officer's Training Course?

<b>Yes (percent)</b>	<b>No (percent)</b>	<b>Don't know (percent)</b>	<b>Number of respondents</b>
65	35	0	40

Q36. Overall, how well or poorly did the Asylum Division's 2-week Supervisory Asylum Officer's Training Course prepare you for reviewing asylum officer decisions?

[Where Q35 is "Yes"]

<b>Very well (percent)</b>	<b>Moderately well (percent)</b>	<b>Neither well nor poorly (percent)</b>	<b>Moderately poorly (percent)</b>	<b>Very poorly (percent)</b>	<b>Don't know (percent)</b>	<b>Number of respondents</b>
36	20	32	4	8	0	25

**Appendix II: Survey of Supervisory Asylum Officers**

Q37. Do you think the Asylum Division's 2-week Supervisory Asylum Officer's Training Course needs to be improved in any of the following areas to help you better carry out your duties as a supervisory asylum officer?

[Where Q35 is "Yes"]

	<b>Yes (percent)</b>	<b>No (percent)</b>	<b>Don't know (percent)</b>	<b>Number of respondents</b>
a. Providing feedback on asylum officer written decisions	54	42	4	24
b. Providing feedback on asylum officer interviews	42	54	4	24
c. Analyzing credibility	50	46	4	24
d. Understanding concepts of burden of proof	42	54	4	24
e. Identifying and analyzing mandatory bars to asylum	38	58	4	24
f. Analyzing nexus to a protected characteristic	33	63	4	24
g. Analyzing whether harm rises to the level of persecution	25	71	4	24
h. Understanding and contributing to Asylum Division efforts to combat asylum fraud	52	39	9	23
i. Analyzing the one-year filing deadline requirement and exceptions	29	67	4	24



Q38. As a supervisor, is there any additional training that you think should be provided to improve your ability to do your job or contribute to the Asylum Program?

## **Closing**

Q39. Please provide any additional comments or ideas you have for improving the quality of the asylum process or adjudications within USCIS.

# Appendix III: Survey of Immigration Judges

We sent our Web-based survey to all immigration judges who were in their position at the end of fiscal year 2006. We received 160 responses from immigration judges, resulting in a 77 percent response rate. To ensure survey respondents had recent knowledge about the issues our survey explored, 1 of the 160 respondents was directed to not complete the rest of survey because his or her response to an initial question indicated that the immigration judge had heard no, or almost no, asylum cases over the past year. Although 159 immigration judges completed the survey, the number answering any particular question may be lower, depending on how many chose to answer any given question. In addition, for certain questions, respondents were instructed to skip particular questions based on their responses to previous questions. Each question includes the number of asylum officers responding to it.

Our survey was comprised of closed- and open-ended questions. In this appendix, we include all the survey questions and aggregate results of responses to the closed-ended questions; we do not provide information on responses provided to the open-ended questions. For a more detailed discussion of our survey methodology see appendix IV.

## Background

Q1. How many years have you served as a United States Immigration Judge? (In years)

Mean	Median	Minimum	Maximum	Number of respondents
11	12	1	27	158

Q2. Of the cases you have heard during the past year, about how many would you say were asylum cases?

All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Number of respondents
4	39	36	20	1	160

Q3. Which of the following statements best describes the detention status of asylum applicants who appear before you?

All or almost all are detained (percent)	Most are detained (percent)	About half are detained (percent)	Some are detained (percent)	None or almost none are detained (percent)	Don't know (percent)	Number of respondents
14	4	2	26	53	0	159

Q4. In general, how would you compare the overall complexity of the asylum cases you hear to the other types of immigration cases you hear, taking into account factors such as case law, facts of the case, and country conditions?

Asylum cases I hear are generally much more complex than other immigration cases. (percent)	Asylum cases I hear are generally slightly more complex than other immigration cases. (percent)	There is generally no difference between the complexity in the asylum cases I hear and other immigration cases. (percent)	Asylum cases I hear are generally slightly less complex than other immigration cases. (percent)	Asylum cases I hear are generally much less complex than other immigration cases. (percent)	Don't know (percent)	Number of respondents
48	29	14	6	2	1	157

## Resources

Q5. In general, how satisfied or dissatisfied are you with the current quality of the following resources in helping you carry out your judicial responsibilities?

	Very satisfied (percent)	Moderately satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Moderately dissatisfied (percent)	Very dissatisfied (percent)	Don't know (percent)	Number of respondents
a. In-house interpreters	63	28	4	5	0	0	144
b. Contracted interpreters: in person	28	58	6	6	1	0	156
c. Contracted interpreters: over the phone	6	36	16	21	18	5	154
d. Transcription services	4	16	15	36	28	1	151
e. Recording equipment	0	5	4	18	72	1	156
f. Other	4	0	0	16	76	4	25

Q6. In your opinion, how much, if at all, would each of the following changes improve your ability to carry out your judicial responsibilities?

	Greatly improve (percent)	Moderately improve (percent)	Slightly improve (percent)	Not at all improve (percent)	Don't know (percent)	Number of respondents
a. Additional immigration judges in your court	63	21	8	8	1	156
b. Additional law clerks in your court	87	10	2	1	0	158
c. Additional administrative staff in your court	45	32	16	6	1	156
d. Additional on-bench reference materials	29	37	24	10	1	156
e. Standardized decision templates	24	30	23	23	1	151
f. Updates to the current Immigration Judge Benchbook	23	32	28	15	2	151
g. Written transcripts of your proceedings before you make a decision	53	18	13	12	4	151
h. Digital courtroom recording equipment	73	10	4	0	13	157
i. Access to Asylum Program's Virtual Library (formerly Resource Information Center)	30	38	13	7	12	151
j. Other	90	3	0	0	6	31

## Country Conditions

Q7. In your opinion, how useful is each of the following sources of country conditions information in helping you render decisions in asylum cases?

