GAO

United States Government Accountability Office

Report to Congressional Committees

November 2016

ASYLUM

Variation Exists in Outcomes of Applications Across Immigration Courts and Judges

Accessible Version

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Variation Exists in Outcomes of Applications Across Immigration Courts and Judges

Why GAO Did This Study

Tens of thousands of foreign nationals in the United States apply annually for asylum, which provides refuge to those who have been persecuted or fear persecution on protected grounds. EOIR's immigration judges decide asylum application outcomes in court proceedings. In 2008, GAO reported that EOIR data from October 1994 through April 2007 showed significant variation in the outcomes across immigration courts and judges (grants versus denials) of such applications.

The Senate Appropriations Committee report for DHS Appropriations Act, 2015, included a provision for GAO to update its 2008 report. This report examines (1) variation in asylum applications outcomes over time and across courts and judges; (2) factors associated with variability; and (3) EOIR's actions to facilitate asylum applicants' access to legal resources. GAO analyzed EOIR data—using multivariate statistics—on asylum outcomes from fiscal years 1995 through 2014, the most current data available at the time of GAO's analysis; reviewed EOIR policies and procedures; and interviewed EOIR officials and immigration judges about court proceedings and legal access programs. GAO observed asylum hearings in 10 immigration courts selected on the basis of application data and other factors.

What GAO Recommends

GAO recommends that EOIR develop and implement a system of performance measures, including establishing a baseline, to regularly evaluate the effectiveness of LOP and LOPC. EOIR concurred with GAO's recommendation.

View GAO-17-72. For more information, contact Rebecca Gambler at (202) 512-8777 or gamblerr@gao.gov.

What GAO Found

GAO analyzed the outcomes of 595,795 asylum applications completed by the Department of Justice's Executive Office for Immigration Review (EOIR) between fiscal years 1995 and 2014, and identified outcome variation both over time and across immigration courts and judges. From fiscal years 2008 through 2014, annual grant rates for affirmative asylum applications (those filed with the Department of Homeland Security (DHS) at the initiative of the individual and referred to an EOIR immigration judge) ranged from 21 to 44 percent. In the same period, grant rates for defensive asylum applications (those initiated before an immigration judge) ranged from 15 to 26 percent. Further, EOIR data indicate that asylum grant rates varied by immigration court. For example, from May 2007 through fiscal year 2014, the grant rate was 66 percent (affirmative) and 52 percent (defensive) in the New York, New York, immigration court and less than 5 percent (affirmative and defensive) in the Omaha, Nebraska, and Atlanta, Georgia, immigration courts.

GAO found that certain case and judge-related factors are associated with variation in the outcomes of asylum applications. For example, applicants who were represented by legal counsel were granted asylum at a rate 3.1 (affirmative) and 1.8 (defensive) times higher than applicants who were not represented. After statistically controlling for certain factors, such as judge experience and whether or not the applicant had dependents, GAO found variation remained in the outcomes of completed asylum applications across immigration courts and judges. For example, from May 2007 through fiscal year 2014, GAO estimated that the affirmative and defensive asylum grant rates would vary by 29 and 38 percentage points, respectively, for a representative applicant with the same average characteristics we measured, whose case was heard in different immigration courts. In addition, GAO estimated that the affirmative and defensive asylum grant rates would vary by 47 and 57 percentage points, respectively, for the same representative applicant whose case was heard by different immigration judges. GAO could not control for the underlying facts and merits of individual asylum applications because EOIR's case management system was designed to track and manage workloads and does not collect data on all of the details of individual proceedings. Nonetheless, the data available allowed GAO to hold constant certain factors of each asylum application, enabling GAO to compare outcomes across immigration courts and judges.

EOIR provides legal resources to targeted populations, including asylum applicants, through the Legal Orientation Program (LOP) and Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC). EOIR and its contractor use LOP and LOPC site visits, monthly conference calls, and quarterly reports to monitor these programs. However, EOIR has not established performance measures, consistent with principles outlined in the GPRA Modernization Act of 2010, to determine whether these programs are having a measurable impact in meeting program objectives. Developing and implementing performance measures, including establishing a baseline, to determine whether LOP and LOPC are having a measurable impact would better position EOIR to make any adjustments necessary to improve the programs' performance.

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Abbreviations

ACIJ	Assistant Chief Immigration Judge
BIA	Board of Immigration Appeals
DHS	Department of Homeland Security
DOJ	Department of Justice
EOIR	Executive Office for Immigration Review
GPRA	Government Performance and Results Act of 1993
GPRAMA	Government Performance and Results Act (GPRA) Modernization Act of 2010
ICE	U.S. Immigration and Customs Enforcement
INA	Immigration and Nationality Act
LOP	Legal Orientation Program
LOPC	Legal Orientation Program for Custodians of Unaccompanied Alien Children
OLAP	Office of Legal Access Programs
UAC	unaccompanied alien children
USCIS	U.S. Citizenship and Immigration Services
Vera	Vera Institute of Justice

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Congressional Committees

Each year, tens of thousands of foreign nationals in the United States apply for asylum, which provides refuge to those who have been persecuted or fear persecution in their home countries on protected grounds. U.S. immigration law provides that foreign nationals within the United States may be granted humanitarian protection in the form of asylum if they are unable or unwilling to return to their home country because of past persecution, or a well-founded fear of future persecution based on their race, religion, nationality, membership in a particular social group, or political opinion.[1] Decisions on asylum applications can carry serious consequences—granting asylum to an applicant with a genuine claim protects the asylee from being returned to a country where he or she has been or could in the future be persecuted, but granting asylum to an ineligible individual jeopardizes the integrity of the asylum system.

U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) within the Department of Justice (DOJ) share responsibility for the U.S. asylum system. USCIS asylum officers adjudicate affirmative asylum claims—that is, claims made at the initiative of the individual who files an application for asylum with USCIS. If the asylum officer does not grant asylum to an applicant who lacks lawful status in the United States, his or her application is to be referred to EOIR for adjudication during removal proceedings in immigration court.[2] EOIR's immigration judges adjudicate defensive claims, which are those claims first raised during removal proceedings in immigration court as a defense

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[1]The laws governing asylum protection were first established in statute with the passage of the Refugee Act of 1980, Pub. L. No. 96-212, tit. II, § 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 foreign nationals 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 generally the same, but foreign nationals must apply for refugee status from outside the United States and for asylum status from within the United States. The final regulations implementing asylum and withholding of removal provisions of the Refugee Act of 1980 were issued in 1990.

[2]8 C.F.R. § 208.14(c)(1) (where an applicant appears to be inadmissible or deportable, the asylum officer must refer the application to an immigration judge, together with the appropriate charging document).

to removal from the United States, as well as affirmative asylum claims referred by USCIS.[3] According to EOIR, from fiscal years 2011 through 2015, EOIR's immigration judges completed more than 181,000 total asylum applications in 58 immigration courts throughout the United States.[4]

In 2008, we reported on our analysis of EOIR data from fiscal years 1995 through April 2007 on the outcomes of asylum applications across immigration courts and judges. Specifically, we reported that there was significant variation in such outcomes during that time period.[5] For example, we found that the grant rate for affirmative asylum applications ranged from 6 percent in the immigration court in Atlanta, Georgia, to 54 percent in New York, New York; the grant rate for defensive asylum applications ranged from 7 percent in Atlanta, Georgia, to 35 percent in San Francisco, California, and New York, New York. On the basis of our multivariate statistical analysis, we also reported that grant rates for affirmative and defensive asylum applications were more than three times higher for individuals who were represented by legal counsel. As a result, we recommended, among other things, that EOIR address disparities in asylum outcomes that may be unwarranted and identify immigration judges who may benefit from supplemental efforts to improve their performance. EOIR implemented this recommendation by providing training to all immigration judges and conducting analyses comparing asylum grant rates for judges before and after the training. We also reported that EOIR expanded access to legal resources and information for individuals in removal proceedings in immigration court. In addition, since 2008, EOIR has also expanded its training program for new immigration judges (see app. I for more information on EOIR's training for immigration judges). In addition, we recommended that EOIR develop a plan for supervisory immigration judges, including an assessment of the

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[3]An individual 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 without valid status, or identified as potentially removable on one or more grounds, such as for certain kinds of criminal convictions. In addition, when an affirmative applicant without valid immigration status is not granted asylum by USCIS, he or she is referred to removal proceedings, where the asylum claim may be renewed.

[4]EOIR reports "asylum completions" in their annual statistics yearbook. U.S. Department of Justice, Executive Office for Immigration Review, *FY 2015 Statistics Yearbook*, prepared by the Office of Planning, Analysis, and Statistics (Falls Church, VA: April 2016).

[5]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).

resources and guidance needed to ensure that immigration judges receive effective supervision. In response, EOIR analyzed the duties and tasks performed by EOIR's Assistant Chief Immigration Judges (ACIJ), who oversee EOIR's immigration judges. Among other things, in 2010, EOIR published the ACIJ Handbook to assist ACIJs in carrying out their roles as supervisors in immigration court.[6]

The Senate Appropriations Committee Report that accompanied the DHS Appropriations Act, 2015, includes a provision for us to update our 2008 report.[7] This report (1) describes the extent of variation in the outcomes of completed asylum applications over time and across immigration courts and judges; (2) discusses the factors associated with variability in the outcomes of completed asylum applications; and (3) examines the extent to which EOIR has taken action to facilitate access to legal resources, including representation, for asylum applicants.

To describe the extent of variation in the outcomes of completed asylum applications, we analyzed record-level data from EOIR on all immigration court proceedings from fiscal year 1995 through fiscal year 2014. Our analysis included all completed asylum applications between October 1, 1994, and September 30, 2014, the most current data available at the time of our analysis, that involved asylum applicants from (1) countries with a minimum of 800 affirmative and 800 defensive completed asylum applications during the time period; (2) immigration courts with a minimum of 800 affirmative and 800 defensive completed asylum applications during the time period; and (3) judges with a minimum of 50 affirmative and 50 defensive completed asylum applications in their primary court

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[6]EOIR updated the Handbook in 2012.

[7]S. Rep. No. 113-198, at 132 (June 26, 2014).

during the time period.[8] This combination yielded a total of 740,922 individuals with asylum applications that were completed between fiscal years 1995 and 2014 included in our sample. Of those, 595,795 (or 80 percent) were included in our analysis of asylum application completions and asylum grant rates. We used data from EOIR's case management system to identify immigration court proceedings where an immigration judge had made a decision on an applicant's asylum application. We assessed the reliability of the data used in our analyses through electronic testing, analyzing related database documentation, and working with agency officials to reconcile discrepancies between the data and documentation that we received. We determined that the data on completions of asylum applications were sufficiently reliable for the purposes of our reporting objectives.

To discuss the factors associated with variability in the outcomes of completed asylum applications, we used multivariate statistical methods to estimate an expected asylum grant rate for a representative applicant, holding constant various characteristics of individual cases, judges, and courts. The scope of our analysis included the outcomes of all completed asylum applications that met the screening criteria discussed above—specifically, we created an indicator for each application that reflected whether the applicant received asylum. This allowed us to calculate asylum grant rates as a proportion of all completed asylum applications. Our analysis used a mixed logistic regression model to attribute the unique contribution of certain factors in each completed asylum application to variation in asylum grant rates. For a complete list of the factors used in our analysis, see table 7 in appendix II. We modeled the data separately by affirmative and defensive applications and time period. Each applicant was associated with a judge, court, country of nationality,

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[8]We selected countries of nationality and immigration courts that contributed a minimum of 800 affirmative and 800 defensive asylum decisions on asylum applications from fiscal year 1995 through fiscal year 2014; a total of 41 countries and 28 immigration courts met this threshold. We selected the 800 minimum in each category to help ensure a sufficient number of completed asylum applications for our analysis. We selected immigration judges with a minimum of 50 affirmative and 50 defensive completed asylum applications from fiscal year 1995 through fiscal year 2014. We selected the 50 minimum in each category to help ensure having judges who completed a sufficient number of asylum applications for our analysis. We excluded immigration judges who heard fewer than 50 affirmative cases in our analyses of affirmative asylum decisions and fewer than 50 defensive cases in our analyses of defensive asylum decision. We also excluded cases heard by immigration judges other than in their primary court in order to simplify the presentation and avoid reaching inappropriate conclusions that can occur when calculations are based on small numbers of cases.

and language. The results of our analysis allowed us to estimate the range of expected affirmative and defensive asylum grant rates for a representative applicant with the same average characteristics we measured whose case was heard in different courts or by different judges. EOIR's case management system was designed to track and manage cases and does not collect data on all of the details of individual proceedings. As a result, our analysis could not hold constant the underlying facts and merits of individual asylum applications because EOIR's case management system does not collect that information. Nonetheless, the data available allowed us to control for certain factors of each asylum application, enabling us to compare outcomes across immigration courts and judges. For a detailed discussion of our multivariate statistical methods, see appendix III.

To examine the extent to which EOIR has taken action to facilitate access to legal resources, we reviewed the documents on EOIR's legal resources programs, including congressional budget justifications and EOIR documentation on individual programs and initiatives. In particular, we focused our review on the Legal Orientation Program (LOP) and the Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC) because these are among EOIR's longest-standing legal access programs, they have received more funding than EOIR's Office of Legal Access Program's (OLAP) other programs, and they have served tens of thousands of individuals at immigration courts throughout the United States. Regarding LOP and LOPC, we examined documentation outlining program objectives and deliverables, quarterly and annual reports, site visit reports and evaluation reports. In addition, we analyzed data on the number of individuals served by LOP (fiscal years 2008 through 2015) and LOPC (fiscal years 2011 through 2015). We also interviewed EOIR officials responsible for overseeing the program. We analyzed all of this information in light of principles outlined in the Government Performance and Results Act (GPRA) of 1993, as updated by the GPRA Modernization Act (GPRAMA) of 2010,[9] to assess EOIR's efforts to measure progress and results against performance measures.

To address all three objectives, we reviewed EOIR documents describing EOIR asylum applications statistics; policies and procedures related to immigration court proceedings; manuals and documents describing

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[9]GPRA, Pub. L. No. 103-62, 107 Stat. 285 (1993), was updated by the GPRA Modernization Act of 2010, Pub. L. No. 111-352, 124 Stat. 3866 (2011). In particular, see 31 U.S.C. § 1115 (relating to agency performance plans and performance measurement).

EOIR's case management system; guidance and training provided to judges for adjudicating asylum applications; and documentation on EOIR's programs aimed at providing legal resources to individual in proceedings in immigration court. We also interviewed EOIR headquarters officials responsible for overseeing immigration court proceedings, EOIR's case management system, and immigration judge training and guidance and legal access programs. We visited 10 immigration courts in Tacoma, Washington; Seattle, Washington; New York, New York; Newark, New Jersey; Elizabeth, New Jersey; Los Angeles, California; Adelanto, California; Miami, Florida; Krome, Florida; and, Arlington, Virginia. At these locations, we interviewed supervisory immigration judges, immigration judges, court administrators and observed removal proceedings for individuals applying for asylum. We interviewed supervisory immigration judges, immigration judges and court administrators by telephone at two additional immigration courts in El Paso, Texas and Atlanta, Georgia. We selected these sites based on a variety of factors, including number of asylum cases adjudicated, courts with dockets of individuals who are being detained by DHS throughout the course of their immigration court proceedings, as well as courts with dockets of individuals who are not detained, and a range of grant rates, and circuit court jurisdiction. We also interviewed DHS attorneys responsible for representing the U.S. government in removal proceedings in immigration court and staff from pro bono/advocacy organizations proximate to each immigration court to gain their perspectives on (1) potential factors associated with changes in asylum applications outcomes over time and (2) immigration court efforts to facilitate access to legal resources for asylum seekers. The results from our site visits cannot be generalized more broadly to all immigration courts or immigration judges. However, they provided important context and insights into EOIR's efforts to assist immigration judges in adjudicating asylum applications, perspectives on training and guidance provided to immigration judges, and EOIR efforts to facilitate access to legal resources.

We conducted this performance audit from January 2015 to October 2016 in accordance with generally accepted government 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 II provides additional information on our scope and methodology.

Background

DOJ's Process for Adjudicating Asylum Applications

Immigration court hearings are adversarial proceedings in which an individual appears before an immigration judge for adjudication of charges of removability from the United States, and may raise defense to removal by seeking asylum and other forms of relief or protection from removal.[10] Immigration judges are to assess whether an applicant has credibly demonstrated that he or she is eligible to be granted asylum, and whether a grant of asylum is warranted as a matter of discretion. An applicant is eligible for asylum if he or she (1) applies from within the United States; (2) suffered past persecution, or has a well-founded fear of future persecution, based on race, religion, nationality, membership in a particular social group, or political opinion; and (3) is not statutorily barred from applying for or being granted asylum. When making a credibility determination, the immigration judge is to consider the totality of the circumstances and all relevant factors.[11] EOIR follows the same procedures for defensive asylum applications and affirmative asylum referrals from USCIS.[12] For affirmative asylum referrals, the immigration judge reviews the case de novo, meaning that the judge evaluates the applicant's affirmative asylum application anew and is not bound by the USCIS asylum officer's previous determination. As shown in Figure 1, in conducting removal proceedings and adjudicating cases before them,

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[10]Throughout this report we generally use the terms "immigration relief" or "relief" in reference to any form of relief or protection from removal provided for under U.S. immigration law.

[11]8 U.S.C. § 1158(b)(1)(B)(iii). Such factors could include, among others, the applicant's demeanor, candor, or responsiveness in the asylum interview or immigration court hearing, or any inaccuracies or falsehoods discovered in the applicant's written or oral statements, whether or not an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim. Burden of proof requirements for asylum applicants and grounds upon which a trier of fact can make a credibility determination in asylum cases (see 8 U.S.C. § 1158(b)(1)(B)) took effect on the date of enactment of the REAL ID Act of 2005, and apply to applications for asylum made on or after such date. See Pub. L. No. 109-13, div. B, tit. I, § 101(a)(3), (h), 119 Stat. 231, 303, 305 (May 11, 2005).

[12]If USCIS grants asylum to the applicant, the asylee is eligible to apply for adjustment to lawful permanent resident status after 1 year. 8 U.S.C. § 1159(b) (Statutory requirements for an asylee to adjust to lawful permanent resident). If USCIS does not grant asylum and the applicant is present in the United States unlawfully, USCIS is to refer the application to EOIR, together with a Notice to Appear, which requires that the applicant appear before an EOIR immigration judge for adjudication of the asylum claim in removal proceedings.

judges in immigration courts conduct an initial master calendar hearing to, among other things, ensure the applicant understands the immigration court proceedings and schedule the merits hearing, during which the judge hears claims for immigration relief, such as asylum.

Figure 1: Department of Justice (DOJ) Executive Office for Immigration Review Process for Adjudicating Asylum Applications

Affirmative asylum claims

If, after going through the U.S. Citizenship and Immigration Services (USCIS) asylum process,

1. The USCIS decision is to not grant asylum; and

2. The applicant is in the United States illegally, then the applicant is referred to immigration court and issued a Notice to Appear before an immigration judge by the Department of Homeland Security (DHS).

Defensive asylum claims

DHS begins removal proceedings for a foreign national in the United States by issuing a Notice to Appear before an immigration judge for any reason other than a referral from USCIS after an unsuccessful affirmative asylum claim.