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Little or no experience (percent)	Number of respondents
a. Country conditions information contained in the asylum applicant's file (from the Asylum Office)	18	29	24	10	19	154
b. Country conditions information submitted by the government attorney (DHS Assistant Chief Counsel)	32	46	15	2	6	158
c. Country conditions information submitted by the asylum applicant during proceedings	32	47	19	1	0	158
d. EOIR Virtual Law Library	39	36	14	4	6	156
e. Department of State Web site	19	39	20	3	19	156
f. Department of State's annual Country Reports on Human Rights Practices and International Religious Freedom reports	52	35	12	2	0	155

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Little or no experience (percent)	Number of respondents
g. Department of State's Profiles of Asylum Claims and Country Conditions	50	31	15	4	0	157
h. Department of State's fraud summary reports	22	14	14	6	45	155
i. Specific responses to inquiries you made to the Department of State's Bureau of Democracy, Human Rights, and Labor	36	7	5	10	42	149
j. A law clerk's research	63	17	6	1	14	153
k. Your own research	68	22	2	1	7	149
l. Other	75	10	0	0	15	20

Q8. Overall, how satisfied or dissatisfied are you with the tools you currently have for doing country conditions research?

Very satisfied (percent)	Moderately satisfied (percent)	Neither satisfied nor dissatisfied (percent)	Moderately dissatisfied (percent)	Very dissatisfied (percent)	Don't know (percent)	Number of respondents
10	39	17	24	9	0	156

## Assistance from Other Organizations

Q9. How useful do you think each of the following types of case-specific information would be in rendering your decisions in asylum cases?

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
a. Visa application	61	23	10	3	2	158

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
b. Document verification from the Forensic Document Laboratory	86	10	3	1	0	157
c. Overseas medical document or verification	83	9	6	1	1	158
d. Overseas employment document or verification	69	17	10	2	2	156
e. Overseas investigation	86	7	4	1	1	156
f. Other case-specific information or services	78	10	2	0	10	49

Q10. In about how many of the asylum cases you heard during the past year did you need, but did not have, any of the following case-specific information?

	All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	None or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
a. Visa application	25	14	6	26	23	6	153
b. Document verification from the Forensic Document Laboratory	19	24	15	27	13	3	156
c. Overseas medical document or verification	24	17	15	27	14	3	153
d. Overseas employment document or verification	26	13	9	24	25	4	152
e. Overseas investigation	32	19	8	19	19	3	154

	All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	None or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
f. Other case-specific information or services	38	9	6	6	22	19	32

Q11. Thinking about your decision-making process in asylum cases, how useful do you think it would be to receive the following information if it were available?

	Very useful (percent)	Moderately useful (percent)	Slightly useful (percent)	Not at all useful (percent)	Don't know (percent)	Number of respondents
a. Asylum officer's written decision	28	25	30	16	1	158
b. Asylum officer's interview write-up	25	32	30	11	2	158
c. Asylum officer's notes	24	28	29	18	1	157
d. Transcripts of the asylum interview	61	22	11	5	1	157
e. Recordings of the asylum interview	39	14	18	25	4	155

Q12. What additional information, if any, would be useful to you in rendering decisions in asylum cases?



## Professional Development

Q13. How much, if at all, has each of the following professional development activities enhanced your ability to adjudicate asylum cases?

	Greatly enhanced (percent)	Moderately enhanced (percent)	Slightly enhanced (percent)	Hardly or not at all enhanced (percent)	Little or no experience (percent)	Number of respondents
a. Attending National Judicial College (training for new immigration judges)	27	17	13	8	35	136
b. Observing an experienced immigration judge in another court	30	33	15	5	17	149
c. Being mentored by an experienced immigration judge	33	27	15	6	20	143
d. Mentoring a new immigration judge	18	23	12	7	40	146
e. Attending national conferences for immigration judges in person	51	29	12	8	1	158
f. Attending national conferences for immigration judges through telephone, videoconference, tapes or CDs	3	12	37	38	10	156
g. Attending a national conference panel on the REAL ID Act	21	17	6	9	47	141

	Greatly enhanced (percent)	Moderately enhanced (percent)	Slightly enhanced (percent)	Hardly or not at all enhanced (percent)	Little or no experience (percent)	Number of respondents
h. Receiving monthly updates on immigration law developments	46	41	12	0	1	158
i. Informal meetings with other immigration judges	54	31	6	3	6	156
j. Other professional development opportunities	60	10	0	0	30	40

Q14. How much, if at all, do you need additional professional development or training in the following areas to enhance your ability to adjudicate asylum cases?

	Greatly needed (percent)	Moderately needed (percent)	Slightly needed (percent)	Not at all needed (percent)	Don't know (percent)	Number of respondents
a. Assessing credibility	23	36	24	15	3	155
b. Identifying fraud	43	30	16	8	3	152
c. U.S. asylum law (e.g., changes in statute and regulations, BIA and circuit court decisions)	19	35	31	12	2	155
d. One-year rule	5	11	36	46	2	157
e. Rendering an oral decision	8	23	31	36	1	156
f. Rendering a written decision	6	17	29	45	3	154
g. Time management training	12	18	23	43	4	155

	Greatly needed (percent)	Moderately needed (percent)	Slightly needed (percent)	Not at all needed (percent)	Don't know (percent)	Number of respondents
h. Sensitivity and cultural awareness training	8	19	36	34	3	157
i. Non-governmental training and conferences	20	18	29	16	16	153
j. Inter-governmental agency conferences (DHS, State)	26	29	21	12	13	156
k. Observing how other immigration judges handle asylum cases in their courtrooms	17	29	27	22	4	157
l. Informal meetings with other immigration judges	36	39	15	5	4	156
m. Detail opportunities at Board of Immigration Appeals	37	25	9	19	10	155
n. Additional continuing education on asylum issues	41	35	17	4	3	156
o. Other	70	5	0	0	25	20

## Caseload

Q15. Think about your allocated administrative time (time off the bench). Over the past year, about what portion of that time, on average, did you use to hear cases?