Applicant is placed in removal proceedings

Initial hearing (master calendar hearing) is scheduled at an immigration court and applicant requests asylum as a defense against removal

Individual merits hearing is scheduled

Immigration judge hears applicant's claim at merits hearing and makes an asylum decision

Asylum granted

Asylum denied

DHS can appeal decision to the Board of Immigration Appeals (BIA)

Applicant can appeal decision to the BIA

Source: GAO analysis of Department of Justice information. | GAO-17-72

An individual in removal proceedings in immigration court may request multiple types of relief before an immigration judge, and, if deemed removable, the judge makes a decision as to whether the individual satisfies the applicable eligibility requirements of any requested relief. During the merits hearing, judges hear testimony from the respondent and any other witnesses, oversee cross-examinations by DHS's U.S. Immigration and Customs Enforcement (ICE) trial attorneys, and review relevant evidence, including evidence related to claims for asylum or other relief. Additionally, the immigration judge may question the applicant or other witnesses. Judges render oral or written decisions at the end of

immigration court proceedings.[13] As a general matter, immigration judges have discretion in rendering decisions under 8 C.F.R. § 1003.10(b), which states that "[i]n deciding the individual case before them, and subject to the applicable governing standards, immigration judges shall exercise their independent judgment and discretion and may take any action consistent with their authorities under the Act and regulations that is appropriate and necessary for the disposition of such cases." In addition, asylum is a discretionary form of relief under U.S. immigration law,[14] in contrast to a mandatory type of immigration relief or protection, such as withholding of removal.[15] With respect to asylum, section 208(a) of the Immigration and Nationality Act (INA) provides that the Attorney General or the Secretary of Homeland Security may grant asylum to an applicant who meets the definition of a refugee under INA § 101(a)(42)(A).

Potential Outcomes of Asylum Applications in Immigration Court

There are five possible outcomes of an asylum application—grant, denial, withdrawal, abandonment, or other. If a judge grants asylum, the asylee is eligible to apply for adjustment to lawful permanent resident status after one year.[16] Individuals who have been granted asylum are considered qualified individuals for the purpose of eligibility for federal, and state or

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[13]Generally, decisions of EOIR immigration judges are subject to review by the Board of Immigration Appeals (BIA), the highest administrative appellate body within DOJ for interpreting and applying U.S. immigration law. The BIA's decisions can be reviewed by the Attorney General. See 8 C.F.R. § 1003.1(a)(1), (d)(1), (g), (h). After exhausting administrative remedies within DOJ, an individual may appeal a final order of removal to the U.S. Court of Appeals for the circuit in which the immigration judge completed the initial trial-level proceedings. See 8 U.S.C. § 1252. There are 13 U.S. Circuit Courts of Appeals (Circuit Courts), which are appellate courts that review U.S. District Court and certain administrative decisions, such as those made by the BIA. Circuit court decisions on particular issues are binding on the BIA and immigration courts in cases arising within the circuit court's territorial jurisdiction.

[14]See 8 U.S.C. §§ 1158(b) (Attorney General or Secretary of Homeland Security "may" grant asylum to an otherwise eligible applicant), 1252(a)(2)(B)(ii), (b)(4)(D) (decision to grant relief under INA § 208 is discretionary).

[15]Under INA § 241(b)(3) (8 U.S.C. § 1231(b)(3)), the Attorney General may not remove a foreign national to a country if the foreign national's life or freedom would be threatened in that country because of race, religion, nationality, membership in a particular social group, or political opinion.

[16]See 8 U.S.C. § 1159(b) (Statutory requirements for an asylee to adjust to lawful permanent residence).

local, public benefits.[17] Asylees are authorized for employment in the United States as a result of their asylum status.[18] The other four possible outcomes of an asylum application—denial, withdrawal, abandonment, and other—do not result in an asylum grant, and therefore do not convey such benefits.[19] According to EOIR headquarters officials, the outcome of an individual's asylum application is not necessarily determinative of the outcome of the individual's overall removal case. For example, an individual whose asylum application ends in an outcome of denial, withdrawal, or other may still be granted other forms of relief or protection from removal, such as withholding or cancellation of removal.[20] Or, the individual may be found removable and not eligible for any form of relief or protection from removal. In this latter case, the individual would be subject to removal pursuant to the judge's order of removal once it has become administratively final.[21] According to EOIR headquarters officials, an outcome of other for an asylum application is recorded if the judge did

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[17]8 U.S.C. §§ 1611, 1621, 1641(b).

[18]8 U.S.C. § 1158(c)(1)(B); 8 C.F.R. § 274a.12(a). In addition, asylum applicants can receive an Employment Authorization Document after their applications have been pending, including in both the USCIS and EOIR adjudicative process, for 180 days, not including any delays requested or caused by the applicant such as requesting to reschedule or failing to appear at the asylum interview or, where applicable, the time between issuance of a request for evidence and receipt of the applicant's response. See 8 U.S.C. § 1158(d)(2); 8 C.F.R. §§ 208.7(a)(1), (2), 274a.12(c), 274a.13(a)(2).

[19]According to EOIR headquarters officials, an asylum application is resolved with a completion of "denial" if the applicant did not meet the burden of proof required to be granted relief or is otherwise barred by statute. An asylum application is resolved with an outcome of "withdrawn" if the applicant requests that the claim be withdrawn; a withdrawal is always at the initiative of the applicant. An asylum application outcome of "abandoned" can be made in absentia if the applicant does not appear for his or her hearing. An asylum application is resolved with an outcome of "other" if the judge did not reach a decision on the asylum application; according to EOIR headquarters officials, a judge might not reach a decision on an asylum application if the applicant's removal case is administratively closed or if proceedings are terminated, among other scenarios.

[20]Withholding of removal under INA § 241(b)(3) prevents removal to a country where there is a clear probability that the applicant's life or freedom would be threatened in that country based on race, religion, nationality, political opinion, or membership in a particular social group. See 8 U.S.C. § 1231(b)(3); 8 C.F.R. § 1208.16(b). Cancellation of removal may also be available for certain non-permanent residents, provided the applicable eligibility requirements are satisfied. See 8 U.S.C. § 1229b(b).

[21]Generally, a removal order refers to an immigration judge's ruling that an individual is removable, not otherwise eligible for relief or protection from removal, and therefore is to be removed from the United States. An order of removal made by an immigration judge at the conclusion of proceedings becomes administratively final in accordance with 8 C.F.R. § 1241.1.

not need to reach a decision on the merits of the asylum application.[22] For example, ICE's Office of the Principal Legal Advisor may exercise prosecutorial discretion in seeking, and the immigration judge may grant, administrative closure of removal proceedings for an individual whose case is not an enforcement priority for DHS.[23]

EOIR's Legal Access Programs

EOIR's OLAP oversees various programs aimed at increasing access to legal services and information for individuals appearing before immigration court, as well as improving the effectiveness of EOIR's adjudication process. According to EOIR, since April 2000, OLAP has worked to improve access to legal information and counseling and increase the level of representation for individuals appearing before the immigration courts. This has been carried out primarily through initiatives that facilitate access to information and help create new incentives for attorneys, non-profit organizations and their representatives, and law

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[22]According to EOIR headquarters officials, "other" may include administrative closure or termination of proceedings. Administrative closure is a procedural tool available to an immigration judge that is used, as appropriate under the circumstances, to temporarily remove a case from the active calendar. Termination results in dismissal of the case. Cases that are administratively closed can be reopened, and new charges may be filed in cases that are terminated.

[23]In a 2014 policy memorandum, the Secretary of Homeland Security stated that DHS cannot respond to all immigration violations or remove all persons illegally in the United States and that DHS must exercise prosecutorial discretion in the enforcement of the law, focusing on the enforcement priorities of national security, border security, and public safety. As such, DHS personnel are expected to exercise discretion based on individual circumstances and pursue the agency's enforcement priorities at all stages of the enforcement process, including in immigration court proceedings. An EOIR policy memorandum, issued in April 2015, states that cases pending in immigration court dockets that DHS determines are not enforcement priorities, through the exercise of prosecutorial discretion, are subject to administrative closure or dismissal.

students to accept pro bono cases.[24] In particular, OLAP established LOP and LOPC to provide legal information to targeted populations regarding immigration court processes and possible forms of relief, including asylum.[25] LOP, which EOIR established in 2003, provides legal information to individuals in detention who are awaiting their removal proceedings regarding their rights and the immigration process to assist them in making better informed decisions earlier in immigration court proceedings. LOPC, which EOIR established in 2010, provides legal orientation presentations to custodians of unaccompanied alien children (UAC) released from custody from the Office of Refugee Resettlement, to ensure the child's appearance at all immigration court hearings.[26] To provide LOP and LOPC services, OLAP contracts with the Vera Institute of Justice (Vera), which subcontracts with non-profit organizations across the country. OLAP has also established other legal access services,

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[24]OLAP-administered programs do not generally provide *pro bono* legal representation to individuals in immigration proceedings (see 8 U.S.C. § 1362); however, OLAP administers two programs that fund direct legal representation for specific vulnerable populations. In 2013, EOIR established the National Qualified Representative Program, which provides legal representation to certain unrepresented individuals who are detained and identified by EOIR as unable to represent themselves due to a serious mental disorder or condition. If an individual in removal proceedings lacks sufficient mental capacity, the Immigration Judge will evaluate, and has the discretion to select and implement, appropriate safeguards. 8 U.S.C. § 1229a(b)(3); *Matter of M-A-M-*, 25 I. & N. Dec. 474 (BIA 2011); *Matter of M-J-K-*, 26 I. & N. Dec. 773 (BIA 2016). In 2014, EOIR established the Baltimore Representation Initiative for Unaccompanied Children, which provides legal representation and other related services to certain unaccompanied children in immigration proceedings before the Baltimore Immigration Court. In 2014, EOIR, in partnership with the Corporation for National and Community Service, established the justice AmeriCorps Legal Services for Unaccompanied Children program, to provide direct representation to certain unaccompanied children under 16 years of age in locations throughout the United States.

[25]Regarding LOP, in fiscal year 2002, $1 million of DOJ's appropriation was provided for "legal orientation programs." See Conference Report, H.R. Rep. No. 107-278, at 79 (Nov. 9, 2001), accompanying the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, Pub. L. No. 107-77, 115 Stat. 748 (2001). These programs were to be used "for non-governmental agencies to provide 'live presentations' to persons in INS [DHS] detention prior to their first hearing before an immigration judge." See S. Rep. No. 107-42, at 39-40 (July 20, 2001). LOPC is provided for under 8 U.S.C. § 1232(c)(4) ("The Secretary of Health and Human Services shall cooperate with the Executive Office for Immigration Review to ensure that custodians receive legal orientation presentations provided through the Legal Orientation Program administered by the Executive Office for Immigration Review. At a minimum, such presentations shall address the custodian's responsibility to attempt to ensure the child's appearance at all immigration proceedings and to protect the child from mistreatment, exploitation, and trafficking.")

[26]UAC are children under 18 years old with no lawful immigration status and no parent or legal guardian in the United States, or no parent or legal guardian in the United States available to provide care and physical custody. 6 U.S.C. § 279(g)(2).

including self-help materials and other programs intended to increase pro bono representation and serve vulnerable populations.[27]

EOIR Data Indicate that Outcomes of Completed Asylum Applications Varied Over Time and Across Immigration Courts and Judges

Asylum Application Outcomes

A total of 740,922 individuals with asylum applications that were completed between fiscal years 1995 and 2014 met the criteria to be included in our sample.[28] Of those, 595,795 (or 80 percent) were included in our analysis of asylum application completions and asylum grant rates.[29] Since 2008, when we last reported on asylum outcomes, EOIR's

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[27]For example, in 2001, OLAP established the BIA Pro Bono Project to increase *pro bono* representation for individuals detained by ICE with immigration cases under appeal to the BIA. In addition, in 2001, OLAP also established the Model Hearing Program that provides mock trial training sessions in immigration court to attorneys and law students and other individuals interested in providing *pro bono* representation, with the goal of increasing *pro bono* representation and improving the quality of advocacy before immigration courts.

[28]Our sample included individuals with asylum applications that were completed between fiscal years 1995 and 2014 with a non-missing and valid immigration judge code associated with the proceeding. The lead alien number—a unique registration number assigned to foreign nationals by DHS—was the unit of analysis; we did not separately analyze outcomes for others (such as spouses or dependent children) associated with the lead applicant because associated cases are typically adjudicated as part of the same hearing process.

[29]Our analysis included all completed asylum applications between October 1, 1994, and September 30, 2014, that involved asylum applicants from 1) countries with a minimum of 800 affirmative and 800 defensive completed asylum applications during the time period; 2) courts with a minimum of 800 affirmative and 800 defensive completed asylum applications during the time period; and 3) judges with a minimum of 50 affirmative and 50 defensive completed asylum applications in their primary court during the time period. In analyzing differences in completed asylum applications across immigration judges, we excluded cases heard by immigration judges other than in their primary court to simplify the presentation and avoid reaching inappropriate conclusions that can occur when calculations are based on small numbers of cases. We reported separately on affirmative and defensive completed asylum applications to control for characteristics shared by cases in each of those groups that could affect outcomes, such as whether the asylum application had already been reviewed by a USCIS asylum officer.

immigration judges granted asylum to between 4,508 and 6,090 individuals in our sample each year.

The number of individuals granted affirmative asylum each year has ranged from 3,060 to 4,166. The number of individuals denied affirmative asylum decreased each fiscal year from fiscal year 2008 to fiscal year 2014. Figure 2 illustrates outcomes of completed affirmative asylum applications during this period.[30]

Figure 2: Outcomes of Completed Affirmative Asylum Applications, Fiscal Years 1995 through 2014

Number of completed affirmative asylum applications (in thousands)
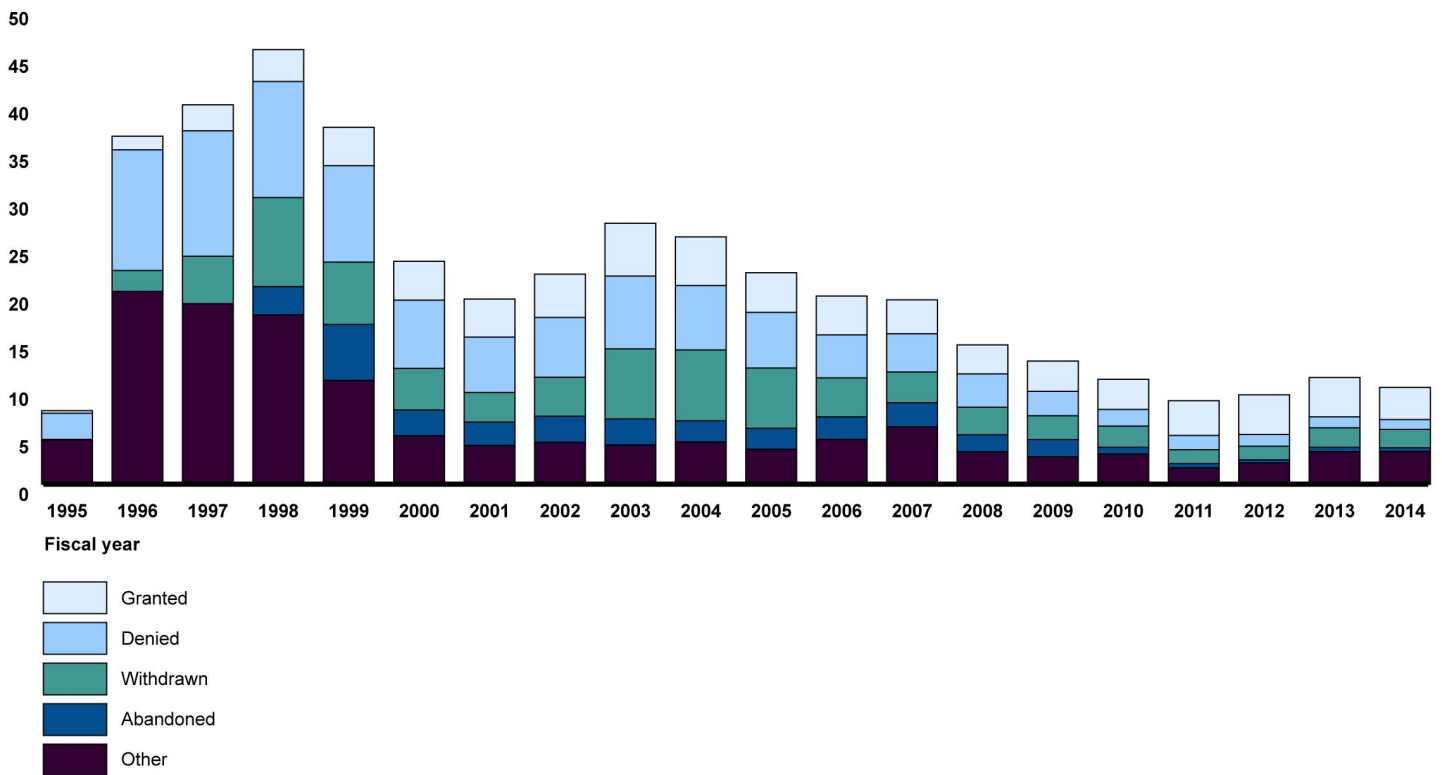
Source: GAO analysis of Executive Office for Immigration Review data. | GAO-17-72

Note: Our analysis included all completed asylum applications that involved asylum applicants from 1) countries with a minimum of 800 affirmative and 800 defensive completed applications during the time period; 2) courts with a minimum of 800 affirmative and 800 defensive completed applications

[30]The scope of our work includes asylum completions in immigration courts. When we refer to outcomes of completed affirmative asylum applications, these are applications that are adjudicated by an immigration judge after being referred by USCIS to EOIR.

during the time period; and 3) judges with a minimum of 50 affirmative and 50 defensive completed applications in their primary court during the time period.

Since our 2008 report, the number of defensive asylum applications that were granted by immigration judges has ranged from 1,343 to 1,924 per year (fiscal years 2008 through 2014). As illustrated in Figure 3, the number of defensive asylum applications that were denied increased each fiscal year from 2011 to 2014. The number of defensive asylum applications with outcomes of "other" increased sharply from 828 in fiscal year 2009 to 3,960 in fiscal year 2014. As previously discussed, an outcome of "other" for an asylum application is recorded if the immigration judge did not need to reach a decision on the merits of the application. EOIR officials stated that the impact of DHS's 2011 memorandum on prosecutorial discretion for immigration enforcement is a key reason for this increase—when DHS exercises prosecutorial discretion during removal proceedings, judges are able to administratively close removal cases without reaching a decision on the merits of the case, including associated asylum applications.[31]

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[31]The DHS memorandum "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens" was issued by Director John Morton on June 17, 2011. The memo states that ICE must prioritize the use of its enforcement personnel, detention space, and removal assets to ensure that the individuals it removes represent the agency's enforcement priorities and that the agency must regularly exercise "prosecutorial discretion" if it is to prioritize its efforts.

Figure 3: Outcomes of Completed Defensive Asylum Applications, Fiscal Years 1995 through 2014

Number of completed defensive asylum applications (in thousands)

Source: GAO analysis of Executive Office for Immigration Review data. | GAO-17-72

Note: Our analysis included all completed asylum applications that involved asylum applicants from 1) countries with a minimum of 800 affirmative and 800 defensive completed applications during the time period; 2) courts with a minimum of 800 affirmative and 800 defensive completed applications during the time period; and 3) judges with a minimum of 50 affirmative and 50 defensive completed applications during the time period.

Asylum Grant Rates

For fiscal years 1995 through 2014, EOIR data indicate that affirmative and defensive asylum grant rates varied over time and across immigration courts, applicants' country of nationality, and individual immigration judges within courts. In 2008, we reported the asylum grant rate as the number of asylum applications granted divided by the total number of all granted and denied applications. In other words, the grant rate depended on the number of completed asylum applications that ended in a decision by the immigration judge of either grant or denial. In this report, to provide data on all of the outcomes of completed asylum

applications during our period of analysis, we included the five possible outcomes in calculating the asylum grant rate. These include applications that were granted and denied, as well as those that had an outcome of withdrawn, abandoned, or other. Thus, for the purposes of this report, we define the asylum "grant rate" as the number of granted asylum applications divided by the total number of completed applications (completions include applications that are granted, denied, withdrawn, abandoned, or end in an outcome of "other") during the period of analysis. An expanded definition allows us to describe the outcomes of completed asylum applications, including outcomes other than granted or denied, and trends in those outcomes. Using this definition, annual grant rates for affirmative asylum applications ranged from 21 to 44 percent from fiscal year 2008 through fiscal year 2014. In the same time period, grant rates for defensive asylum applications ranged from 15 to 26 percent. Figure 4 illustrates asylum grant rates for fiscal years 1995 through 2014.

Figure 4: Asylum Grant Rates, Fiscal Years 1995 through 2014
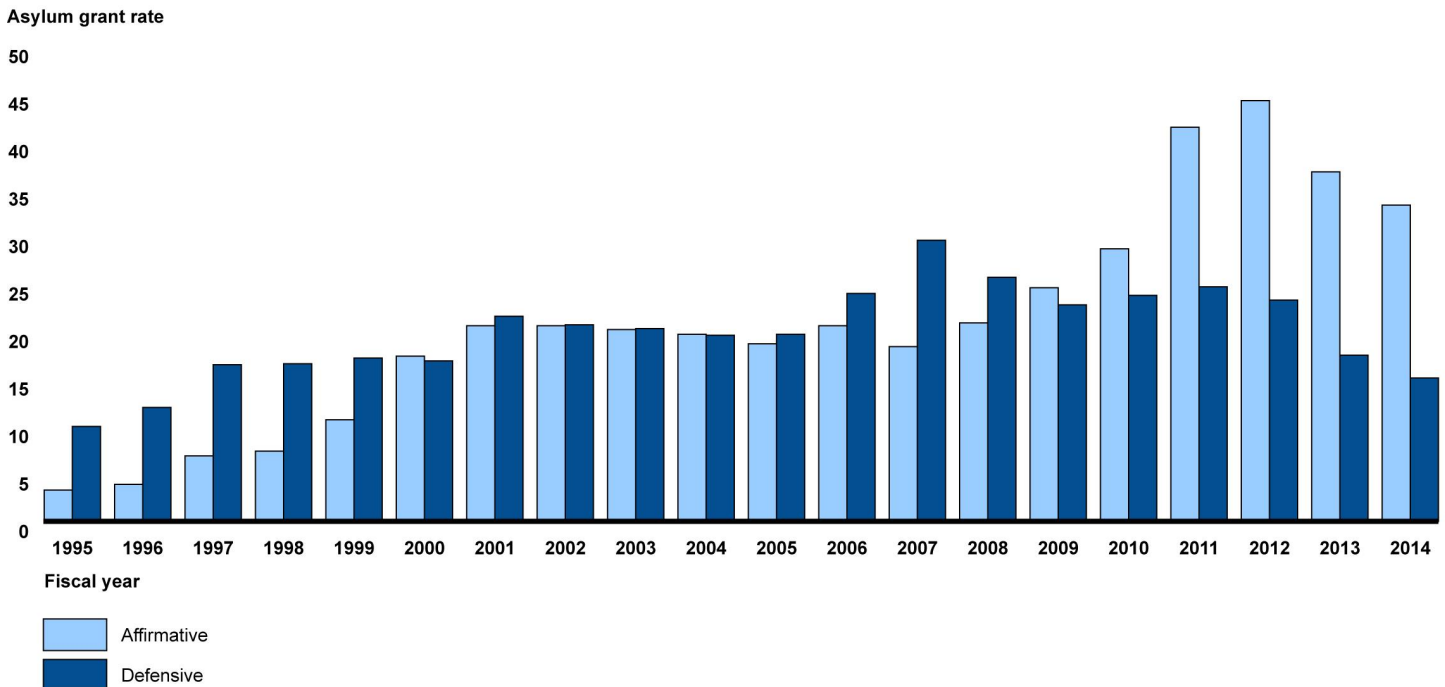
Source: GAO analysis of Executive Office for Immigration Review data. | GAO-17-72

Note: Our analysis included all completed asylum applications that involved asylum applicants from 1) countries with a minimum of 800 affirmative and 800 defensive completed applications during the time period; 2) courts with a minimum of 800 affirmative and 800 defensive completed applications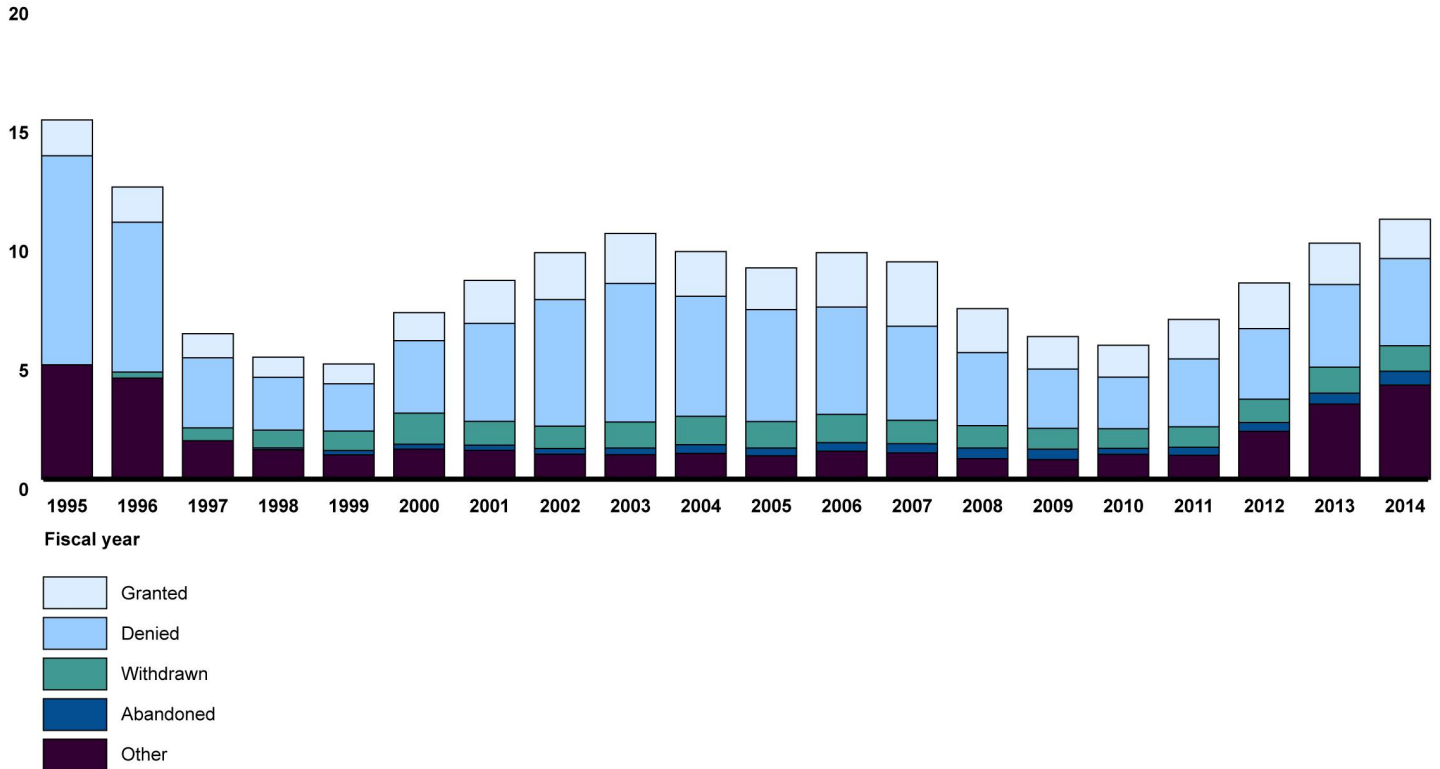 during the time period; and 3) judges with a minimum of 50 affirmative and 50 defensive completed applications during the time period.

In 2008, we reported that affirmative asylum grant rates varied by applicants' country of nationality. Country conditions vary from one country to another, including countries' political climates and human rights records. Thus, differences in the extent to which applicants from various countries are granted or denied asylum in the United States is not unexpected. For the period since our 2008 report, from May 2007 through fiscal year 2014, affirmative asylum grant rates continued to vary by applicant nationality, as shown in Figure 5.[32] For example, the grant rate for affirmative applicants exceeded 50 percent for asylum applicants from some countries, including Sudan, Cameroon, Burma (Myanmar), Sri Lanka, Yugoslavia, China, Ethiopia, Egypt, and Eritrea. For other countries, the affirmative asylum grant rate was less than 5 percent, including El Salvador, Cuba, Mexico, Ecuador, Nicaragua, Guatemala, Honduras, and Philippines.

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[32]Our analysis included countries with a minimum of 800 affirmative and 800 defensive completed asylum applications from fiscal year 1995 through fiscal year 2014. A total of 41 countries met this threshold. We have illustrated grant rates for the period since our 2008 report, which is May 2007 through fiscal year 2014.

Figure 5: Affirmative Asylum Grant Rates by Country of Nationality, May 2007 through Fiscal Year 2014

Country

Affirmative grant rate (percentage)
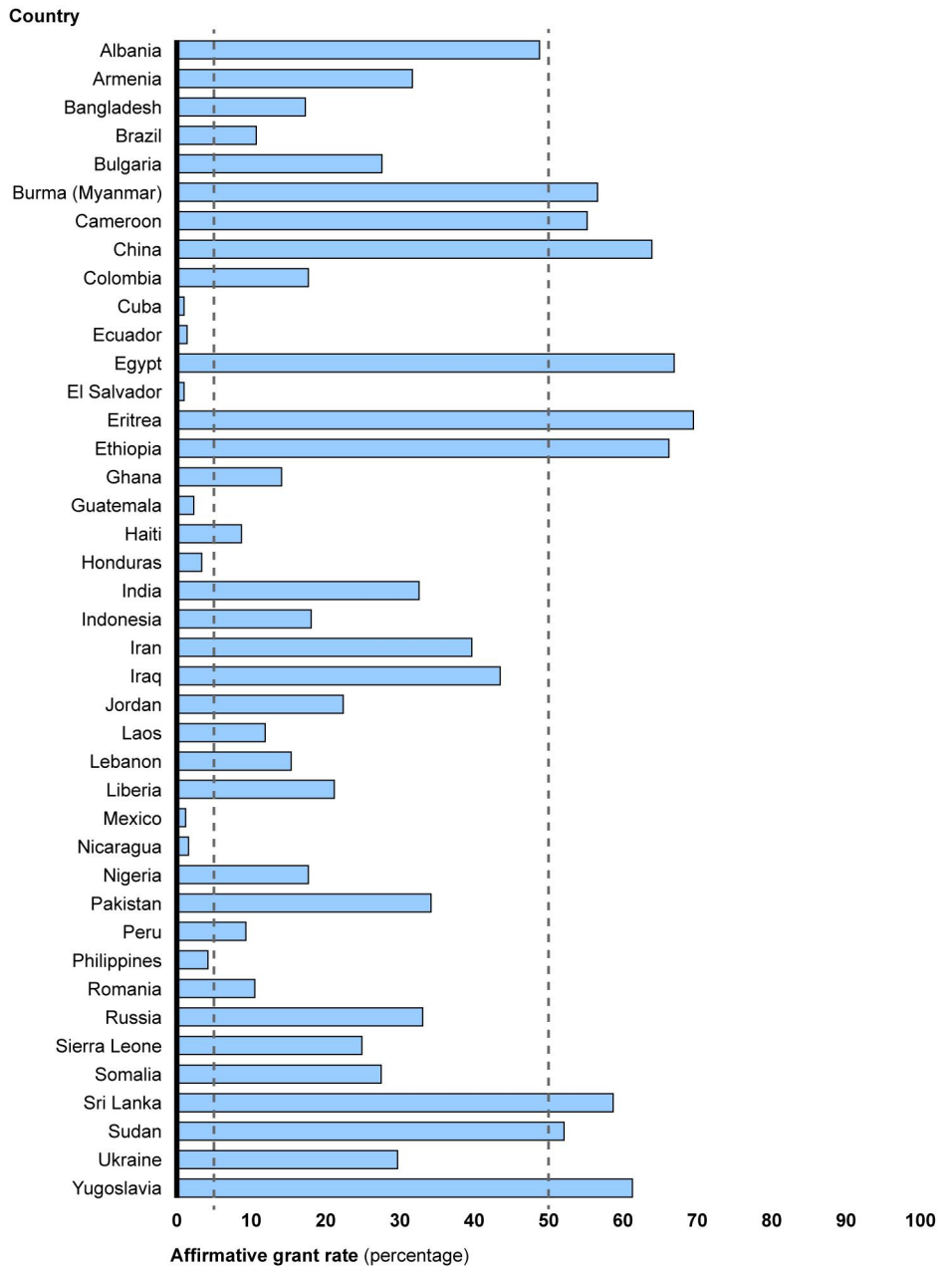
Source: GAO analysis of Executive Office for Immigration Review data. | GAO-17-72

Note: Our analysis included countries with a minimum of 800 affirmative and 800 defensive completed asylum applications from fiscal years 1995 through 2014. A total of 41 countries met this threshold.

In 2008, we reported that defensive asylum grant rates also varied by applicants' country of nationality. From May 2007 through fiscal year 2014, defensive asylum grant rates continued to vary by country of nationality. For example, the grant rate for defensive applicants exceeded 50 percent for asylum applicants from some countries, including Cameroon, Iraq, China, Burma (Myanmar), Ethiopia, and Eritrea (see fig. 6). For other countries, the defensive asylum grant rate was less than 5 percent, including Laos, Philippines, and Mexico.

Figure 6: Defensive Asylum Grant Rates by Country of Nationality, May 2007 through Fiscal Year 2014

Country

| Country	Defensive grant rate (approx. %)
Albania	45
Armenia	23
Bangladesh	36
Brazil	11
Bulgaria	26
Burma (Myanmar)	65
Cameroon	53
China	62
Colombia	14
Cuba	5
Ecuador	8
Egypt	32
El Salvador	6
Eritrea	87
Ethiopia	65
Ghana	12
Guatemala	7
Haiti	12
Honduras	8
India	27
Indonesia	9
Iran	26
Iraq	61
Jordan	9
Laos	2
Lebanon	11
Liberia	9
Mexico	3
Nicaragua	7
Nigeria	13
Pakistan	19
Peru	10
Philippines	2
Romania	27
Russia	23
Sierra Leone	12
Somalia	48
Sri Lanka	38
Sudan	13
Ukraine	11
Yugoslavia	42

Defensive grant rate (percentage)
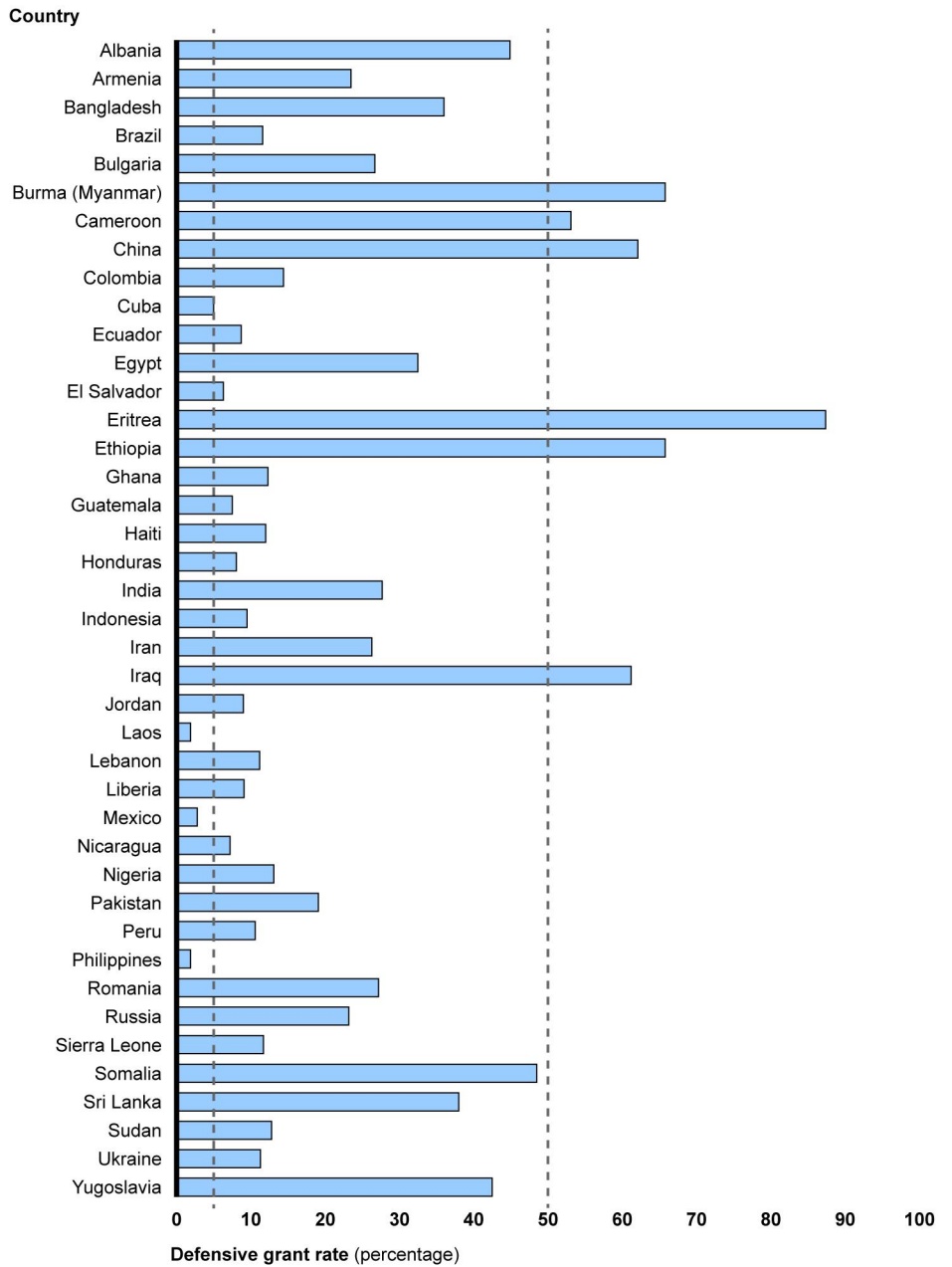
Source: GAO analysis of Executive Office for Immigration Review data. | GAO-17-72

Note: Our analysis included countries with a minimum of 800 affirmative and 800 defensive completed asylum applications from fiscal years 1995 through 2014. A total of 41 countries met this threshold.

In 2008, we reported that affirmative and defensive asylum grant rates varied depending on the immigration court that heard the case. We found similar levels of variation from May 2007 through fiscal year 2014.[33] For example, the grant rate for affirmative applicants in the New York immigration court was 66 percent, while the grant rate in the Omaha and Atlanta immigration courts was less than 5 percent (see fig. 7).