All or almost all of that time (percent)	Most of that time (percent)	About half of that time (percent)	Some of that time (percent)	None or almost none of that time (percent)	Unable to estimate (percent)	Number of respondents
41	17	10	17	14	1	157

Q16. On average, about how many hours do you think you need each week to complete the work you do off the bench (e.g., manage your caseload, stay current with case law, evaluate motions, and keep up with administrative tasks)?

Mean	Median	Minimum	Maximum	Number of respondents
11	10	4	50	156

Q17. How much does each of the following factors help or hinder your ability to manage your caseload?

	Greatly help (percent)	Somewhat help (percent)	Neither help nor hinder (percent)	Somewhat hinder (percent)	Greatly hinder (percent)	Little or no experience (percent)	Number of respondents
a. Requirements for case completion goals	3	6	18	24	49	0	157
b. Time requirements for expedited asylum cases	3	6	21	34	35	1	156
c. Deadlines for older cases awaiting adjudication	3	9	18	24	42	4	157
d. Applicants withdrawing applications for asylum	24	25	31	8	2	11	156
e. Applicants who have representation	65	21	11	3	1	0	158
f. Grouping cases by interpreters	18	30	27	8	4	13	154
g. Serving as a visiting judge in another immigration court	6	13	23	20	16	23	153
h. Having a visiting immigration judge on detail in your court	17	39	26	4	0	13	150

	Greatly help (percent)	Somewhat help (percent)	Neither help nor hinder (percent)	Somewhat hinder (percent)	Greatly hinder (percent)	Little or no experience (percent)	Number of respondents
i. Having immigration judges from other courts hear cases via videoconference	11	29	24	4	1	32	152
j. Waiting for DHS to complete background checks	1	1	14	40	42	1	156
k. Waiting for DHS to obtain forensic documents	3	3	10	37	42	6	158
l. Applicants seeking to change venue without a valid basis	1	0	44	26	18	12	154
m. Double booking cases	7	16	15	21	23	19	155
n. Other	5	5	0	14	67	10	21

## Credibility and Fraud

Q18. Over the past year, in about how many asylum cases did you find each of the following to be an impediment to assessing credibility?

	All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
a. Lack of documentary evidence	19	28	23	26	2	3	156
b. Insufficient time to prepare for and review cases	14	16	10	35	24	1	155
c. Quality of interpretation in the courtroom	1	1	6	57	33	2	155

	All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
d. Lack of document verification from Forensic Document Laboratory	15	21	9	45	8	3	156
e. Lack of document verification from overseas	25	21	10	35	5	4	156
f. Lack of other overseas information on applicants	29	26	6	29	6	4	156
g. Lack of information on country conditions	2	8	6	39	41	3	157
h. Lack of a record from the asylum officer's interview	13	7	6	32	37	7	152

Q19. What other factors, if any, would you consider to be significant impediments to assessing credibility?

Q20. How familiar are you with EOIR's Fraud and Abuse Program?

Very familiar (percent)	Moderately familiar (percent)	Somewhat familiar (percent)	Not at all familiar (percent)	Don't know (percent)	Number of respondents
12	26	39	20	3	157

Q21. Of the asylum cases you heard during the past year, about how many cases did you refer to EOIR's Fraud and Abuse Program?

All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
0	0	0	6	94	0	154

Q22. Overall, how easy or difficult is it for you to identify each of the following types of suspected fraud in asylum cases?

	Very easy (percent)	Moderately easy (percent)	Neither easy nor difficult (percent)	Moderately difficult (percent)	Very difficult (percent)	Don't know (percent)	Number of respondents
a. Suspected document fraud	4	21	16	31	25	3	154
b. Suspected identity fraud	1	16	14	32	34	3	154
c. Suspected preparer fraud	4	22	15	31	26	3	152
d. Suspected fraud in the claim	2	24	18	30	24	2	154
e. Suspected attorney fraud	1	17	15	27	39	2	151
f. Other	6	19	6	19	25	25	16

Q23. Over the past year, in about how many asylum cases would you say the following types of suspected fraud presented a challenge for you in deciding cases?

	All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
a. Suspected document fraud	8	14	21	50	5	2	155
b. Suspected identity fraud	1	3	12	56	23	5	154
c. Suspected preparer fraud	4	7	13	61	11	4	152
d. Suspected fraud in the claim	6	19	29	39	4	3	154
e. Suspected attorney fraud	1	3	8	42	39	7	149
f. Other	0	15	31	23	15	15	13

## Rendering a Decision

Q24. Over the past year, in about how many asylum cases were you satisfied with the level of preparation by the attorneys who appeared in your courtroom?

	All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
a. Government attorney (DHS Assistant Chief Counsel)	4	39	30	21	6	1	155
b. Applicant's attorney	1	22	46	30	1	0	152

Q25. In about how many of the asylum cases you heard during the past year, did issues related to the one-year rule (date of entry or eligibility for exceptions to the rule) have to be resolved?