Figure 7: Affirmative Asylum Grant Rates by Court, May 2007 through Fiscal Year 2014
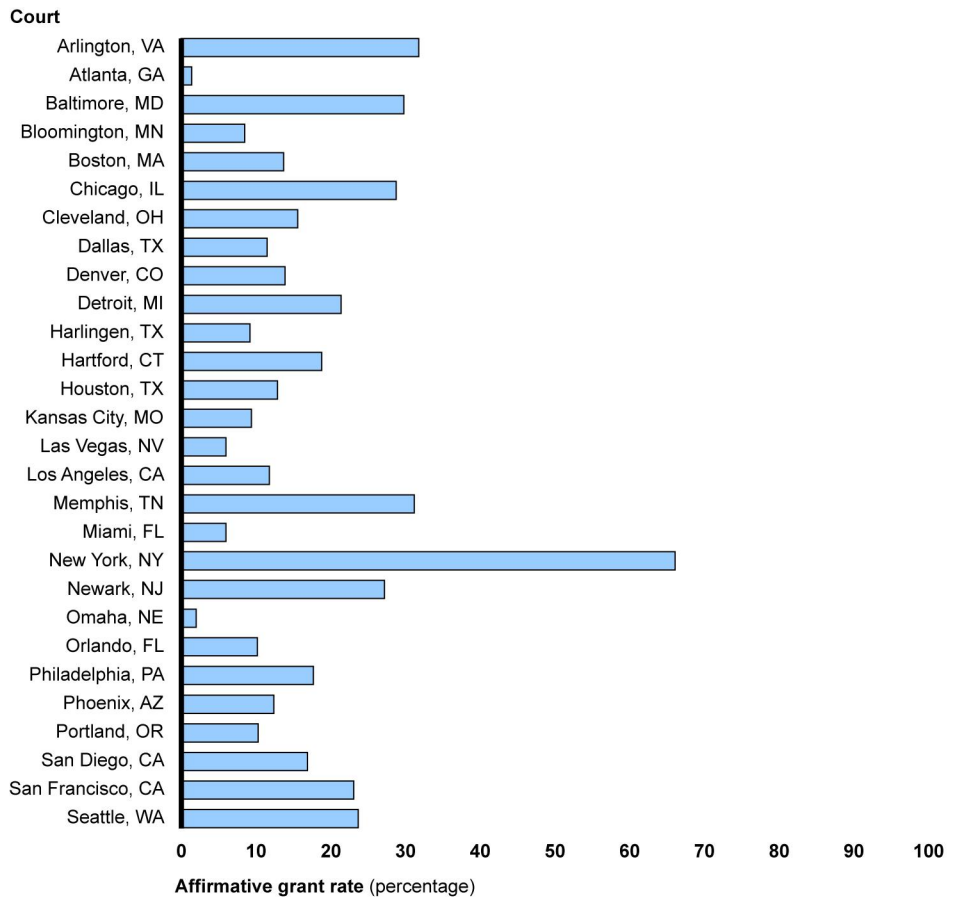
Source: GAO analysis of Executive Office for Immigration Review data. | GAO-17-72

Note: Courts in our analysis included those with a minimum of 800 affirmative and 800 defensive completed asylum applications from fiscal years 1995 through 2014. A total of 28 courts met this threshold.

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[33]Courts in our analysis included those with a minimum of 800 affirmative and 800 defensive completed asylum applications from fiscal year 1995 through fiscal year 2014. A total of 28 courts met this threshold.

From May 2007 through fiscal year 2014, defensive asylum grant rates also continued to vary depending on the immigration court that heard the case. For example, the grant rate in the New York immigration court was 52 percent, while the grant rates in the Omaha, Atlanta, and Bloomington, Minnesota, courts were less than 5 percent (see fig. 8).

Figure 8: Defensive Asylum Grant Rates by Court, May 2007 through Fiscal Year 2014
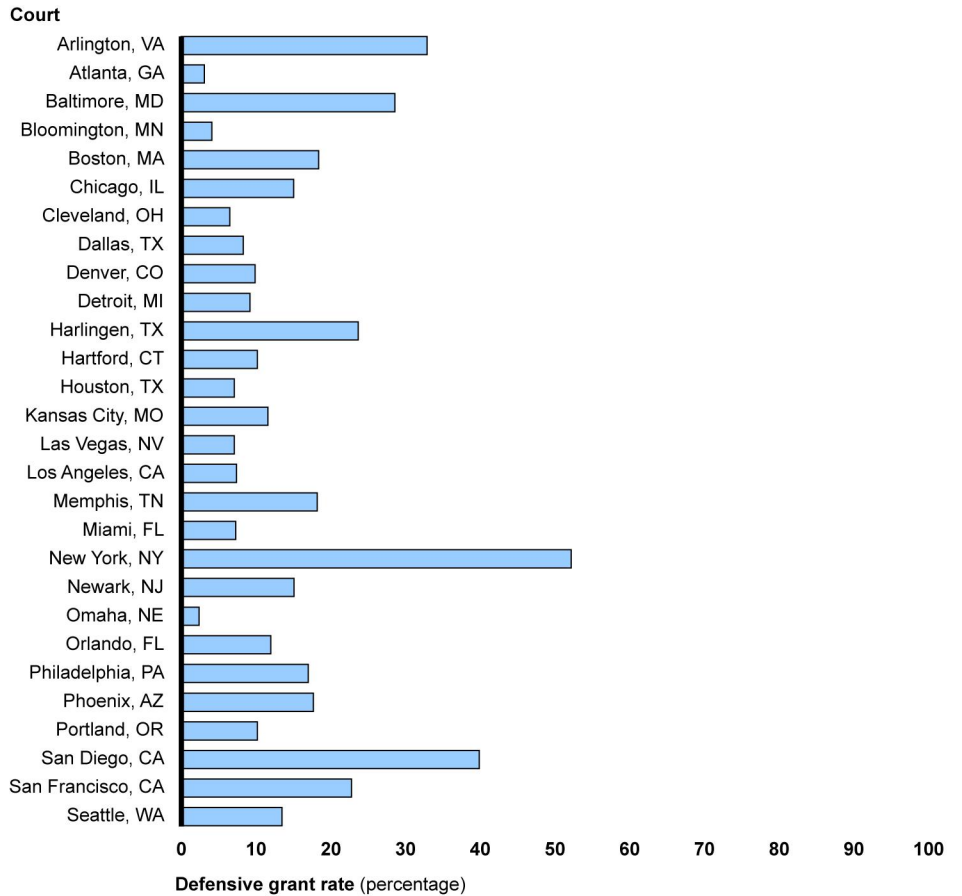
Source: GAO analysis of Executive Office for Immigration Review data. | GAO-17-72

Note: Courts in our analysis included those with a minimum of 800 affirmative and 800 defensive completed asylum applications from fiscal years 1995 through 2014. A total of 28 courts met this threshold.

From May 2007 through fiscal year 2014, within each immigration court, the asylum grant rate for individual immigration judges varied. Affirmative

asylum grant rates for individual judges ranged from 0 to 83 percent.[34] Among the four courts with more than 15 judges in our sample, the difference between the lowest and highest grant rates in each court, or the "range," extended from 17 percentage points in Miami to 60 percentage points in New York, as illustrated in Table 1.

Table 1: Affirmative Asylum Grant Rates in Immigration Courts with More Than 15 Judges, May 2007 through Fiscal Year 2014

Court	Number of judges in sample	Minimum grant rate (percentage)	Maximum grant rate (percentage)	Grant rate range (percentage)[a]
Los Angeles	38	0.0	31.3	31.3
Miami	24	0.0	16.8	16.8
New York	33	22.9	83.3	60.4
San Francisco	17	4.8	38.7	33.9

Source: GAO analysis of Executive Office for Immigration Review data. | GAO-17-72

Note: This table includes those judges with 20 or more completed affirmative asylum applications in their primary court from May 2007 through fiscal year 2014. At least one judge from each court in our analysis had 20 or more completed affirmative asylum applications from May 2007 through fiscal year 2014. Collectively, these judges completed 74,191 affirmative asylum applications during the period, which represents 87 percent of all completed affirmative asylum applications included in our analysis.

aThe grant rate range is the maximum grant rate minus the minimum grant rate, or the range of asylum grant rates within the court.

Figure 9 illustrates the range of affirmative asylum grant rates for judges in their primary immigration courts from May 2007 through fiscal year 2014.

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[34]Table 1 and Figure 9 include those judges with 20 or more completed affirmative asylum applications in their primary court from May 2007 through fiscal year 2014. At least one judge from each court in our analysis had 20 or more completed affirmative asylum applications from May 2007 through fiscal year 2014. Collectively, these judges completed 74,191 affirmative asylum applications during the period, which represents 87 percent of all completed affirmative asylum applications included in our analysis.

Figure 9: Affirmative Asylum Grant Rate Ranges for Judges in Immigration Courts, May 2007 through Fiscal Year 2014

Bar chart, see appendix 5 for data table
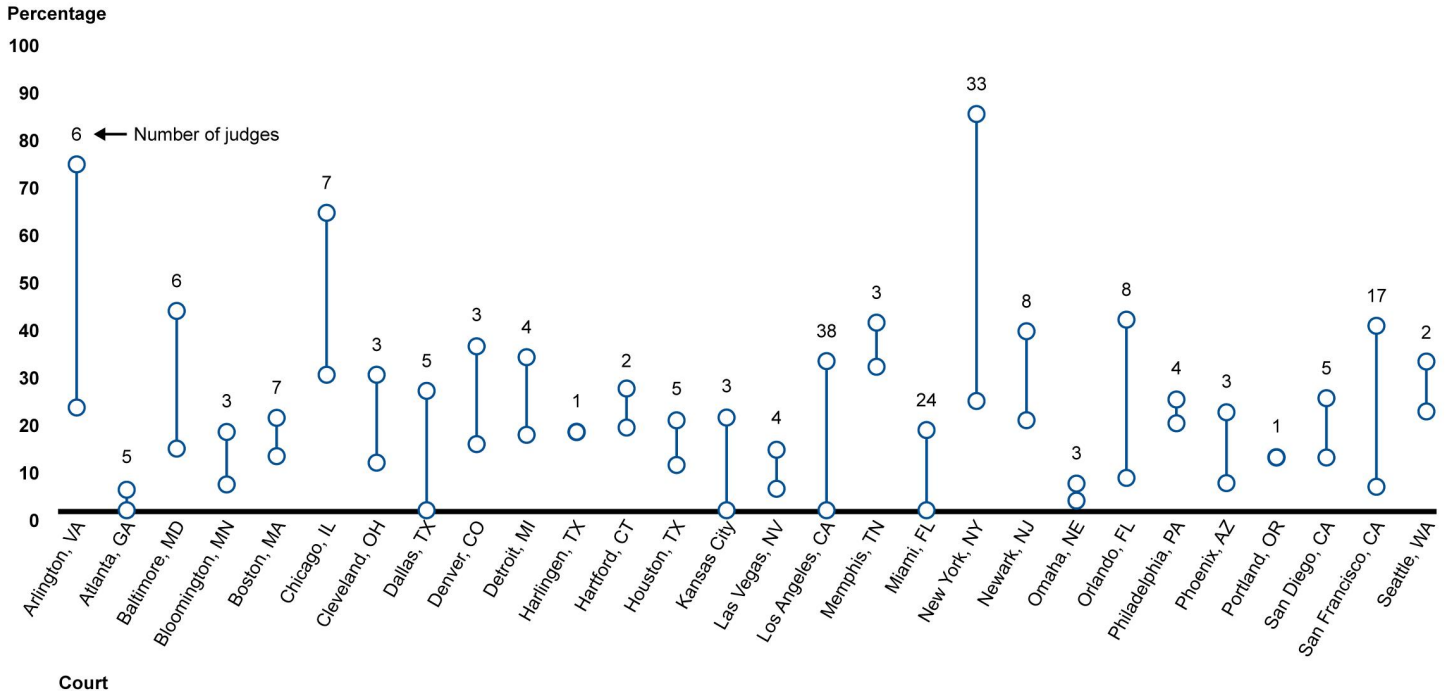
Source: GAO analysis of Department of Justice data. | GAO-17-72

Note: This figure includes those judges with 20 or more completed affirmative asylum applications in their primary court from May 2007 through fiscal year 2014. At least one judge from each court in our analysis had 20 or more completed affirmative asylum applications from May 2007 through fiscal year 2014. Collectively, these judges completed 74,191 affirmative asylum applications during the period, which represents 87 percent of all completed affirmative asylum applications included in our analysis.

From May 2007 through fiscal year 2014, defensive asylum grant rates across individual judges ranged from 0 to 80 percent.[35] Among the four courts with more than 15 judges in our sample, the difference between the lowest and highest grant rates in each court, or the "range," extended from 16 percentage points in Miami to 70 percentage points in New York, as illustrated in Table 2.

[35]Table 2 and Figure 10 include those judges with 20 or more completed defensive asylum applications in their primary court from May 2007 through fiscal year 2014. At least one judge from each court in our analysis had 20 or more completed defensive asylum applications from May 2007 through fiscal year 2014. Collectively, these judges completed 51,605 defensive asylum applications during the period, which represents 89 percent of all completed defensive asylum applications included in our analysis.

Table 2: Defensive Asylum Grant Rates in Immigration Courts with More Than 15 Judges, May 2007 through Fiscal Year 2014

Court	Number of judges in sample	Minimum grant rate (percentage)	Maximum grant rate (percentage)	Grant rate range (percentage)[a]
Los Angeles	38	0.6	19.6	19.0
Miami	23	0.0	16.0	16.0
New York	32	10.3	80.0	69.7
San Francisco	20	1.1	41.4	40.3

Source: GAO analysis of Executive Office for Immigration Review data. │ GAO-17-72

Note: This table includes those judges with 20 or more completed defensive asylum applications in their primary court from May 2007 through fiscal year 2014. At least one judge from each court in our analysis had 20 or more completed defensive asylum applications from May 2007 through fiscal year 2014. Collectively, these judges completed 51,605 defensive asylum applications during the period, which represents 89 percent of all completed defensive asylum applications included in our analysis.

aThe grant rate range is the maximum grant rate minus the minimum grant rate, or the range of asylum grant rates within the court.

Figure 10 illustrates the range of defensive asylum grant rates for judges in their primary immigration courts from May 2007 through fiscal year 2014.

Figure 10: Defensive Asylum Grant Rate Ranges for Judges in Immigration Courts, May 2007 through Fiscal Year 2014

Source: GAO analysis of Department of Justice data. │ GAO-17-72

Note: This figure includes those judges with 20 or more completed defensive asylum applications in their primary court from May 2007 through fiscal year 2014. At least one judge from each court in our analysis had 20 or more completed defensive asylum applications from May 2007 through fiscal year 2014. Collectively, these judges completed 51,605 defensive asylum applications during the period, which represents 89 percent of all completed defensive asylum applications included in our analysis.

Grant Rates for Asylum Applications Can be Affected by Case Characteristics and Outcome Variance Persists when Controlling for Certain Factors

Potential Explanations Offered for Variation in Outcomes of Asylum Applications

Immigration judges have discretion in rendering decisions and asylum is a discretionary form of relief under U.S. immigration law. Immigration judges we spoke with in six immigration courts stated that the judicial discretion provided for in U.S. immigration law is one reason that decisions on asylum applications, even among judges in the same court, could vary.[36] For example, while a judge adjudicating an asylum claim is permitted by law to require that corroborating evidence be provided in support of otherwise credible, persuasive, and factually specific testimony, such testimony could also be legally sufficient for another judge to determine that the applicant has met his or her burden of proof without corroboration.[37] In addition, researchers have offered potential explanations for variation in asylum application outcomes. For example, a study published in 2015 by researchers at the University of Texas at Dallas found that variation in asylum application outcomes is not unexpected given the institutional conditions under which judges operate, including the particular requirements of the law, the lack of corroborating

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[36]According to EOIR officials other reasons that decisions on asylum applications could vary, include, the increased use of prosecutorial discretion on the part of DHS, the proximity of the immigration court to the southwest border, and whether the immigration court is in a detained setting. We spoke with immigration judges in twelve immigration courts. In six of the twelve courts, judges did not discuss the discretion provided for in the law as a reason that decisions on asylum applications could vary.

[37]8 U.S.C. § 1158(b)(1)(B)(ii).

evidence that is common in asylum cases, and the difficulty of assessing credibility.[38]

EOIR Data Show Variation in Outcomes of Asylum Applications Across Courts and Judges Persists when Holding Certain Case and Judge Characteristics Constant

On the basis of our analysis of EOIR data from fiscal years 1995 through 2014, we found that asylum grant rates varied across courts and judges, holding constant various case and judge characteristics.[39] While we were able to analyze various characteristics of cases, judges, and courts, the design of EOIR's case management system did not allow us to measure and control for a number of factors—such as the nature or key characteristics of the claim of persecution or the gender of the applicant—that may be relevant to variability in asylum grant rates. EOIR's case management system was designed to manage and track workloads across immigration courts rather than to collect all data on the details of individual proceedings.[40] In addition, each asylum application presents unique facts and circumstances that judges must consider in rendering their decisions. As a result, our analysis could not hold constant the underlying facts and merits of individual asylum applications because EOIR's case management system does not collect that information. Further, according to EOIR officials, immigration judges are not required to document each factor in the case management system they consider in their overall adjudication of an asylum claim. Some of these factors may be relevant to variation in asylum application outcomes, such as whether there was an adverse credibility determination. In addition, there may be other factors that could affect variation in asylum grant rates including whether a particular judge was assigned to a juvenile or other docket that

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[38]Miller, Keith, and Holmes, *Immigration Judges and U.S. Asylum Policy*, (Philadelphia: University of Pennsylvania Press, 2015).

[39]We used multivariate statistical methods to hold constant various characteristics captured in EOIR's case management system that could potentially be associated with asylum grant rates, in order to isolate variation due to judge, court, or country of nationality linked to each application for asylum. The current and 2008 analyses accounted for slightly different characteristics; in general, the current analysis excluded characteristics that were not associated with asylum grant rates in 2008, such as judge prior work experience and judge veteran status, and that were labor-intensive to measure. Appendix III provides more detail on the current analysis.

[40]According to EOIR officials, removal proceedings are recorded digitally and can range from 1 hour to several hours over the course of multiple days.

does not randomly assign cases to judges. Nonetheless, the data available allowed us to control for certain factors of each asylum application, which enabled us to compare asylum outcomes across immigration courts and judges.

Factors Associated with Grant Rates

We used multivariate statistical methods to estimate an expected asylum grant rate for a representative applicant, holding constant various characteristics of individual cases, judges, and courts.[41] We estimated rates separately for affirmative and defensive asylum applications and for each of four time periods across fiscal years 1995 through 2014.[42] Analyzing asylum grant rates for a representative applicant, holding constant factors such as whether the applicant was represented by counsel, applicant country of nationality, and judge gender, allowed us to compare asylum grant rates across courts and judges (see Appendix III for more details about our analysis).

For the period since our 2008 report (May 2007 through fiscal year 2014), we estimate that, for each of the factors noted below, a representative affirmative asylum applicant would be granted asylum at a rate higher (or lower) than an applicant with differing case factors, and the difference would be statistically significant. The remaining factors we held constant—judge gender, most circuit courts, and judge and court asylum caseloads—had no statistically distinguishable associations with affirmative asylum grant rates for cases heard in immigration court. For example:

- **Representation.** Applicants who were represented by legal counsel were granted asylum at a rate 3.1 times higher than applicants who were not represented.

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[41]We held the following characteristics constant: applicant country of nationality, applicant language, whether the applicant was represented by counsel, whether the applicant had dependents, whether the applicant sought asylum within one year of entry into the United States, whether the applicant was ever detained (defensive asylum only), judge gender, judge years of experience, presidential administration under which judges were appointed, circuit court, and court and judge asylum caseload.

[42]The periods of our analysis were: (1) October 1994 through March 1997; (2) April 1997 through September 2001; (3) September 2001 through April 2007; and, (4) May 2007 through fiscal year 2014. The first three periods replicate the three periods of analysis from our 2008 report, which included data through April 2007. The fourth period includes new data from May 2007 through fiscal year 2014.

- **Dependents.** Applicants with at least one dependent were granted asylum at a rate 1.7 times higher than applicants without dependents.