All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
4	16	36	43	2	0	157

Q26. Think about the cases you heard during the past year in which issues related to the one-year rule had to be resolved. On average, about how much time did you spend per case adjudicating the issue?

Less than half an hour (percent)	At least half an hour but less than 1 hour (percent)	At least 1 hour but less than 2 hours (percent)	2 hours or more (percent)	Unable to estimate (percent)	Not applicable (percent)	Number of respondents
39	39	15	3	3	1	157

Q27. Of the cases in which you denied asylum during the past year, about how many did you deny solely because you found that the applicant was ineligible due to the one-year rule?

All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
1	3	8	73	10	4	157



Q28. Over the past year, in about how many asylum cases did you make a frivolous application finding?

All or almost all cases (percent)	Most cases (percent)	About half the cases (percent)	Some cases (percent)	No or almost no cases (percent)	Unable to estimate (percent)	Number of respondents
0	0	0	23	77	0	158

Q29. What, if any, barriers do you face in making a frivolous application finding?

Q30. Overall, do you think the process involved in adjudicating asylum cases makes it easier for you to grant asylum or easier to deny asylum?

Much easier to grant asylum (percent)	Generally easier to grant asylum (percent)	No easier to grant than to deny asylum (percent)	Generally easier to deny asylum (percent)	Much easier to deny asylum (percent)	Don't know (percent)	Number of respondents
25	22	42	5	1	5	153

Q31. If you found that it was easier to decide asylum cases in a particular way, what about the process makes it easier to decide cases in that way?

## Challenges

Q32. How challenging, if at all, do you find each of the following aspects of adjudicating asylum cases?

	Very challenging (percent)	Moderately challenging (percent)	Somewhat challenging (percent)	Not at all challenging (percent)	Not applicable (percent)	Number of respondents
a. Time limitations	58	25	13	5	0	158
b. Managing your caseload	45	32	17	6	0	157
c. Assessing credibility	49	32	16	3	0	156
d. Identifying suspected fraud	39	32	24	4	2	153
e. Verifying fraud	73	15	9	1	2	151
f. Identifying national security risks	43	23	23	3	7	150

	Very challenging (percent)	Moderately challenging (percent)	Somewhat challenging (percent)	Not at all challenging (percent)	Not applicable (percent)	Number of respondents
g. Staying current with case law	19	39	32	10	0	157
h. Staying current with country conditions	20	34	38	8	0	157
i. Having to render oral decisions immediately after hearing cases	50	21	21	8	1	157
j. Reserving a decision for later delivery	33	27	19	13	8	153
k. Attorney preparedness	38	38	19	4	0	156
l. Other	83	6	0	0	11	18

Q33. From the following list, which three do you see as posing the greatest challenge to you in adjudicating asylum cases? Please check no more than three boxes.

	Number of respondents
a. Time limitations	83
b. Managing your caseload	44
c. Assessing credibility	76
d. Identifying suspected fraud	19
e. Verifying fraud	52
f. Identifying national security risks	14
g. Staying current with case law	16

	Number of respondents
h. Staying current with country conditions	11
i. Having to render oral decisions immediately after hearing cases	61
j. Reserving a decision for later delivery	16
k. Attorney preparedness	53
l. Other	8

## Closing Comments

Q34. Please provide any additional comments or ideas you have for improving the asylum process.

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# Appendix IV: Survey and Site-Visit Methodology

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## Survey Methodology

To corroborate information and pursue issues we identified during our research on the U.S. Asylum System and our interviews with agency officials, we developed and deployed three different Web-based surveys to (1) asylum officers, (2) supervisory asylum officers, and (3) immigration judges. We asked asylum officers about their views on areas including training, conducting identity and security checks, interviewing and assessing credibility, assessing fraud, country-condition information, workload, and decision making. We asked supervisory asylum officers about their views on areas including their own responsibilities and training as well as asylum officers' responsibilities and training. We asked immigration judges about their views on areas including professional development, credibility and fraud in asylum cases, rendering an asylum decision, and caseload.

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## Survey Development

GAO social science survey specialists along with GAO staff knowledgeable about asylum adjudications developed the three survey instruments. We sent drafts of the asylum officer survey and supervisory asylum officer survey to Asylum Division officials for preliminary reviews to ensure that our questions were clear and unambiguous, used clear terminology and appropriate response options, and that the survey was comprehensive and unbiased. We sent a draft of the survey of immigration judges to Executive Office for Immigration Review (EOIR) officials and Assistant Chief Immigration Judges for the same purpose. We also asked for and received comments from the asylum officer representative to the American Federation of Government Employees on the draft asylum officer survey and representatives from the National Association of Immigration Judges (NAIJ) on the draft immigration judge survey. We considered comments and suggestions from all parties and made revisions where we thought they were warranted.

We conducted pretests of the three surveys to ensure that the questions were clear and concise, and refined the instruments based on feedback we received. We pretested the asylum officer survey with eight asylum officers with a range of experience levels in five different Asylum Offices. We conducted these pretests using a combination of in-person, telephone, and Web-based approaches. We conducted pretests of the supervisory asylum officer survey with three supervisors with varying levels of experience in three different Asylum Offices; all were conducted by telephone and one used a Web-based approach. We conducted pretests of the immigration judge survey by telephone with three immigration judges in three different immigration courts.