- **Date of affirmative asylum application.** Applicants who applied within one year of entering the United States were granted asylum at a rate 2.4 times higher than applicants who applied later.[43]

- **Presidential administration under which judges were appointed.** Judges who were appointed by the Attorney General during the administrations of Presidents George H.W. Bush, Reagan, Carter, Nixon, or Johnson were generally more likely to grant asylum than those appointed during the administrations of Presidents Clinton, George W. Bush, and Obama, holding constant years of experience as a judge. Judges appointed during the administrations of Presidents Clinton, George W. Bush, and Obama granted asylum at rates that were statistically indistinguishable from each other.[44]

- **Judge years of experience.** Judges with more experience were less likely to grant asylum, holding constant the presidential administration of appointment. Judges with an additional 7 years of experience were 28 percent less likely to grant asylum.[45]

Many of the factors we analyzed had similar associations for both affirmative and defensive asylum grant rates. From May 2007 through fiscal year 2014, we estimate that, for each of the factors noted below, a representative defensive asylum applicant would be granted asylum at a rate higher (or lower) than an applicant with differing case factors, and the difference would be statistically significant. Judge experience and the presidential administration under which judges were appointed had no

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[43]An applicant must file for asylum within one year of arrival in the United States unless he or she can demonstrate that there are changed circumstances that materially affect the applicant's eligibility for asylum or that the delay in filing an application for asylum is due to extraordinary circumstances. In either case, any delay must have been reasonable under the circumstances. See 8 U.S.C. § 1158(a)(1), (2)(B), (D). In addition, under 8 U.S.C. § 1158(a)(2)(E), the one year filing deadline does not apply to an unaccompanied alien child as defined by 6 U.S.C. § 279(g)(2).

[44]Under U.S. immigration law, an "immigration judge" is an attorney appointed by the Attorney General as an administrative judge within EOIR, qualified to conduct specified classes of proceedings, including formal removal proceedings under INA § 240. See 8 U.S.C. § 1101(b)(4); 8 C.F.R. § 1003.10.

[45]To put this result in context, judges with 6 to 17 years of experience heard 50 percent of all applications in this period. The result for judge years of experience controls for the administration under which the judge was appointed. For example, a judge appointed in the first year of a president's administration was less likely to grant asylum than a judge appointed in the last year of president's administration.

statistically distinguishable associations with defensive asylum grant rates. For example:

- **Representation.** Applicants who were represented by legal counsel were granted asylum at a rate 1.8 times higher than applicants who were not represented.

- **Dependents.** Applicants with at least one dependent were granted asylum at a rate 1.7 times higher than applicants without dependents.

- **Date of defensive asylum application.** Applicants who applied within one year of entering the United States were granted asylum at a rate 5.0 times higher than applicants who applied later. This association is substantially larger than the association for affirmative applications made during the same time, and the difference is statistically distinguishable from zero.[46]

- **Judge gender.** Female judges granted asylum for defensive applications at a rate 1.4 times higher than male judges. There was no statistically meaningful association between judge gender and asylum grant rates among affirmative cases.

Asylum Grant Rates Varied Significantly Across Immigration Courts for a Representative Applicant After Controlling for Certain Factors

From May 2007 through fiscal year 2014, we estimated that the affirmative asylum grant rate would vary by 29 percentage points if different immigration courts heard the case of a representative applicant with the same average characteristics we measured.[47] As shown in table

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[46]An applicant must file for asylum within one year of arrival in the United States unless he or she can demonstrate that there are changed circumstances that materially affect the applicant's eligibility for asylum or that the delay in filing an application for asylum is due to extraordinary circumstances. In either case, any delay must have been reasonable under the circumstances. See 8 U.S.C. § 1158(a)(1), (2)(B), (D). In addition, under 8 U.S.C. § 1158(a)(2)(E), the one year filing deadline does not apply to an unaccompanied alien child as defined by 6 U.S.C. § 279(g)(2).

[47]We estimated the middle 95 percent of affirmative asylum grant rates across all courts in our analysis, for an applicant with the same average characteristics we measured. See Appendix III for more details on this estimate. We held the following characteristics constant: applicant country of nationality, applicant language, whether the applicant was represented by counsel, whether the applicant had dependents, whether the applicant sought asylum within one year of entry into the United States, whether the applicant was ever detained (defensive asylum only), judge gender, judge years of experience, presidential administration under which judges were appointed, circuit court, and court and judge asylum caseload.

3, the grant rate for a representative applicant in one court would be 19 percent, whereas it would be 48 percent in another court for the same representative applicant. The size of this range varied across the four time periods we analyzed, from a low of 10 percentage points in the first period to a high of 37 percentage points in the second period.

Table 3: Estimated Asylum Grant Rate Variation Across Courts, Holding Constant Various Characteristics, May 2007 through Fiscal Year 2014

	Court A	Court B	Range of potential asylum grant rate[a]
Applicant X (affirmative asylum)	19%	48%	29 percentage points
Applicant Y (defensive asylum)	18%	56%	38 percentage points

Source: GAO analysis of Executive Office for Immigration Review data. | GAO-17-72

Note: We held the following characteristics constant: applicant country of nationality, applicant language, whether the applicant was represented by counsel, whether the applicant had dependents, whether the applicant sought asylum within one year of entry into the United States, whether the applicant was ever detained (defensive asylum only), judge gender, judge years of experience, presidential administration under which judges were appointed, circuit court, and court and judge asylum caseload.

aWe would expect the asylum grant rate to fall within this range 95 percent of the time if a court heard an asylum claim having the same, average characteristics we measured. See appendix III for more details on this estimate.

For defensive asylum completions in the most recent period, we estimated that the defensive asylum grant rate would vary by 38 percentage points if different immigration courts heard the case of a representative applicant with the same average characteristics we measured. As shown in table 3, the grant rate for a representative applicant in one court would be 18 percent, whereas it would be 56 percent in another court for the same representative applicant. The size of this range varied across the four time periods we analyzed, from a low of 11 percentage points in the first period to a high of 38 percentage points in the third period.

Asylum Grant Rates Varied Significantly Across Immigration Judges for a Representative Applicant After Controlling for Certain Factors

From May 2007 through fiscal year 2014, we estimated that the affirmative asylum grant rate would vary by 47 percentage points if different immigration judges heard the case of a representative applicant with the same average characteristics we measured.[48] As shown in table

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[48]We estimated the middle 95 percent of affirmative asylum grant rates across all courts in our analysis, for an applicant with the same average characteristics we measured.

4, the grant rate for a representative applicant by one judge would be 13 percent, whereas it would be 60 percent before another judge for the same representative applicant. The size of this range varied across the four time periods we analyzed, from a low of 29 percentage points in the first period to a high of 47 percentage points in the fourth period.

Table 4: Estimated Asylum Grant Rate Variation Across Judges, Holding Constant Various Characteristics, May 2007 through Fiscal Year 2014

	Judge A	Judge B	Range of potential asylum grant rate[a]
Applicant X (affirmative asylum)	13%	60%	47 percentage points
Applicant Y (defensive asylum)	11%	68%	57 percentage points

Source: GAO analysis of Executive Office for Immigration Review data. │ GAO-17-72

Note: We held the following characteristics constant: applicant country of nationality, applicant language, whether the applicant was represented by counsel, whether the applicant had dependents, whether the applicant sought asylum within one year of entry into the United States, whether the applicant was ever detained (defensive asylum only), judge gender, judge years of experience, presidential administration under which judges were appointed, circuit court, and court and judge asylum caseload.

aWe would expect the asylum grant rate to fall within this range 95 percent of the time if a court heard an asylum claim having the same, average characteristics we measured.

For completed defensive asylum applications in the most recent period, we estimated that the defensive asylum grant would vary by 57 percentage points if different immigration judges heard the case of a representative applicant with the same average characteristics we measured. As shown in table 4, the grant rate for a representative applicant by one judge would be 11 percent, whereas it would be 68 percent before another judge for the same representative applicant. The size of this range varied across the four time periods we analyzed, from a low of 22 percentage points in the first period to a high of 57 percentage points in the fourth period.

EOIR Has Programs in Place to Facilitate Access to Legal Resources for Asylum Applicants, but Could Improve Efforts to Measure Program Results

EOIR Facilitates Legal Resources for Asylum Applicants and Monitors Results

Through LOP and LOPC, EOIR has provided legal orientations to approximately 450,000 individuals. EOIR established LOP in 2003 to provide legal orientations to persons in detention prior to their first hearing before an immigration judge. In 2010, EOIR established LOPC to provide legal orientation presentations to custodians of UAC released from custody from the Office of Refugee Resettlement to help ensure the child's appearance at all immigration proceedings.[49] LOP and LOPC provide legal information through group and individual orientations, as well as self-help workshops and pro bono legal referrals to those in removal proceedings in immigration court. According to DOJ and EOIR, LOP and LOPC are key efforts to, among other things, increase the efficiency of immigration court proceedings and improve access to basic legal services for individuals in such proceedings. For example, DOJ's Congressional Budget Submission for Fiscal Year 2016 reported that LOP is designed to assist detained individuals in making better informed decisions earlier in their immigration court proceedings, thereby improving access to basic legal services, especially for low income individuals, while increasing the efficiency of the court hearing and detention process.[50] Regarding LOPC, in February 2016, EOIR's Director testified that LOPC "helps the immigration court process function more efficiently and

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[49]The Office of Refugee Resettlement, within the Department of Health and Human Services, is responsible for taking custody of UAC from DHS and identifying qualified sponsors in the United States who will take custody of UAC once they leave Office of Refugee Resettlement shelters and are awaiting immigration proceedings.

[50]DOJ, FY2016 Congressional Budget Submission, Administrative Review and Appeals.

effectively by providing valuable information to the custodians of children who arrive in the United States without a parent or guardian."[51]

Since 2005, EOIR has contracted with the Vera Institute of Justice (Vera), which subcontracts with non-profit organizations, to administer LOP and LOPC. As of July 2016, EOIR administered LOP at 36 detention facilities, 2 non-detained locations and LOPC in 15 cities across the United States. According to EOIR's September 2011 blanket purchase agreement with Vera and associated statements of work, LOP and LOPC at each site, are to provide, among other things, individual and group legal orientations and the dissemination of written legal orientation materials to individuals in immigration removal proceedings.[52] LOP and LOPC sites provide self-help workshops, *pro bono* referral services and individual and group orientations. In particular, these orientations are to review the range of rights available to such individuals and the forms of relief from removal that may or may not be available to them. Table 5 provides information on the goals and objectives for LOP and LOPC in the 2011 blanket purchase agreement.

Table 5: Objectives for Legal Orientation Program (LOP) and Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC)

LOP Objectives	LOPC Objectives
(1) Increase the efficiency of immigration court proceedings	(1) Increase the efficiency of Immigration Court proceedings
(2) Decrease the duration of detention	(2) Increase the appearance rate of unaccompanied alien children (UAC) in immigration court
(3) Increase an individual's ability to make a timely decision about his or her case through the receipt of early and accurate legal information and orientation	(3) Improve the custodians' ability to assist UAC to make timely decisions in their immigration cases through receipt of early and accurate information and orientation

[51]Department of Justice, Statement of Juan P. Osuna, Director, Executive Office for Immigration Review, before the United States Senate, Committee on the Judiciary, Hearing on "The Unaccompanied Alien Children Crisis: Does the Administration Have a Plan to Stop the Border Surge and Adequately Monitor the Children," February 23, 2016.

[52]We reviewed the 2011 Federal Supply Schedule contract Blanket Purchase Agreement and associated statements of work covering fiscal years 2013 through 2016. The Federal Acquisition Streamlining Act of 1994 provided for cooperative purchasing by which the General Services Administration is to make available certain procurement and supply services for use by executive agencies at their request. Pub. L. No. 103-355, tit. I, subtit. E, pt. II, § 1555, 108 Stat. 3243, 3300-01 (codified, as amended, at 40 U.S.C. §§ 501, 502). A blanket purchase agreement is a type of simplified acquisition method which may be established to obtain supplies or services from, among others, Federal Supply Schedule contractors. Individual purchases under blanket purchase agreements may exceed the simplified acquisition threshold. See 48 C.F.R. §§ 13.303-2(c)(3), 13.303-5(b).

LOP Objectives	LOPC Objectives
(4) Facilitate access to legal counsel	(4) Facilitate access to legal counsel for UAC
NA	(5) Protect UAC from mistreatment, exploitation, and trafficking

Source: EOIR 2011 blanket purchase agreement for LOP and LOPC. | GAO-17-72

Consistent with the 2011 blanket purchase agreement, Vera submits quarterly reports to EOIR with data on, for example, the number of unique individuals who attended legal orientations and the number of referrals to *pro bono* legal services during the prior quarter. According to Vera's quarterly report summarizing LOP data through fiscal year 2015, between about 35,000 and about 65,000 individuals attended LOP legal orientations per year from fiscal years 2008 through 2015 (see fig. 11). According to EOIR headquarters officials, the decrease in the number of individuals attending LOP orientations since fiscal year 2011 mirrors the decrease in the number of individuals detained and placed in removal proceedings during this time period.

Figure 11: Individuals Served by the Executive Office for Immigration Review's (EOIR) Legal Orientation Program (LOP), Fiscal Years 2008 through 2015
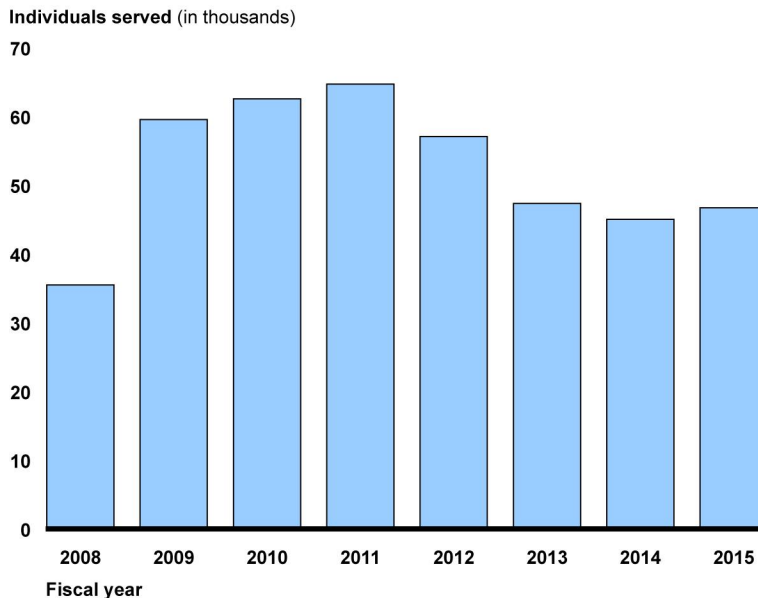
Source: The Vera Institute for Justice (Vera) quarterly reports to the Executive Office for Immigration Review. | GAO-17-72

Note: These are unique individuals who attended legal orientations provided by the Legal Orientation Program (LOP). According to EOIR officials, a person could attend more than one orientation, but Vera records attendance based on the unique individual.

Regarding LOPC, according to Vera's quarterly report summarizing LOPC data through fiscal year 2015, legal orientations to custodians

increased from about 1,500 in fiscal year 2011, when the program started, to almost 14,000 in fiscal year 2015 (see fig. 12).

Figure 12: Individuals Served by the Executive Office for Immigration Review's (EOIR) Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC), Fiscal Years 2011 through 2015

Individuals served (in thousands)
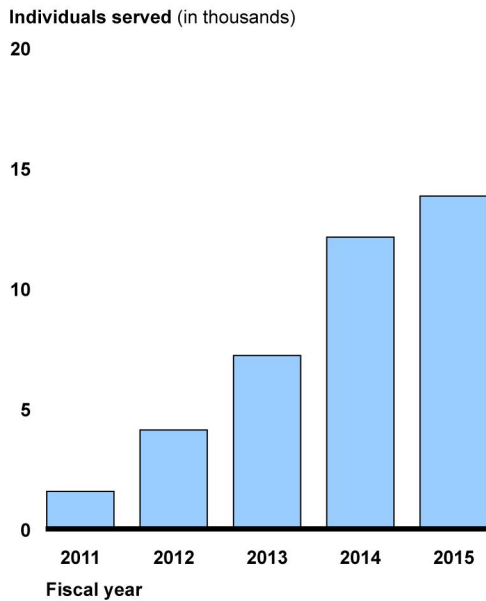
Source: The Vera Institute for Justice (Vera) quarterly reports to the Executive Office for Immigration Review. | GAO-17-72

Note: These are unaccompanied children on whose behalf an adult custodian attended legal orientations provided by the Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC).

EOIR headquarters officials stated that they review information that Vera provides through the quarterly reports to check compliance with contract requirements and to monitor the programs' progress against stated objectives. In addition, according to EOIR officials, Vera and EOIR officials conduct site visits of LOP and LOPC sites to meet with local legal service organizations to observe presentations and workshops and

discuss program performance.[53] Vera also conducts monthly meetings with site staff. EOIR officials responsible for overseeing LOP and LOPC also noted that they hold regular discussions with Vera staff and use the information collected by Vera to monitor progress. In particular, EOIR officials stated that they monitor Vera's data to identify increases or decreases in the number of individuals served in each LOP and LOPC location to determine site staffing levels or changes to existing sites.

EOIR Could Improve Efforts to Measure LOP and LOPC Effectiveness

EOIR monitors LOP and LOPC through a variety of mechanisms, but has not established a system of performance measures, including establishing a baseline, to regularly evaluate the effectiveness of LOP and LOPC to determine whether these programs are having a measurable impact in meeting program objectives. EOIR officials stated that they have monitored LOP and LOPC performance through site visits and monthly conference calls with Vera, as well as Vera's quarterly reports, annual reports, and budget analyses. Regarding LOP, EOIR officials stated that they have used many of the findings and recommendations from a one-time evaluation of the program in 2008 as a guide for monitoring LOP performance. The evaluation, conducted by Vera at the request of EOIR, found that LOP participants moved faster through immigration courts, received fewer in absentia removal orders and that LOP could effectively prepare individuals to represent themselves in immigration courts, among other things. In the 2008 LOP evaluation, Vera also concluded that immigration judges stated that LOP increased immigration court efficiency and detention facility staff stated

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[53]According to Vera's LOP training manual, LOP site visits are to be conducted annually. Vera managers and EOIR staff are to also meet with stakeholders (such as local immigration court and ICE personnel) to obtain their input, and record comments and observations about program performance and implementation challenges. After the visit, Vera managers and EOIR staff are to discuss their observations and subsequently provide feedback to LOP providers. For the LOPC, the 2011 blanket purchase agreement requires that Vera conduct site visits to monitor performance. In addition, Vera's LOPC Manual requires that providers submit monthly narrative reports to Vera and, among other things, the number of custodians and others who attended an LOPC and services LOPC attendees received.

that LOP improved detention conditions.[54] EOIR's 2011 blanket purchase agreement related to LOP and LOPC states that EOIR can request that the Contractor (i.e., Vera) produce various deliverables as needed and/or as requested by EOIR, including an evaluation of LOP program outcomes and a "performance outcome measurement program" to accurately and continuously measure and obtain quantitative and qualitative data on LOP's stated objectives.[55] Although the 2008 evaluation provided EOIR officials with valuable insight into the effectiveness of the LOP program, EOIR officials stated that they have not requested that Vera conduct a similar comprehensive outcome performance measurement program consistent with the 2011 blanket purchase agreement. Further, as of July 2016, EOIR officials stated that they have not required Vera to develop a formal performance outcome measurement program, or other formal performance measures, for LOP as allowed for in the blanket purchase agreement because of the variation in how LOP providers operate programs at each site.

Regarding LOPC, the 2011 blanket purchase agreement states that, as specified in an executed blanket purchase agreement task order, Vera is to develop a system for measuring the performance of the program against its stated objectives by collecting program data on the number of UAC custodians served and the number of UACs represented by counsel, among other things. In addition, EOIR officials stated that they requested that Vera evaluate LOPC's performance in 2014, consistent with the 2011 agreement. In August 2016, EOIR provided us a copy of the final evaluation report. Among other things, the report states that in absentia rates were lower for UAC whose custodians attended an LOPC orientation. In addition, custodians who Vera surveyed after attending an LOPC orientation reported learning about children's legal rights and options for relief, as well as the importance of appearing in immigration court. In the report, Vera recommended that EOIR and Vera, among other things, consistently identify UAC in EOIR's case management system and

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[54]Vera Institute of Justice Center on Immigration and Justice, *Legal Orientation Program: Evaluation and Performance Outcome Measurement Report, Phase II*, a report prepared at the request of the Executive Office of Immigration Review, May 2008. The evaluation compiled LOP data from January 1, 2006 through August 31, 2006, and included interviews with LOP stakeholders, including participants, providers, immigration judges, court administrators, detention facility staff and ICE employees to identify differences in case outcomes between individuals who received and did not receive LOP services.

[55]EOIR can request other deliverables such as a training conference, training manuals, and financial status reports, among other things.

follow up with custodians to encourage attendance at orientations.[56] EOIR officials stated in July 2016 that they do not plan to request another evaluation of LOPC, but will use these evaluation findings and recommendations to make any necessary program improvements.

Consistent with requirements outlined in GPRAMA, performance measurement is the ongoing monitoring and reporting of program accomplishments, particularly towards pre-established goals and agencies are to establish performance measures to assess progress towards goals. [57] While GPRAMA is applicable to the department or agency level, performance goals and measures are important management tools to all levels of an agency, including the program, project or activity level. Agencies can use performance measurement to make various types of management decisions to improve programs and results, such as developing strategies and allocating resources, and identify problems and take corrective action. Because of its ongoing nature, performance measurement can serve as an early warning system to management and as a vehicle for improving accountability to the public.

EOIR headquarters officials stated that they have not established performance measures for LOP and LOPC because of the variation in how providers operate these programs at detention facilities and non-detained immigration courts, which results in the inability to have a "one-size fits all" approach. Rather, EOIR headquarters officials explained that program managers at headquarters regularly assess LOP and LOPC sites on an individual basis to (1) identify the number of individuals served by each full time staff position with the local subcontracted organization and (2) determine whether demand for services has increased or decreased. Based on this information, headquarters officials make necessary adjustments, such as closing a site with decreased demand for services and opening a new site with new demand. EOIR officials stated that this process provides flexibility to make changes at LOP and LOPC sites as needed in response to differing conditions at each location. However, EOIR has not established baselines for these data it collects from Vera and therefore does not have adequate performance

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[56]Vera Institute of Justice, *Outcome of the Legal Orientation Program for Custodians (LOPC)*, 2014.

[57]GPRA, Pub. L. No. 103-62, 107 Stat. 285 (1993), was updated by the GPRA Modernization Act of 2010, Pub. L. No. 111-352, 124 Stat. 3866 (2011). See 31 U.S.C. § 1115 (relating to agency performance plans and performance measurement).

measurements against which to compare the data to determine whether the programs are achieving stated goals. Solely tracking increases or decreases in program data, such as changes in the number of individuals served in detention facilities, does not allow EOIR to fully evaluate its LOP and LOPC programs as such changes in the data may not be an indicator of program success or increased efficacy. Developing and implementing performance measures, including establishing a baseline, to independently and periodically determine whether LOP and LOPC are having a measurable impact would better position EOIR to make any adjustments necessary to improve the programs' performance.

Conclusions

EOIR's primary mission is to adjudicate immigration cases in a careful and timely manner while ensuring the standards of due process and fair treatment for all parties involved. EOIR's LOP and LOPC aim to achieve the dual goals of increasing the efficiency of immigration court proceeding, while also increasing individuals' ability to make timely decisions about their immigration cases through receipt of early and accurate legal information. Our multivariate analysis of EOIR data on completed asylum applications from May 2007 through fiscal year 2014 indicates that whether an applicant has legal representation, in particular, can have a significant effect on the outcome of the application. Since 2008, EOIR has facilitated access to legal resources to thousands of individuals through LOP and LOPC legal orientations. While EOIR monitors LOP and LOPC through a variety of mechanisms, establishing a system of performance measures, including establishing a baseline, could better position EOIR to determine whether these programs are having a measurable impact in meeting program objectives and goals.

Recommendation for Executive Action

To better assess whether the LOP and LOPC are having a measurable impact in meeting their program objectives, the Director of EOIR should develop and implement a system of performance measures, including establishing a baseline, to regularly evaluate the effectiveness of LOP and LOPC and assess whether the programs are achieving their stated goals.

Agency Comments and Our Evaluation

We provided a draft of this report to DOJ and DHS for their review and comment. DOJ did not provide official written comments to include in this report. However, in an e-mail received on October 24, 2016, an Associate General Counsel for EOIR stated that EOIR concurred with our recommendation. DHS did not provide written comments on our draft report. DOJ and DHS provided technical comments, which we incorporated as appropriate.

Should you or your staff have questions about this report, please contact me at (202) 512-8777 or gamblerr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff that made key contributions to this report are listed in appendix IV.

Rebecca Gambler Director Homeland Security and Justice

List of Committees

The Honorable John H. Hoeven Chairman The Honorable Jeanne Shaheen Ranking Member Subcommittee on Homeland Security Committee on Appropriations United States Senate

The Honorable John R. Carter Chairman The Honorable Lucille Roybal-Allard Ranking Member Subcommittee on Homeland Security Committee on Appropriations House of Representatives

Appendix I: Executive Office for Immigration Review (EOIR) Training for Immigration Judges

EOIR provides training to new immigration judges and annual training to all incumbent judges to assist them in rendering decisions on asylum applications. Since 2008, EOIR has expanded its training program for new immigration judges (see table 6).

Table 6: Changes in Training for New Immigration Judges, Fiscal Years 2008 to 2016

	2008 to 2013	2013 to October 2015	October 2015 to present
Total required weeks	Expanded from 2 to 5 weeks in 2008	5 weeks	6 to 7 weeks
Asylum-specific lessons	Two hours	Two hours	7 hours
Testing	3 exams and new judges must score 80 percent or higher to demonstrate mastery of learning objectives.	3 exams and new judges must score 80 percent or higher to demonstrate mastery of learning objectives.	4 exams and new judges must score 80 percent or higher to demonstrate mastery of learning objectives.
In person	One week of in-class training at the National Judicial College (NJC)	One week in-class training at EOIR headquarters	Two weeks in-class training at EOIR headquarters
On-the-job	Three weeks of on-the-job training at home and visiting court	Three weeks of on-the-job training at home and visiting court	Three weeks of on-the-job training at home and visiting court
Advanced training	One week of advanced training to be provided 6 to 12 months after completing initial four weeks	One week of advanced training to be provided 6 to 12 months after completing initial four weeks	One week of advanced training to be provided 6 to 12 months after completing initial five weeks

Source: GAO analysis of Executive Office for Immigration Review interviews and documents. | GAO-17-72

In addition to training requirements for new immigration judges, EOIR holds annual conferences for all immigration judges at EOIR headquarters. EOIR held an annual conference in person for incumbent immigration judges in fiscal years 2008, 2009, 2010 and 2015. According to EOIR officials, EOIR did not host the annual conference in fiscal years 2011, 2012, and 2013 due to resource constraints. In fiscal year 2014, EOIR planned to hold the conference, but canceled it due to the increase in workload that resulted from the large numbers of unaccompanied

children and families who were apprehended at the southwest border and placed in removal proceedings in the summer of 2014, according to EOIR officials.[1] According to the EOIR headquarters official responsible for training, EOIR decides whether to have the conference each year based on available funding. During years when the conference was not offered in person, EOIR video recorded conference sessions on discs and mailed them to immigration judges to watch.

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[1]EOIR reallocated resources to prioritize cases resulting from the influx of unaccompanied children and families and recent border crossers. Specifically, EOIR adjusted court dockets to consolidate the amount of hearing time devoted to detained cases and to scheduling first hearings for the cases of unaccompanied children and families.

Appendix II: Objectives, Scope, and Methodology

Our objectives were to (1) describe the extent of variation in the outcomes of completed asylum applications over time and across immigration courts and judges; (2) discuss the factors associated with variability in the outcomes of completed asylum applications; and (3) examine the extent to which the Executive Office for Immigration Review (EOIR) has taken action to facilitate access to legal resources, including representation, for asylum applicants.

To address all three objectives, we reviewed EOIR documents describing asylum applications statistics; policies, procedures related to immigration court proceedings; manuals and documents describing EOIR's case management system; guidance and training provided to judges for adjudicating asylum applications; and documentation on EOIR's legal access programs. We interviewed EOIR headquarters officials responsible for overseeing immigration court proceedings; EOIR's case management system; immigration judge training and guidance and legal access programs. We also visited 10 immigration courts in Tacoma, Washington; Seattle, Washington; New York, New York; Newark, New Jersey; Elizabeth, New Jersey; Los Angeles, California; Adelanto, California; Miami, Florida; Krome, Florida; and, Arlington, Virginia. At these locations, we interviewed supervisory immigration judges, immigration judges, court administrators and observed removal proceedings for individuals applying for asylum. We also interviewed supervisory immigration judges, immigration judges and court administrators by telephone at two additional immigration courts in El Paso, Texas and Atlanta, Georgia. Because immigration judges have large caseloads and constrained schedules, we interviewed judges who were available to speak with us during our scheduled interviews. We interviewed the court administrator and supervisory immigration judge for each immigration court we visited or contacted. During the immigration court interviews, we used semi-structured interview questions to ask about (1) potential factors associated with changes in asylum applications outcomes over time, (2) training and guidance provided to immigration judges for adjudicating asylum applications, and (3) EOIR immigration court efforts to facilitate access to legal resources for asylum seekers. We selected these sites based on a variety of factors, including courts that

adjudicate a large number of asylum cases, detained and non-detained dockets, a range of grant rates, and circuit court jurisdictions. We also interviewed staff from U.S. Immigration and Customs Enforcement (ICE), Office of the Principal Legal Advisor, Offices of the Chief Counsel and asylum pro bono/advocacy organizations proximate to each immigration court interviewed to gain their perspectives on (1) potential factors associated with changes in asylum applications outcomes over time and (2) immigration court efforts to facilitate access to legal resources for asylum seekers. The results from our site visits cannot be generalized more broadly to all immigration courts or immigration judges. However, they provided important context and insights into EOIR's efforts to assist immigration judges in adjudicating asylum applications, perspectives on training and guidance provided to immigration judges and EOIR efforts to facilitate access to legal resources.

Extent of Variation in Completed Asylum Applications

To describe the extent of variation in the outcomes of completed asylum applications, we analyzed data from EOIR about completions of asylum applications from fiscal year 1995 through fiscal year 2014, the most current data available at the time of our analysis. We obtained EOIR records of all immigration court removal proceedings that occurred during the period covered by our analysis. We selected those records where the immigration judge made the decision on the asylum application and eliminated decisions that were made after appeals. We selected only records for "lead" applicants, using the applicant's alien number—a unique registration number that the Department of Homeland Security assigns to foreign nationals in immigration court proceedings—as the unit of analysis. We eliminated duplicate decisions for a spouse and/or dependent children because they derive from the decision on the lead applicant. As in our 2008 report, we selected the immigration courts and countries of nationality that contributed a minimum of 800 affirmative and 800 defensive asylum decisions on asylum applications from fiscal year 1995 through fiscal year 2014; our analysis in this report included applicants from 41 countries and 28 immigration courts. We selected the 800 minimum in each category to help ensure a sufficient number of completed asylum applications for our analysis. The results of our analysis cannot be generalized to asylum seekers from other countries or to other immigration courts. We used EOIR's case management system to identify immigration court proceedings where an immigration judge had made a decision on an applicant's asylum application. We assessed the reliability of the data used in our analyses through electronic testing,

analyzing related database documentation, and working with agency
officials to reconcile discrepancies between the data and documentation
that we received. We determined that the EOIR data on completions of
asylum applications were sufficiently reliable for the purposes of
describing the extent of variation in the outcomes of completed asylum
applications. We reported separately on affirmative and defensive
completed asylum applications to control for characteristics shared by
cases in each of those groups that could affect outcomes, such as
whether the asylum application had already been reviewed by a U.S.
Citizenship and Immigration Services (USCIS) asylum officer.

We also obtained biographical information from EOIR on those
immigration judges who had served during the time period of our analysis.
We merged these biographical data with the EOIR immigration court
proceedings data. In doing so, we produced a dataset for the analysis
that combined proceedings records with information on the characteristics
of the applicants, the immigration judges, the immigration courts, and the
completion or decision on the applicants' asylum applications. We
selected immigration judges with completions on at least 50 affirmative
and 50 defensive asylum applications from fiscal year 1995 through fiscal
year 2014. We selected the 50 minimum in each category to help ensure
having judges who completed a sufficient number of asylum applications
for our analysis. In analyzing differences in asylum decision across
immigration judges, we excluded those immigration judges who heard
fewer than 50 affirmative cases in our analyses of affirmative asylum
decisions and fewer than 50 defensive cases in our analyses of defensive
asylum decision. We also excluded cases heard by immigration judges
other than in their primary court in order to simplify the presentation and
avoid reaching inappropriate conclusions that can occur when
calculations are based on small numbers of cases. We assessed the
reliability of the data used in our analyses through electronic testing and
working with agency officials to reconcile discrepancies between the data
and documentation that we received. We determined that the EOIR
immigration judge biographical data were sufficiently reliable for the
purposes of producing a dataset that included characteristics of
immigration judges in order to describe the extent of variation in the
outcomes of completed asylum applications.

In 2008, we reported the asylum "grant rate" as the number of asylum
applications granted divided by the total number of all granted and denied
applications. In other words, the grant rate depended on the number of
completed asylum applications that ended in a decision by the
immigration judge of either grant or denial. In this report, to provide data

on all of the outcomes of completed asylum applications during our period
of analysis, we included the five possible outcomes in calculating the
asylum grant rate. These include applications that were granted and
denied, as well as those that had an outcome of withdrawn, abandoned,
or other. Thus, for the purposes of this report, we define the asylum grant
rate as the number of granted asylum applications divided by the total
number of completed applications (completions include applications that
are granted, denied, withdrawn, abandoned, or end in an outcome of
"other") during the period of analysis. An expanded definition allows us to
describe the outcomes of completed asylum applications, including
outcomes other than granted or denied, and trends in those outcomes.
Although we analyzed data from fiscal year 1995 through fiscal year
2014, our reporting is focused on the time period from May 2007 through
fiscal year 2014 because this is the most recent period and includes
asylum completions since we last reported on asylum outcomes in 2008.

Factors Associated with Variability in Completed Asylum Applications

To discuss the factors associated with variability in the outcomes
completed asylum applications, we used multivariate statistical modeling
that held constant various other factors that could be associated with
asylum grant rates. Our analysis used multivariate statistical methods to
attribute the unique contribution of each factor to variation in asylum grant
rates. Our analysis updated our previous work on this issue, which took a
similar but not identical approach.[1] Previously, we used multiple logistic
regression to estimate the associations between various case, judge, and
court factors and the probability that an applicant would receive asylum.
Our current analysis generally takes the same approach to update our
prior findings with more recent data on asylum applications completed
from May 2007 through fiscal year 2014. However, we revised aspects of
our data collection, preparation, and analysis to adjust for changes to the
available administrative data and to allow for more precise reporting on
the results. For a more detailed discussion of our multivariate analyses,
see Appendix III.

As in our 2008 report, data limitations prevented us from fully isolating
variation due to the unique judge or court. EOIR's case management

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[1]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).

system collects information to meet EOIR's administrative needs, such as the contact information of the applicant, the identity of the judge, and the languages spoken by the applicant. We used data from this system for statistical analysis because they are the primary data available on the population of interest. However, EOIR's system does not collect data on all the details of individual proceedings that would be relevant to fully isolate variation across judges and courts. In particular, we cannot hold constant all relevant facts and circumstances of each case because EOIR's case management system does not collect that information. Such facts and circumstances could be legally relevant and affect an applicant's chance of receiving asylum. As a result, our estimates of the unique variation due to judges and courts may reflect circumstances of the cases that we cannot measure. Nonetheless, the data available allowed us to control for certain factors of each asylum application, enabling us to compare outcomes across immigration courts and judges.

The data available allowed us to hold constant certain characteristics of each case, such as applicant language, applicant country of nationality, judge experience, and court district. Accounting for these characteristics improves upon a simple comparison of asylum grant rates across judges and courts, without any adjustment. Table 7 below lists the factors used in our analysis and the source of the data. These characteristics may be correlated with the underlying facts and circumstances of each case, and therefore may indirectly explain factors we cannot measure. Data limitations prevented us from controlling for factors other than those listed in table 7 that could have contributed to variability in asylum application outcomes.

Table 7: Variables Used in GAO Analyses of Factors Affecting Asylum Outcomes

Applicant-related variables	Data Source
Asylum case type • Affirmative (filed with U.S. Citizenship and Immigration Services Asylum Office) • Defensive (filed at immigration court)	Executive Office for Immigration Review (EOIR)
Date of asylum case completion 1. 10/1/1994 – 3/31/1997 2. 4/1/1997 – 9/11/2001 3. 9/12/2001 – 4/30/2007 4. 5/1/2007 – 9/30/2014	EOIR
Nationality of asylum seeker	EOIR
Language spoken by asylum seeker	EOIR

Applicant-related variables	Data Source
Representation • Represented by legal counsel recognized to practice in immigration court • Not represented	EOIR
Dependents • Has one or more dependents • Has no dependents	EOIR
Detention status • Currently or previously detained • Never detained	EOIR
Application filed within 1 year of entry into the United States • Yes • No	EOIR
Asylum application outcome • Grant • Denial • Withdrawal • Abandonment • Other	EOIR

Court-related variables	Data Source
Immigration court in which the asylum case was adjudicated	EOIR
Federal circuit in which immigration court is located	U.S. Courts
Court asylum caseload • Cumulative number of asylum case completions in the court from 10/1/1994 through the date of the decision • Number of asylum case completions in the court in the 90 days prior to the case decision	EOIR

Judge-related variables	Data Source
Immigration judge (name and code)	EOIR
Gender of immigration judge • Case adjudicated by male immigration judge • Case adjudicated by female immigration judge	EOIR
Length of service as an immigration judge at time of adjudication	EOIR
Presidential administration under which immigration judge was appointed	EOIR
Judge asylum caseload • Cumulative number of asylum case completions by the judge from 10/1/1994 through the date of the decision • Number of asylum case completions by the judge in the 90 days prior to the case decision	EOIR

Source: GAO analysis of EOIR and U.S. Courts data. │ GAO-17-72

EOIR Actions to Facilitate Access to Legal Resources

To examine the extent to which EOIR has taken action to facilitate access
to legal resources, we reviewed the Legal Orientation Program (LOP) and
the Legal Orientation Program for Custodians of Unaccompanied Alien
Children (LOPC) program documents and data, including the 2011
blanket purchase agreement and statements of work covering fiscal years
2013 through 2016; quarterly reports, annual reports; site visit reports,
and evaluation reports; and, data reported by the Vera Institute of Justice
(Vera) on the number of unique individuals served by LOP (fiscal years
2008 through 2015) and LOPC (fiscal years 2011 through 2015). We
analyzed these time periods because our 2008 report[2] reviewed EOIR
data through 2007 (for LOP) and LOPC was established in 2010. We also
reviewed documentation on EOIR's other legal access services, including
self-help materials and programs intended to increase pro bono
representation and serve vulnerable populations, the BIA Pro Bono
Project, the Model Hearing Program, National Qualified Representative
Program and the justice AmeriCorps Legal Service for Unaccompanied
Children program. To obtain additional context on the LOP and LOPC, we
reviewed DOJ's Fiscal Year 2016 Congressional Budget Submission and
testimony statements about LOPC provided by EOIR's director. We also
interviewed headquarters officials responsible for overseeing the LOP
and LOPC, as well as officials from Vera, who administer LOP and LOPC
through a contract with EOIR. We analyzed the documentation on LOP
and LOPC and information provided by EOIR officials on these programs
in light of principles outlined in the Government Performance and Results
Act (GPRA) of 1993, as updated by the GPRA Modernization Act
(GPRAMA) of 2010,[3] to assess EOIR's efforts to measure LOP and
LOPC progress and results against performance measures. We focused
our review on the LOP and LOPC because these are among EOIR's
longest-standing legal access programs, they have received more funding
than EOIR's Office of Legal Access Programs' (OLAP) other programs,
and they have served tens of thousands of individuals since 2003 at
immigration courts throughout the United States.