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## Identification of Survey Respondents

To develop mailing lists for the asylum officer and supervisory asylum officer surveys, we obtained from the Asylum Division the name, Asylum Office, and e-mail address of every onboard asylum officer and supervisor along with the date each officer began his or her position. Similarly, to develop a mailing list for the immigration judge survey, we obtained from EOIR the name, immigration court, and e-mail address of every onboard immigration judge along with the date each immigration judge began his or her position. We excluded from this list Assistant Chief Immigration Judges because we provided them with the opportunity to review a survey draft and provide comments. To ensure that we solicited information only from those who had some basic level of experience on which to draw, we sent surveys only to individuals who had been in their position for at least approximately 6 months—that is, they were on board as of September 30, 2006, the end of fiscal year 2006. Two hundred fifty-six asylum officers, 56 supervisory asylum officers, and 207 immigration judges met the criterion.

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## Survey-Distribution Timeframes and Response Rates

**Asylum officer survey.** We announced our upcoming Web-based survey of asylum officers on March 1, 2007, and e-mailed asylum officers a cover letter and link to the survey on March 5. The Chief of the Asylum Division also informed Asylum Office staff of our survey efforts and encouraged asylum officers to participate, noting that participation was voluntary, and directed Asylum Office management to provide all asylum officers with 2 hours of administrative time during which they could elect to complete the survey. During the period from March 5 through April 30 (the final deadline for completing the survey), we e-mailed reminder notices five times to asylum officers who had not responded, encouraging them to participate. On April 24, we followed up by telephone with 17 asylum officers—all those who had begun, but had not finished, the survey. We received 189 responses from asylum officers, resulting in a 74 percent response rate. Of the 189 respondents, 171 said that, over the past year, their primary responsibilities included adjudicating asylum cases and that they had adjudicated at least some affirmative asylum cases, which was the focus of our review. The remaining 18 asylum officers who said their primary responsibilities did not include adjudicating asylum cases or they had not adjudicated at least some asylum cases over the past year were directed to not complete the rest of survey.

**Supervisory asylum officer survey.** With respect to the Web-based survey of supervisory asylum officers, we announced the survey on March 12, 2007, and e-mailed supervisory asylum officers a cover letter and link to the survey on March 14. As with the asylum officer survey, the Chief of the Asylum Division also informed Asylum Office staff of our survey

efforts and encouraged supervisors to participate, noting that participation was voluntary, and directed Asylum Office management to provide all supervisors with 2 hours of administrative time during which they could elect to complete the survey. During the period from March 12 through May 6 (the final deadline for completing the survey), we e-mailed reminder notices four times to supervisory asylum officers who had not responded, encouraging them to participate.

On April 24, we followed up by telephone with 3 supervisory asylum officers—all those who had begun, but had not finished, the survey. We received 43 responses from supervisory asylum officers, resulting in a 77 percent response rate. Of the 43 respondents, 40 said that they had reviewed at least some affirmative asylum decisions over the past year. The remaining 3 supervisory asylum officers who said they reviewed no or almost no asylum cases over the past year were directed to not complete the rest of the survey. Percentages for data from relatively small populations, such as supervisor asylum officers, may convey a level of precision that can be misleading because they can change greatly with minor changes in the data. Thus, in reporting supervisory asylum officers' survey responses throughout this report, we generally identified the number in addition to the percentage of supervisory asylum officers who responded to a question in a particular way.

**Immigration judge survey.** We announced our upcoming Web-based survey of immigration judges on May 25, 2007, and e-mailed a cover letter and link to the survey on May 30. The President of NAIJ encouraged immigration judges to participate. During the period from May 30 through July 29 (the final deadline for completing the survey), we e-mailed reminder notices five times to immigration judges who had not responded, encouraging them to participate. From July 12 through July 16, 2007, we followed up by telephone with the 65 immigration judges who had not completed the survey. We surveyed all 207 immigration judges who were on board as of September 30, 2006, and received 160 responses for a 77 percent response rate. Of the 160 respondents, 159 said that they had heard at least some asylum cases over the past year. The one immigration judge who had not adjudicated any asylum cases over the past year was directed to not complete the rest of the survey.

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## Survey Analysis

In analyzing the three surveys, we computed descriptive statistics on the closed-ended survey responses and conducted a systematic content analysis on selected open-ended survey responses. (See app. I, app. II, and

app. III, respectively, for aggregate responses to the asylum officer, supervisory asylum officer, and immigration judge survey).

To analyze the content of responses of asylum officers and supervisors to particular open-ended questions, two staff members independently reviewed all the responses and identified preliminary response categories, and then mutually agreed on response categories. They subsequently reviewed responses, again, and independently placed them into appropriate categories. Any discrepancies were discussed and resolved, with a third team member being consulted when needed.

Because these were not sample surveys, but rather a census of all the relevant groups, there are no sampling errors. However, the practical difficulties of conducting any surveys may introduce nonsampling errors. For example, differences in how a particular question was interpreted or the sources of information available to respondents can introduce unwanted variability into the survey results. We included steps in both the data-collection and data-analysis stages for the purposes of minimizing such nonsampling errors. As indicated above, social science survey specialists designed the draft questionnaires in close collaboration with GAO subject matter experts, and drafts were reviewed for accuracy by agency officials. Versions of the questionnaire were pretested with several members of each of the populations. Since this was a Web-based survey, respondents entered their answers directly into the electronic questionnaire, eliminating the need to key data into a database, minimizing error. We examined the survey results and performed computer analyses to identify inconsistencies and other indications of error. A second, independent analyst checked the accuracy of all computer analyses.