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[2]GAO-08-940.

[3]GPRA, Pub. L. No. 103-62, 107 Stat. 285 (1993), was updated by the GPRA
Modernization Act of 2010, Pub. L. No. 111-352, 124 Stat. 3866 (2011). In particular, see
31 U.S.C. § 1115 (relating to agency performance plans and performance measurement).

We conducted this performance audit from January 2015 to October 2016 in accordance with generally accepted government 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 III: Multivariate Statistical Analysis of Outcomes of Completed Asylum Applications, Fiscal Years 1995 through 2014

To analyze how asylum grant rates varied across immigration judges and courts, we used multivariate statistical modeling that held constant various factors that could be associated with asylum grant rates. Below, we describe the goals of this analysis and the design and modeling methods we used. We describe the scope of our analysis and the data we analyzed in appendix II.

Goals of the Analysis

The primary goal of our analysis was to isolate variation in asylum grant rates due to the unique immigration judge or court assigned to each case. Variation in asylum grant rates could arise from the facts and circumstances of each case, and researchers have found that variation is not unexpected given the institutional conditions under which judges operate, including the particular requirements of the law, the standard under which a judge may request corroborating evidence, and the difficulty of assessing credibility.[1] We sought to hold constant relevant variables at the case, judge, and court levels, to estimate the amount of residual variation that remained across immigration judges and courts.

Variation in asylum grant rates across immigration judges and courts could reflect various other factors that are statistically correlated with them. For example, if immigration courts tended to receive applications from asylum-seekers of the same country of nationality, asylum grant rates could potentially vary systematically based on nationality rather than on the unique nature of the judge or court. Similarly, the quality and

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[1]Miller, Keith, and Holmes, *Immigration Judges and U.S. Asylum Policy*, (Philadelphia: University of Pennsylvania Press, 2015).

accessibility of legal representation across the United States could potentially affect the outcomes of asylum applications. Since immigration judges' decisions on asylum applications may incorporate many factors, such as credibility and the facts underlying the claims, simple univariate comparisons of asylum grant rates across judges and courts cannot distinguish among these various potential sources of variation.

Design and Modeling Methods

The data available from the Executive Office for Immigration Review's (EOIR) case management system have a multilevel structure. Multiple applications for asylum are clustered within the same judges, courts, languages, and nationalities. These groups can be clustered among themselves, with or without nesting. Our data processing, discussed above, assigned one court to each judge, so that each judge was nested within the court in which they adjudicated the most cases. The remaining groups—courts, languages, and countries of nationality—were not necessarily nested. Each language could have been associated with multiple nationalities and *vice versa*. Each court could have been associated with multiple languages and countries of nationality; however, in practice, courts could have heard cases from a predominate combination of languages and nationalities, such as Chinese nationals who speak Mandarin and apply for asylum in New York.

The scope of our analysis included all completed asylum applications that met the screening criteria discussed in appendix II and that ended in outcomes of grant, deny, withdrawal, abandonment, or "other." However, we dichotomized the outcome of interest to reflect whether the applicant was granted asylum or the application ended with any of the other outcomes. Expanding the scope of our sample to include all completed asylum applications rather than only applications that were granted or denied allowed us to analyze the outcomes of all completed asylum applications. Dichotomizing the outcome produced asylum grant rates as a proportion of applications originally filed that meet our screening criteria, which prevented bias from potentially changing withdrawal practices over time.

The data and outcome of interest suggested that a hierarchical or mixed logistic regression model would adequately reflect the data generation process. Accordingly, we developed a mixed model that represented the grouping variables—judge, court, country of nationality, and language, respectively—with random intercepts. Random effects allowed asylum

grant rates to be correlated within and across groups, which parameterized our hypothesis that rates may systematically vary across groups, all else being equal on the factors we analyzed. Random effects made the model parsimonious because we could use the group variance parameters to concisely describe variation across groups with many levels. In contrast, modeling group variation with fixed effects would have required estimating several hundred explicit parameters, one for each group level, which would have consumed degrees of freedom and complicated model interpretation.

Substantively, random effects accurately represented the random assignment of judges to cases, which EOIR generally uses as an administrative policy. Random assignment of countries of nationality, languages, and courts has less of a direct substantive interpretation, but would be consistent with an underlying data generation process where the sample of asylum cases heard in any particular time period would be drawn from an underlying population distribution of immigration courts and applicant nationalities and languages.

We held constant case, judge, and court characteristics using covariates with fixed parameters. The smaller number of parameters associated with these covariates made a fixed effects approach easier to apply and interpret. We assumed that the covariate effects did not vary across groups, so that only the model's intercept varies randomly. We had no prior expectation that specific covariate effects should have varied across groups. Moreover, increasing the number of random effects would have increased the complexity of the model and could have made it hard to estimate computationally.

We modeled the data separately by asylum type (affirmative and defensive) and time period. This allowed all model parameters to vary between asylum types and over time. The alternative approach, pooling the data, potentially would have obscured important differences in the affirmative and defensive asylum processes and important changes in the processes over the 20 years that our data spanned. Specifically, we modeled Y_i, a dichotomous variable indicating whether applicant i in the affirmative or defensive processes was granted asylum. Each applicant was associated with a judge j, court c, nation n, and language l. Consistent with a hierarchical logistic model, we assumed that

$$E\left(Y_i \mid \boldsymbol{x_i}, \boldsymbol{\beta}\right) = \text{Logit}^{-1}\left(\alpha + \alpha_j + \alpha_c + \alpha_n + \alpha_l + \mathbf{x}_i \boldsymbol{\beta}\right)$$

$$\alpha_j \sim N(0, \sigma_j^2)$$
$$\alpha_c \sim N(0, \sigma_c^2)$$
$$\alpha_n \sim N(0, \sigma_n^2)$$
$$\alpha_l \sim N(0, \sigma_l^2)$$

$\mathbf{x}_i$ denoted a vector of covariates with fixed coefficients $\boldsymbol{\beta}$. α (.) denoted the group random effects, each of which was normally distributed and centered on zero. α was the population average intercept, with intercepts for each group given by $\alpha + \alpha_{(.)}$. The variances of the random effects around the population average were denoted by $\sigma_{(.)}^2$.

We used most of the covariates from our 2008 report on this issue.[2] However, we excluded several covariates that were unassociated with outcome in that report and that were labor-intensive to measure. For example, measuring a judge's prior work experience for our prior report involved biographical research on each judge. Specifically, the covariate vector $\mathbf{x}_i$ included the following:

- whether the applicant had one or more dependents (indicator);
- whether the applicant sought asylum within one year of entry into the United States (indicator);
- whether an applicant was represented by counsel recognized to practice in immigration court (indicator);
- whether the applicant was ever detained (indicator for being currently detained or having been detained and released, compared to never having been detained; defensive cases only);
- Presidential administration under which judges were appointed (vector of indicators, with the subsample mode set as the omitted level);
- judge years of experience (linear);
- judge gender (indicator);

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[2]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).

- judge asylum caseload since October 1, 1994, the earliest date in our data, and in the 90 days prior to the completion of the asylum application, respectively (linear);

- Circuit court (vector of indicators, with the subsample mode set as the omitted level); and

- Court asylum caseload since October 1, 1994, the earliest date in our data, and in the 90 days prior to the decision, respectively (linear).

For each subsample defined by asylum type (affirmative or defensive) and period, we rescaled the continuous covariates such that the vector of sample means equaled 0 and the vector of variances equaled 1. We rescaled each categorical covariate, including the groups used to define random effects, such that the first level identified the mode and served as the omitted level in a vector of indicator variables in xi for each variable. After rescaling, α estimates the overall asylum grant rate for an applicant having modal or mean values on $\mathbf{x}_i$ and $\alpha_{(.)}$. $\sigma_{(.)}^2$ estimates the dispersion of asylum grant rates across judges, courts, nations, and languages around the population average for an applicant at the mode or mean of xi.

The center of the data at α does not necessarily correspond to a realistic application for asylum. For example, all judges do not practice at the modal court and all languages may not be spoken in the modal nation. Nevertheless, rescaling facilitates estimation and interpretation of the model. All inference can be done on α and α (.) directly, with no transformation required. This allowed us to easily describe variation in asylum grant rates for a hypothetical representative case in the distribution of each covariate and group.

The key parameters of interest are the variances of the group random effects, $\sigma_{(.)}^2$, and implicitly, the fitted group-level distribution of asylum grant rates for a modal or mean applicant:

$$\alpha_{(.)} \sim \mathrm{N}\left(\hat{\alpha}, \hat{\sigma}_{(.)}^2\right)$$

To describe variation across groups on the probability scale, we estimated the quantiles of this group distribution on the logit scale and then transformed them using the inverse logistic function.[3]

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[3]Stephen W. Raudenbush and Anthony S. Bryk, *Hierarchical Linear Models: Applications and Data Analysis Methods*, 2d ed (Thousand Oaks, CA: Sage Publications, 2002), 297.

We estimated the model using maximum approximated likelihood methods, as implemented in the lme4 package in R.[4] We estimated the confidence intervals of fixed parameters using Wald approximations and the fitted covariance matrix. We estimated the confidence intervals of the group random effect variances using profiled likelihood methods, as implemented in lme4.[5] We transformed the estimated confidence intervals from the logit scale to the probability scale using the inverse logistic calculation described above.

Results

Tables 8 through 14 report estimates of the fixed parameters on the exponentiated logit scale and estimates of the random effect variances on the logit scale, separately for affirmative and defensive applications. The exponentiated scale allows us to interpret the results as odds-ratios or semi-elasticities for categorical or continuous variables, respectively. We omit estimates for the fixed effect parameters on the logit scale to prevent the calculation of exact grant probabilities. Please see the body of our report for further interpretation of the results.

Table 8: Results from Hierarchical Logistic Modeling of Completed Affirmative Asylum Applications, October 1994 through September 2001

Parameters[a] *Fixed (exponentiated logit scale)*	October 1994 through March 1997 Estimate (95% CI)	April 1997 through September 2001 Estimate (95% CI)
Has dependents	1.88 (1.63, 2.16)	1.86 (1.75, 1.99)
Female judge	1.25 (0.9, 1.72)	1.43 (1.12, 1.86)
Applied within 1 year of entry	1.9 (1.68, 2.12)	2.01 (1.92, 2.14)
Not represented by legal counsel	0.17 (0.14, 0.2)	0.23 (0.21, 0.25)
Years of judge experience	0.73 (0.54, 0.98)	1.11 (0.92, 1.31)
Appointed under Johnson, Nixon, or Carter[b]	1.55 (0.5, 4.76)	0.46 (0.21, 1.04)
Appointed under Reagan	1.73 (0.87, 3.46)	0.86 (0.54, 1.38)
Appointed under Bush I	1.4 (0.85, 2.29)	1.34 (0.9, 2.01)
Appointed under Bush II	0.85 (0.44, 1.67)	1 (0.61, 1.65)
Circuit court 1[c]	0.75 (0.26, 2.18)	1.73 (0.45, 6.62)

[4]Douglas Bates, Martin Mächler, Benjamin M. Bolker, and Steven C. Walker,"Fitting Linear Mixed-Effects Models Using lme4," *Journal of Statistical Software*, 67 (1), 1-48.

[5]*Ibid*., 25-27.

Parameters[a] *Fixed (exponentiated logit scale)*	October 1994 through March 1997 **Estimate (95% CI)**	April 1997 through September 2001 **Estimate (95% CI)**
Circuit court 2	0.47 (0.23, 0.98)	0.4 (0.14, 1.11)
Circuit court 3	0.5 (0.23, 1.08)	1.23 (0.44, 3.46)
Circuit court 4	1.4 (0.67, 2.94)	1.17 (0.42, 3.29)
Circuit court 5	1.51 (0.68, 3.35)	1.82 (0.68, 4.9)
Circuit court 6	0.14 (0.02, 0.83)	0.99 (0.29, 3.42)
Circuit court 7	0.81 (0.24, 2.75)	1.67 (0.42, 6.49)
Circuit court 8	NA	0.9 (0.15, 5.42)
Circuit court 9	NA	NA
Circuit court 10	0.55 (0.15, 2.01)	3.25 (0.76, 14.01)
Circuit court 11	0.54 (0.23, 1.26)	0.71 (0.28, 1.8)
Circuit court missing	1.49 (0.08, 29.37)	0.83 (0.19, 3.6)
Judge asylum total caseload to date	0.97 (0.81, 1.15)	0.92 (0.82, 1.04)
Judge asylum caseload in 90 days prior	0.83 (0.73, 0.93)	0.99 (0.93, 1.04)
Court asylum total caseload to date	1.32 (1.09, 1.6)	1.82 (1.63, 2.03)
Court asylum caseload in 90 days prior	0.92 (0.76, 1.13)	1.19 (1.07, 1.3)

Random (logit scale)	October 1994 through March 1997 **Estimate (95% CI)**	April 1997 through September 2001 **Estimate (95% CI)**
σ_j	0.7 (0.58, 0.84)	0.69 (0.61, 0.78)
σ_l	0.62 (0.38, 0.92)	0.49 (0.37, 0.64)
σ_n	1.33 (1.05, 1.72)	1.25 (1.01, 1.59)
σ_c	0.27 (0, 0.58)	0.56 (0.37, 0.84)

Group distributions (probability scale)[d]	October 1994 through March 1997 Mean (95% predictive interval)	April 1997 through September 2001 Mean (95% predictive interval)
Judge	0.11 (0.03, 0.32)	0.22 (0.07, 0.51)
Language	0.11 (0.03, 0.29)	0.22 (0.1, 0.42)
Nation	0.11 (0.01, 0.62)	0.22 (0.02, 0.76)
Court	0.11 (0.07, 0.17)	0.22 (0.08, 0.45)

Source: GAO analysis of data from EOIR's case management system. | GAO-17-72

aModel includes an intercept, but an exponentiated estimate is not meaningful. The sample has been rescaled, such that the intercept identifies an applicant at the sample mean or mode on all other covariates.

bEstimates for all administrations of appointment are not applicable, depending on the sample's time period and sample selection criteria. The reference group is the sample modal administration.

cEstimates for all circuit courts are not applicable, because our scoping criteria for selecting the analysis sample excluded cases from certain circuit courts. Circuits are defined as of the time period of each sample. The reference group is the sample modal circuit.

dEstimates are the population average mean probability of granting asylum, with the 2.5th and 97.5th quantiles of the group-level distribution of asylum grant rates in parentheses, for an applicant at the sample mean on all other covariates.

Table 9: Results from Hierarchical Logistic Modeling of Completed Affirmative Asylum Applications, September 2001 through September 20014

Parameters[a] *Fixed (exponentiated logit scale)*	September 2001 through April 2007 Estimate (95% CI)	May 2007 through September 2014 Estimate (95% CI)
Has dependents	1.75 (1.67, 1.84)	1.72 (1.58, 1.86)
Female judge	1.27 (0.99, 1.63)	1.11 (0.9, 1.35)
Applied within 1 year of entry	1.95 (1.88, 2.03)	2.41 (2.27, 2.56)
Not represented by legal counsel	0.26 (0.23, 0.28)	0.32 (0.28, 0.36)
Years of judge experience	1.05 (0.9, 1.25)	0.72 (0.61, 0.85)
Appointed under Johnson, Nixon, or Carter[b]	0.25 (0.08, 0.79)	14.01 (2.51, 78.26)
Appointed under Reagan	1.04 (0.64, 1.72)	1.9 (1.22, 2.97)
Appointed under Bush I	1.22 (0.76, 1.95)	1.55 (1.02, 2.36)
Appointed under Bush II	0.71 (0.52, 0.97)	0.84 (0.61, 1.13)
Appointed under Obama	NA	0.73 (0.47, 1.12)
Circuit court 1[c]	1.08 (0.41, 2.86)	0.48 (0.17, 1.38)
Circuit court 2	1.46 (0.64, 3.35)	NA
Circuit court 3	0.62 (0.27, 1.4)	0.43 (0.17, 1.11)
Circuit court 4	0.97 (0.43, 2.16)	0.54 (0.21, 1.38)
Circuit court 5	0.61 (0.27, 1.35)	0.33 (0.13, 0.85)
Circuit court 6	0.42 (0.17, 1.06)	0.3 (0.12, 0.73)
Circuit court 7	1.32 (0.47, 3.74)	0.64 (0.21, 1.92)
Circuit court 8	0.44 (0.1, 1.88)	0.42 (0.14, 1.26)
Circuit court 9	NA	0.39 (0.19, 0.79)
Circuit court 10	0.99 (0.3, 3.25)	0.49 (0.14, 1.79)
Circuit court 11	0.54 (0.28, 1.03)	0.17 (0.08, 0.38)
Circuit court missing	0.63 (0.16, 2.41)	0.15 (0.04, 0.53)
Judge asylum total caseload to date	0.92 (0.8, 1.06)	1.15 (0.95, 1.39)
Judge asylum caseload in 90 days prior	0.99 (0.95, 1.02)	1.03 (0.99, 1.08)
Court asylum total caseload to date	1.39 (1.21, 1.6)	0.96 (0.76, 1.22)
Court asylum caseload in 90 days prior	0.81 (0.76, 0.86)	1.07 (0.97, 1.19)

Parameters[a] *Random (logit scale)*	September 2001 through April 2007 Estimate (95% CI)	May 2007 through September 2014 Estimate (95% CI)
σ_j	0.78 (0.69, 0.88)	0.59 (0.52, 0.68)
σ_l	0.54 (0.42, 0.69)	0.91 (0.71, 1.16)
σ_n	1.12 (0.91, 1.43)	1.08 (0.86, 1.38)
σ_c	0.36 (0.14, 0.62)	0.35 (0.16, 0.58)

Group distributions (probability scale)[d]	September 2001 through April 2007 Mean (95% predictive interval)	May 2007 through September 2014 Mean (95% predictive interval)
Judge	0.17 (0.04, 0.48)	0.32 (0.13, 0.6)
Language	0.17 (0.07, 0.37)	0.32 (0.07, 0.74)
Nation	0.17 (0.02, 0.65)	0.32 (0.05, 0.8)
Court	0.17 (0.09, 0.29)	0.32 (0.19, 0.48)

Source: GAO analysis of data from EOIR's case management system. | GAO-17-72

aModel includes an intercept, but an exponentiated estimate is not meaningful. The sample has been rescaled, such that the intercept identifies an applicant at the sample mean or mode on all other covariates.

bEstimates for all administrations of appointment are not applicable, depending on the sample's time period and sample selection criteria. The reference group is the sample modal administration.

cEstimates for all circuit courts are not applicable, because our scoping criteria for selecting the analysis sample excluded cases from certain circuit courts. Circuits are defined as of the time period of each sample. The reference group is the sample modal circuit.

dEstimates are the population average mean probability of granting asylum, with the 2.5th and 97.5th quantiles of the group-level distribution of asylum grant rates in parentheses, for an applicant at the sample mean on all other covariates.