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## Site Visits

To gain a better understanding of asylum adjudications, we visited three of the Asylum Division's eight Asylum Offices—Los Angeles, San Francisco, and New York. The views we obtained at these three offices may not be generalized to all eight Asylum Offices. However, since we selected these offices based on their diversity in size (based on the number of asylum officers and cases adjudicated), percentage of cases granted asylum, and geographic location, they provided us with an overview and perspective of the asylum process as well as potential challenges facing asylum officers. At each of the three offices, we conducted semistructured interviews with the Asylum Office Director and Deputy Director, a Quality Assurance and

Training Coordinator, and the Fraud Detection and National Security Immigration Officer; and at two of the three offices, we interviewed the Fraud Prevention Coordinator.<sup>1</sup> In addition, we interviewed a total of 14 asylum officers and 5 supervisory asylum officers among the three offices. At one office, we asked the Director to identify 2 asylum officers and 1 supervisory asylum officer for us to interview. At the other two offices, we selected asylum officers and supervisors using a random sampling approach that we stratified based on experience levels. The composition of each office in terms of number and experience levels of officers and staff availability affected who we were able to interview. Between these two offices, we interviewed 12 asylum officers (5 officers with more than 8 years of experience who we categorized as “very experienced,” 4 officers with between 2 and 8 years of experience who we categorized as “experienced,” and 3 officers with less than 2 years of experience who we categorized as “less experienced”). At each of these 2 offices, we interviewed 1 “very experienced” and 1 “experienced” supervisory asylum officer. Between the 2 offices, we also observed a total of 14 interviews that asylum officers conducted with asylum applicants. In addition, we observed a local training session at each of these 2 offices.

To obtain an additional perspective on factors that may affect asylum officers’ and immigration judges’ adjudication of asylum cases, we interviewed U.S. Immigration and Customs Enforcement (ICE) Assistant Chief Counsels (also known as ICE trial attorneys) associated with immigration courts in Los Angeles and San Francisco, California, and New York City, New York who were identified by an ICE Deputy Chief Counsel as having experience with asylum cases. As the government’s representative in removal proceedings, ICE trial attorneys see asylum cases that come before the immigration court. In Los Angeles and San Francisco, we met with a Deputy Chief Counsel and a total of three ICE trial attorneys; in New York City, we met with four ICE trial attorneys. To further our understanding of factors affecting immigration judges’ asylum adjudications, we visited the Los Angeles immigration court where we interviewed four immigration judges and observed court proceedings, which included initial and merit hearings on asylum cases.

We conducted this performance audit from December 2005 through September 2008 in accordance with generally accepted government

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<sup>1</sup>At the third Asylum Office, the Fraud Prevention Coordinator was not available during the week we visited.



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auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Appendix V: Asylum Adjudication Process

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## Asylum Adjudication Process within DHS

The Department of Homeland Security's (DHS) affirmative asylum process generally consists of several steps. The alien initiates the process by filing an asylum application at a U.S. Citizenship and Immigration Services (USCIS) Service Center,<sup>1</sup> where the case is entered into the Refugees, Asylum, and Parole System and some background, identity, and security checks are automatically initiated. Service Center personnel send automatically generated notices to the applicants, requiring them to appear for biometrics collection, including fingerprints, at a USCIS Application Support Center prior to the asylum interview. Service Center personnel send the applicant's file to the Asylum Office that has jurisdiction over the applicant's place of residence. Within 21 days of filing, the Asylum Office sends an automatically generated interview notice to the applicant. The Asylum Office is allocated at least 15 days to complete the adjudication after conducting the interview. Generally, cases are randomly assigned to asylum officers who are required by law to conduct interviews with applicants within 45 days of the application filing date in the absence of exceptional circumstances. The purpose of the interview is to verify the applicant's identity, establish the applicant's alienage, evaluate the applicant's credibility, and determine whether the applicant is eligible for asylum. Applicants are permitted, but not required, to bring their own attorney or accredited representative to the interview. If the applicant is not fluent in English, the applicant is required to bring an interpreter to the asylum interview. Within 4 days of the interview, the asylum officer is to prepare the written decision and submit it to a supervisory asylum officer.<sup>2</sup> The supervisor is to review the decision to ensure the asylum officer's decision is supported by law and that procedures are properly followed. The supervisor either signs or returns it to the asylum officer for correction. Applicants interviewed at Asylum Offices are required to return to the asylum office 2 weeks after the interview and within 60 days of filing the asylum application to receive the asylum decision.

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<sup>1</sup>Under certain circumstances, aliens can file an asylum application directly with an Asylum Office. In such cases, Asylum Office personnel carry out the responsibilities otherwise conducted by Service Center personnel.

<sup>2</sup>For decisions that are mailed, asylum officers must submit the written decision to a supervisory asylum officer within 10 days.

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## Asylum Adjudication Process within DOJ

Within the Department of Justice (DOJ), the Executive Office for Immigration Review's (EOIR) asylum process generally consists of the following steps. The applicant is to appear before an immigration judge for an initial hearing, during which the immigration judge is to, among other things, (a) ensure that the applicant understands the contents of the Notice to Appear, (b) provide the applicant information on available free of charge or low-cost legal representation in the area, and (c) schedule a subsequent date to hear the merits of the asylum claim. At that time, the immigration judge also hears the pleadings of the U.S. Immigration and Customs Enforcement (ICE) trial attorney and the applicant. Prior to the merits hearing, the ICE trial attorney, and the applicant or the applicant's representative must submit applications, exhibits, motions, a witness list, and criminal history to the immigration court, if applicable. The ICE trial attorney and the applicant, or the applicant's representative, may also submit prehearing briefs or statements for the immigration judge to review in advance of the hearing to narrow the legal issues. In some cases attorneys, or the immigration judge, may request a prehearing conference for reasons including narrowing the issues or exchanging information. A merits hearing is then held, during which the applicant (or the applicant's representative) and an ICE trial attorney present the case before the immigration judge by generally making opening statements, presenting witnesses and evidence to the immigration judge, cross-examining, and making closing statements.<sup>3</sup> The immigration judge may participate in the questioning of the applicant or other witnesses. At the end of the hearing, the immigration judge is to issue a decision that includes the facts that were found to be true, an accurate statement of the law, factors that were considered, and the weight that was given to the evidence presented (including the credibility of witnesses). If the applicant or ICE disagrees with the immigration judge's decision, either party may appeal it to EOIR's Board of Immigration Appeals (BIA) within 30 days. If the BIA ruling is adverse to the applicant, the applicant generally may file a petition for review in the U.S. Court of Appeals.<sup>4</sup>

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<sup>3</sup>The immigration courts provide interpreters for the hearings when necessary.

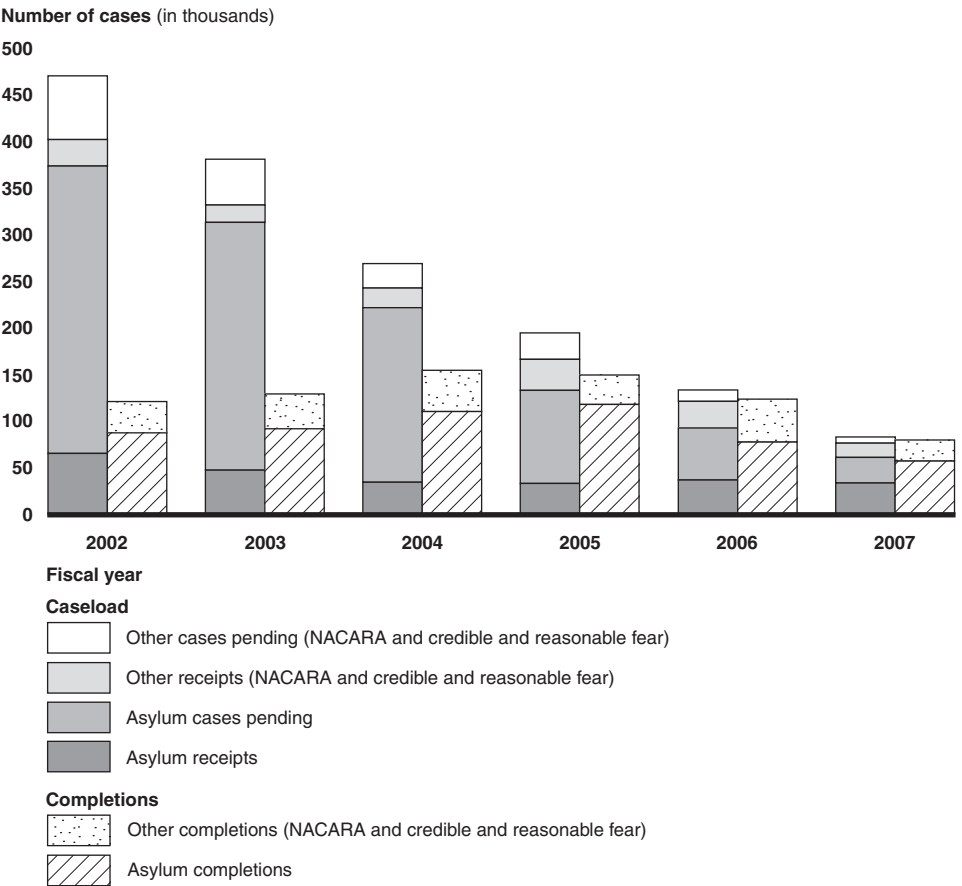
<sup>4</sup>If DHS disagrees with the BIA's ruling, in rare instances, the case may be referred to the Attorney General for review. The Attorney General has the authority to overturn the BIA's ruling, and if the result is adverse to the alien, the alien may appeal to federal court. DHS may not appeal decisions of the BIA or the Attorney General.

# Appendix VI: Asylum Division and EOIR Caseload and Staffing Information

## Asylum Division Caseload and Staffing Levels

During fiscal years 2002 through 2007, the Asylum Division received 391,763 new cases, of which 63 percent consisted of asylum receipts—that is, new or reopened asylum applications. As shown in figure 13, asylum officers’ annual caseload declined during this period, and completions declined from fiscal year 2005 through 2007.<sup>1</sup>

**Figure 13: Asylum Division Caseload and Completions for Fiscal Years 2002–2007**



Source: GAO analysis of Asylum Division data.

<sup>1</sup>The Asylum Division tracks adjudicated and unadjudicated completions. Adjudicated completions consist of cases in which an asylum officer has made a decision after interviewing the applicant and evaluating the merits of the case. Unadjudicated completions consist of cases in which no asylum decision was made on the merits of the case. For the purposes of this report, “completions” refers to both adjudicated and unadjudicated cases. Pending cases include cases that were awaiting completion at the beginning of each fiscal year.

During this same period, authorized staffing for asylum officers ranged from a high of 332 officers in 2004 to a low of 291 officers in 2007, as shown in table 3, although not all asylum officers were considered available to conduct adjudications. The Asylum Division projects the number of “available asylum officers” by subtracting from authorized levels the number of staff designated to conduct overseas refugee adjudications and security screening and the number it projects will be unavailable due to activities such as training and leave.<sup>2</sup> During fiscal years 2002 through 2007, the Asylum Division reported available asylum officers ranged from a high of 232 in 2003 to a low of 199 in 2005. It reported 163 officers would be available in 2008. The Asylum Division may detail asylum officers from one office to another to assist offices with high caseloads.