Table 10: Results from Hierarchical Logistic Modeling of Completed Defensive Asylum Applications, October 1994 through September 2001

Parameters[a] Fixed (exponentiated logit scale)	October 1994 through March 1997 Estimate (95% CI)	April 1997 through September 2001 Estimate (95% CI)
Has dependents	1.62 (1.35, 1.93)	1.86 (1.57, 2.23)
Female judge	1.14 (0.86, 1.51)	1.67 (1.28, 2.16)
Applied within 1 year of entry	1.39 (1.21, 1.6)	2.5 (2.22, 2.86)
Not represented by legal counsel	0.5 (0.4, 0.64)	0.52 (0.43, 0.64)
Years of judge experience	0.75 (0.58, 0.96)	1.03 (0.84, 1.28)
Detained or Released	0.79 (0.68, 0.93)	0.67 (0.61, 0.75)
Appointed under Johnson, Nixon, or Carter[b]	1.8 (0.73, 4.48)	0.57 (0.21, 1.49)
Appointed under Reagan	1.32 (0.79, 2.2)	1.08 (0.63, 1.84)
Appointed under Bush I	1.28 (0.88, 1.88)	1.43 (0.92, 2.25)
Appointed under Bush II	0.92 (0.34, 2.46)	0.68 (0.39, 1.2)
Circuit court 1[c]	1.17 (0.39, 3.6)	1.36 (0.31, 5.87)
Circuit court 2	NA	0.81 (0.22, 2.94)
Circuit court 3	0.81 (0.29, 2.27)	1.51 (0.44, 5.16)
Circuit court 4	1.8 (0.74, 4.44)	1.72 (0.52, 5.64)
Circuit court 5	1.62 (0.66, 3.97)	2.86 (0.94, 8.58)
Circuit court 6	0.28 (0.06, 1.3)	1.27 (0.32, 5.1)
Circuit court 7	1.63 (0.57, 4.71)	2.05 (0.47, 9.03)

Parameters[a] *Fixed (exponentiated logit scale)*	October 1994 through March 1997 Estimate (95% CI)	April 1997 through September 2001 Estimate (95% CI)
Circuit court 8	NA	0.8 (0.09, 7.54)
Circuit court 9	1.46 (0.67, 3.22)	2.01 (0.79, 5.16)
Circuit court 10	0.93 (0.24, 3.67)	2.34 (0.47, 11.59)
Circuit court 11	0.7 (0.29, 1.68)	NA
Circuit court missing	0.83 (0.16, 4.31)	0.94 (0.19, 4.71)
Judge asylum total caseload to date	1.19 (1.03, 1.35)	0.98 (0.85, 1.13)
Judge asylum caseload in 90 days prior	0.87 (0.76, 0.98)	0.92 (0.85, 1)
Court asylum total caseload to date	1.11 (0.9, 1.34)	1.12 (0.9, 1.38)
Court asylum caseload in 90 days prior	0.95 (0.76, 1.17)	1.25 (1.06, 1.46)

Parameters[a] *Random (logit scale)*	October 1994 through March 1997 Estimate (95% CI)	April 1997 through September 2001 Estimate (95% CI)
σ_j	0.52 (0.42, 0.64)	0.66 (0.56, 0.77)
σ_l	0.57 (0.34, 0.89)	0.42 (0.26, 0.61)
σ_n	0.93 (0.73, 1.22)	0.97 (0.76, 1.26)
σ_c	0.29 (0.1, 0.55)	0.54 (0.32, 0.84)

Parameters[a] *Group distributions (probability scale)*[d]	October 1994 through March 1997 Estimate (95% CI)	April 1997 through September 2001 Estimate (95% CI)
Judge	0.11 (0.04, 0.26)	0.16 (0.05, 0.41)
Language	0.11 (0.04, 0.28)	0.16 (0.16, 0.30)
Nation	0.11 (0.02, 0.44)	0.16 (0.03, 0.56)
Court	0.11 (0.07, 0.18)	0.16 (0.06, 0.36)

Source: GAO analysis of data from EOIR's case management system. | GAO-17-72

[a]Model includes an intercept, but an exponentiated estimate is not meaningful. The sample has been rescaled, such that the intercept identifies an applicant at the sample mean or mode on all other covariates.

[b]Estimates for all administrations of appointment are not applicable, depending on the sample's time period and sample selection criteria. The reference group is the sample modal administration.

[c]Estimates for all circuit courts are not applicable, because our scoping criteria for selecting the analysis sample excluded cases from certain circuit courts. Circuits are defined as of the time period of each sample. The reference group is the sample modal circuit.

[d]Estimates are the population average mean probability of granting asylum, with the 2.5th and 97.5th quantiles of the group-level distribution of asylum grant rates in parentheses, for an applicant at the sample mean on all other covariates.

**Table 11: Results from Hierarchical Logistic Modeling of Completed Defensive Asylum Applications, September 2001 through
September 2014**

Parameters[a] *Fixed (exponentiated logit scale)[a]*	September 2001 through April 2007 Estimate (95% CI)	May 2007 through September 2014 Estimate (95% CI)
Has dependents	1.95 (1.72, 2.23)	1.68 (1.46, 1.95)
Female judge	1.48 (1.12, 1.93)	1.40 (1.12, 1.77)
Applied within 1 year of entry	3.23 (2.94, 3.57)	5.00 (4.76, 5.56)
Not represented by legal counsel	0.51 (0.43, 0.61)	0.55 (0.48, 0.65)
Years of judge experience	1.25 (1.03, 1.51)	0.99 (0.83, 1.2)
Detained or Released	0.72 (0.68, 0.78)	1.03 (0.96, 1.11)
Appointed under Johnson, Nixon, or Carter[b]	0.18 (0.05, 0.64)	1.86 (0.31, 11.25)
Appointed under Reagan	0.74 (0.43, 1.28)	0.92 (0.56, 1.52)
Appointed under Bush I	1.42 (0.83, 2.41)	0.98 (0.6, 1.62)
Appointed under Bush II	0.88 (0.61, 1.25)	0.98 (0.7, 1.36)
Circuit court 1[c]	3.39 (0.53, 21.54)	1.31 (0.43, 4.01)
Circuit court 2	NA	1.58 (0.64, 3.94)
Circuit court 3	1.36 (0.29, 6.42)	0.57 (0.23, 1.38)
Circuit court 4	2.75 (0.58, 13.2)	1.15 (0.49, 2.72)
Circuit court 5	3.9 (0.91, 16.61)	0.53 (0.24, 1.2)
Circuit court 6	1.3 (0.24, 7.17)	0.31 (0.13, 0.74)
Circuit court 7	2.64 (0.4, 17.12)	0.62 (0.21, 1.86)
Circuit court 8	1.05 (0.09, 12.81)	0.7 (0.25, 1.99)
Circuit court 9	2.53 (0.73, 8.94)	NA
Circuit court 10	4.71 (0.63, 35.52)	0.71 (0.22, 2.34)
Circuit court 11	1.43 (0.35, 5.99)	0.39 (0.18, 0.84)
Circuit court missing	1.25 (0.15, 10.18)	0.18 (0.05, 0.65)
Judge asylum total caseload to date	0.96 (0.82, 1.14)	1.07 (0.88, 1.31)
Judge asylum caseload in 90 days prior	1.04 (0.99, 1.09)	1.03 (0.97, 1.09)
Court asylum total caseload to date	2.46 (2.01, 3)	1.04 (0.79, 1.36)
Court asylum caseload in 90 days prior	0.91 (0.83, 1.01)	0.85 (0.75, 0.97)

Parameters[a] *Random (logit scale)*	September 2001 through April 2007 Estimate (95% CI)	May 2007 through September 2014 Estimate (95% CI)
σ_j	0.82 (0.73, 0.93)	0.72 (0.63, 0.81)
σ_l	0.56 (0.41, 0.75)	0.65 (0.48, 0.86)
σ_n	0.81 (0.64, 1.05)	0.97 (0.77, 1.25)

Parameters[a] *Random (logit scale)*	September 2001 through April 2007 Estimate (95% CI)	May 2007 through September 2014 Estimate (95% CI)
σ_c	0.7 (0.46, 1.05)	0.44 (0.21, 0.71)

Parameters[a] *Group distributions (probability scale)[d]*	September 2001 through April 2007 Estimate (95% CI)	May 2007 through September 2014 Estimate (95% CI)
Judge	0.19 (0.04, 0.54)	0.34 (0.11, 0.68)
Language	0.19 (0.07, 0.41)	0.34 (0.13, 0.65)
Nation	0.19 (0.05, 0.53)	0.34 (0.07, 0.78)
Court	0.19 (0.06, 0.48)	0.34 (0.18, 0.56)

Source: GAO analysis of data from EOIR's case management system. | GAO-17-72

aModel includes an intercept, but an exponentiated estimate is not meaningful. The sample has been rescaled, such that the intercept identifies an applicant at the sample mean or mode on all other covariates.

bEstimates for all administrations of appointment are not applicable, depending on the sample's time period and sample selection criteria. The reference group is the sample modal administration.

cEstimates for all circuit courts are not applicable, because our scoping criteria for selecting the analysis sample excluded cases from certain circuit courts. Circuits are defined as of the time period of each sample. The reference group is the sample modal circuit.

dEstimates are the population average mean probability of granting asylum, with the 2.5th and 97.5th quantiles of the group-level distribution of asylum grant rates in parentheses, for an applicant at the sample mean on all other covariates.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

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Appendix V: Accessible Data

Data Tables

Data table for Figure 2: Outcomes of Completed Affirmative Asylum Applications, Fiscal Years 1995 through 2014

Fiscal year	Other	Abandoned	Withdrawn	Denied	Granted
1995	4660	0	49	2756	258
1996	20263	2	2200	12687	1434
1997	18975	3	4988	13175	2744
1998	17789	2982	9365	12190	3361
1999	10912	5892	6545	10138	4029
2000	5099	2700	4373	7166	4086
2001	4081	2442	3128	5805	4002
2002	4407	2735	4098	6296	4541
2003	4132	2731	7364	7653	5544
2004	4446	2217	7450	6771	5108
2005	3682	2196	6327	5863	4154
2006	4716	2362	4098	4523	4080
2007	6028	2531	3231	4020	3562
2008	3406	1798	2895	3489	3060
2009	2887	1801	2500	2578	3186
2010	3179	707	2219	1753	3165
2011	1721	457	1455	1501	3646
2012	2240	323	1429	1244	4166
2013	3432	440	2057	1156	4131
2014	3454	371	1932	1034	3391

Data table for Figure 3: Outcomes of Completed Defensive Asylum Applications, Fiscal Years 1995 through 2014

Fiscal year	Other	Abandoned	Withdrawn	Denied	Granted
1995	4806	1	7	8786	1504
1996	4250	1	256	6301	1476
1997	1620	0	539	2949	1009
1998	1241	80	744	2218	852
1999	1022	183	820	1985	835
2000	1265	208	1302	3047	1181

Fiscal year	Other	Abandoned	Withdrawn	Denied	Granted
2001	1213	216	1004	4122	1803
2002	1054	241	939	5320	1970
2003	1030	281	1092	5832	2095
2004	1086	368	1192	5046	1881
2005	984	326	1113	4710	1749
2006	1180	361	1186	4510	2285
2007	1103	386	991	3951	2705
2008	865	445	939	3075	1845
2009	828	435	876	2491	1366
2010	1047	249	826	2168	1343
2011	1006	338	860	2857	1659
2012	2014	371	979	2967	1924
2013	3159	460	1090	3475	1742
2014	3960	579	1075	3666	1655

Data table for Figure 4: Asylum Grant Rates, Fiscal Years 1995 through 2014

Fiscal year	Affirmative	Defensive
1995	3.3	10
1996	3.9	12
1997	6.9	16.5
1998	7.4	16.6
1999	10.7	17.2
2000	17.4	16.9
2001	20.6	21.6
2002	20.6	20.7
2003	20.2	20.3
2004	19.7	19.6
2005	18.7	19.7
2006	20.6	24
2007	18.4	29.6
2008	20.9	25.7
2009	24.6	22.8
2010	28.7	23.8
2011	41.5	24.7
2012	44.3	23.3
2013	36.8	17.5
2014	33.3	15.1

Data table for Figure 5: Affirmative Asylum Grant Rates by Country of Nationality, May 2007 through Fiscal Year 2014

Country	Percentage
Albania	48.8
Armenia	31.7
Bangladesh	17.3
Brazil	10.7
Bulgaria	27.6
Burma (Myanmar)	56.6
Cameroon	55.2
China	63.9
Colombia	17.7
Cuba	1
Ecuador	1.4
Egypt	66.9
El Salvador	1
Eritrea	69.5
Ethiopia	66.2
Ghana	14.1
Guatemala	2.3
Haiti	8.7
Honduras	3.4
India	32.6
Indonesia	18.1
Iran	39.7
Iraq	43.5
Jordan	22.4
Laos	11.9
Lebanon	15.4
Liberia	21.2
Mexico	1.2
Nicaragua	1.6
Nigeria	17.7
Pakistan	34.2
Peru	9.3
Philippines	4.2
Romania	10.5
Russia	33.1

Country	Percentage
Sierra Leone	24.9
Somalia	27.5
Sri Lanka	58.7
Sudan	52.1
Ukraine	29.7
Yugoslavia	61.3

Data table for Figure 6: Defensive Asylum Grant Rates by Country of Nationality, May 2007 through Fiscal Year 2014

Country	Percentage
Albania	44.9
Armenia	23.5
Bangladesh	36
Brazil	11.6
Bulgaria	26.7
Burma (Myanmar)	65.8
Cameroon	53.1
China	62.1
Colombia	14.4
Cuba	5
Ecuador	8.7
Egypt	32.5
El Salvador	6.3
Eritrea	87.4
Ethiopia	65.8
Ghana	12.3
Guatemala	7.5
Haiti	12
Honduras	8.1
India	27.7
Indonesia	9.5
Iran	26.3
Iraq	61.2
Jordan	9
Laos	1.9
Lebanon	11.2
Liberia	9.1

Country	Percentage
Mexico	2.8
Nicaragua	7.2
Nigeria	13.1
Pakistan	19.1
Peru	10.6
Philippines	1.9
Romania	27.2
Russia	23.2
Sierra Leone	11.7
Somalia	48.5
Sri Lanka	38
Sudan	12.8
Ukraine	11.3
Yugoslavia	42.5

Data table for Figure 7: Affirmative Asylum Grant Rates by Court, May 2007 through Fiscal Year 2014

Court	Percentage
Arlington, VA	31.8
Atlanta, GA	1.4
Baltimore, MD	29.8
Bloomington, MN	8.5
Boston, MA	13.7
Chicago, IL	28.8
Cleveland, OH	15.6
Dallas, TX	11.5
Denver, CO	13.9
Detroit, MI	21.4
Harlingen, TX	9.2
Hartford, CT	18.8
Houston, TX	12.9
Kansas City, MO	9.4
Las Vegas, NV	6
Los Angeles, CA	11.8
Memphis, TN	31.2
Miami, FL	6
New York, NY	66.1

Court	Percentage
Newark, NJ	27.2
Omaha, NE	2
Orlando, FL	10.2
Philadelphia, PA	17.7
Phoenix, AZ	12.4
Portland, OR	10.3
San Diego, CA	16.9
San Francisco, CA	23.1
Seattle, WA	23.7

Data table for Figure 8: Defensive Asylum Grant Rates by Court, May 2007 through Fiscal Year 2014

Court	Percentage
Arlington, VA	32.9
Atlanta, GA	3.1
Baltimore, MD	28.6
Bloomington, MN	4.1
Boston, MA	18.4
Chicago, IL	15.1
Cleveland, OH	6.5
Dallas, TX	8.3
Denver, CO	9.9
Detroit, MI	9.2
Harlingen, TX	23.7
Hartford, CT	10.2
Houston, TX	7.1
Kansas City, MO	11.6
Las Vegas, NV	7.1
Los Angeles, CA	7.4
Memphis, TN	18.2
Miami, FL	7.3
New York, NY	52.2
Newark, NJ	15.1
Omaha, NE	2.4
Orlando, FL	12
Philadelphia, PA	17
Phoenix, AZ	17.7

Court	Percentage
Portland, OR	10.2
San Diego, CA	39.9
San Francisco, CA	22.8
Seattle, WA	13.5

Data table for Figure 9: Affirmative Asylum Grant Rate Ranges for Judges in Immigration Courts, May 2007 through Fiscal Year 2014

Court	Number of judges	Grant rate range	
		Low	High
ARLINGTON VA	6	21.5	72.7
ATLANTA GA	5	0	4.2
BALTIMORE MD	6	12.9	41.8
BLOOMINGTON MN	3	5.3	16.4
BOSTON MA	7	11.3	19.3
CHICAGO IL	7	28.4	62.5
CLEVELAND OH	3	9.9	28.4
DALLAS TX	5	0	25
DENVER CO	3	13.8	34.4
DETROIT MI	4	15.8	32.1
HARLINGEN TX	1	16.3	16.3
HARTFORD CT	2	17.3	25.5
HOUSTON TX	5	9.4	18.8
KANSAS CITY MO	3	0	19.4
LAS VEGAS NV	4	4.4	12.6
LOS ANGELES CA	38	0	31.3
MEMPHIS TN	3	30.1	39.4
MIAMI FL	24	0	16.8
NEW YORK NY	33	22.9	83.3
NEWARK NJ	8	18.9	37.6
OMAHA NE	3	1.9	5.5
ORLANDO FL	8	6.7	40
PHILADELPHIA PA	4	18.2	23.2
PHOENIX AZ	3	5.6	20.5
PORTLAND OR	1	11	11
SAN DIEGO CA	5	11.1	23.5
SAN FRANCISCO CA	17	4.8	38.7
SEATTLE WA	2	20.7	31.2

Data table for Figure 10: Defensive Asylum Grant Rate Ranges for Judges in Immigration Courts, May 2007 through Fiscal Year 2014

Court	Number of judges	Grant rate range	
		Low	High
ARLINGTON VA	8	7.9	51.9
ATLANTA GA	5	1	9.5
BALTIMORE MD	7	17.1	36.5
BLOOMINGTON MN	4	0.3	14.5
BOSTON MA	8	9.1	27.5
CHICAGO IL	10	1.5	48.2
CLEVELAND OH	3	4.5	6.5
DALLAS TX	6	2	17.1
DENVER CO	6	2.2	18.8
DETROIT MI	4	6.2	15.8
HARLINGEN TX	5	27.8	79.5
HARTFORD CT	2	8.1	16.5
HOUSTON TX	6	1.1	13.3
KANSAS CITY MO	2	14.3	15.2
LAS VEGAS NV	4	2.6	21.8
LOS ANGELES CA	38	0.6	19.6
MEMPHIS TN	2	12.2	20.1
MIAMI FL	23	0	16
NEW YORK NY	32	10.3	80
NEWARK NJ	9	5.3	29.8
OMAHA NE	3	0.9	4.1
ORLANDO FL	6	2.4	21.5
PHILADELPHIA PA	4	12.7	23.7
PHOENIX AZ	3	5.4	27.9
PORTLAND OR	2	9.2	11.4
SAN DIEGO CA	7	22.1	61.2
SAN FRANCISCO CA	20	1.1	41.1
SEATTLE WA	3	11.6	15.5

Data table for Figure 11: Individuals Served by the Executive Office for Immigration Review's (EOIR) Legal Orientation Program (LOP), Fiscal Years 2008 through 2015

Fiscal year	Unique Attendees
2008	35471
2009	59532

Fiscal year	Unique Attendees
2010	62555
2011	64685
2012	57068
2013	47337
2014	45012
2015	46707

Data table for Figure 12: Individuals Served by the Executive Office for Immigration Review's (EOIR) Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC), Fiscal Years 2011 through 2015

Fiscal year	Individuals served
2011	1558
2012	4110
2013	7203
2014	12125
2015	13830

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