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**Table 3: Authorized and Available Staffing Levels for Asylum Officers, Fiscal Years 2002–2007**

Fiscal year	Authorized asylum officers	Available asylum officers
2002	293	215
2003	294	232
2004	332	224
2005	303	199
2006	303	219
2007	291	210

Source: Asylum Division.

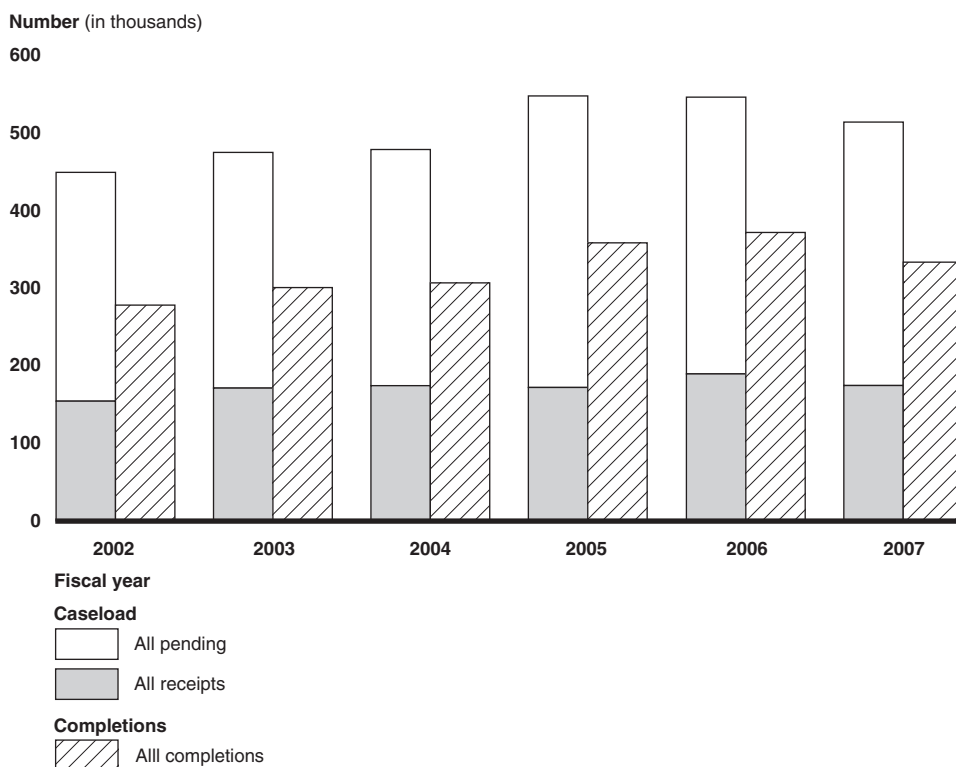
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<sup>2</sup>The Asylum Division reports that asylum officers will be available for asylum and NACARA adjudications, credible and reasonable fear determinations, and asylum terminations of asylum status proceedings during 41 weeks each year.

## EOIR Immigration Court Caseload and Staffing Levels

Immigration court receipts—that is, newly filed and reopened cases—totaled about 1.9 million cases during fiscal years 2002 through 2007, of which 22 percent were asylum, and the rest were other types of immigration cases. From fiscal year 2002 through fiscal year 2005, immigration judges’ caseload, which includes receipts and all cases still pending from the prior years, increased annually, but began to decline in fiscal year 2006 (see fig. 14). Completions increased annually from fiscal year 2002 through 2006, and declined in 2007.<sup>3</sup> According to the Executive Office for Immigration Review (EOIR), immigration caseload is expected to increase by a minimum of 25,000 additional cases by 2008 as a result of current and planned DHS initiatives, such as the addition of detention facilities and beds and enhanced anti-smuggling programs.

**Figure 14: EOIR Caseload and Completions for Fiscal Years 2002–2007**



Source: GAO analysis of EOIR data

<sup>3</sup> Completions include cases that resulted in a decision and other completions, such as administrative closures and transfers of cases to other courts.

As shown in table 4, from fiscal year 2002 through fiscal year 2007, the number of authorized immigration judges increased from 216 in fiscal year 2002 to 251 in fiscal year 2007, with the most significant increase occurring in fiscal year 2007. At the same time, the number of immigration judges who were on board remained fairly constant, except for an increase in fiscal year 2006.

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**Table 4: Authorized and Onboard Staffing Levels for Immigration Judges, Fiscal Years 2002–2007**

Fiscal year	Authorized immigration judges	Onboard immigration judges <sup>a</sup>
2002	216	214
2003	223	217
2004	224	215
2005	225	212
2006	230	225
2007	251	216

Source: EOIR.

<sup>a</sup>Data on onboard immigration judges are as of October 1 of each fiscal year except for 2003. EOIR was unable to provide October 1 data for fiscal year 2003 and provided March 2003 data instead.

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# Appendix VII: GAO Contact and Staff Acknowledgments

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## GAO Contact

Richard M. Stana, (202) 512-8777 or stanar@gao.gov

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## Staff Acknowledgments

In addition to the contact named above, Evi Rezmovic, Assistant Director, and Lori Weiss, Analyst-in-Charge, managed this assignment. Tracey Cross, Foster Kerrison, Maria Mercado, Catherine Kim, Yvette Gutierrez-Thomas, Jason Campbell, and Alana Miller made significant contributions to the work. Michele Fejfar, Elizabeth Wood, and Carolyn Boyce assisted with design, methodology, and data analysis. Lara Kaskie and Richard Ascarate provided assistance in report preparation, Frances Cook provided legal support, Tom Jessor provided expertise on immigration court issues, and Karen Burke and Etana Finkler developed the report's graphics.



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