



Highlights of [GAO-08-940](#), a report to congressional requesters

Why GAO Did This Study

Each year, tens of thousands of people who have been persecuted or fear persecution in their home countries apply for asylum in the United States. Immigration judges (IJ) from the Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR) decide whether to grant or deny asylum to aliens in removal proceedings. Those denied asylum may appeal their case to EOIR's Board of Immigration Appeals (BIA). GAO was asked to assess the variability of IJ rulings, and the effects of policy changes related to appeals and claims. This report addresses: (1) factors affecting variability in asylum outcomes; (2) EOIR actions to assist applicants and IJs; (3) effects associated with procedural changes at the BIA; and (4) effects of the requirement that asylum seekers apply within 1 year of entering the country. GAO analyzed DOJ asylum data for fiscal years 1995 through mid-2007, visited 5 immigration courts in 3 cities, including those with 3 of the top 4 asylum caseloads; observed asylum hearings; and interviewed key officials. Results of the visits provided additional information but were not projectable.

What GAO Recommends

GAO recommends that EOIR use GAO's findings and examine cost-effective options for obtaining statistical information on IJs' asylum decisions to help it identify IJs with training and supervision needs; and assess resources and guidance needed to supervise IJs. DOJ and EOIR agreed with our recommendations.

To view the full product, including the scope and methodology, click on [GAO-08-940](#). For more information, contact Richard M. Stana at (202) 512-8777 or stanar@gao.gov.

U.S. ASYLUM SYSTEM

Significant Variation Existed in Asylum Outcomes across Immigration Courts and Judges

What GAO Found

In the 19 immigration courts that handled almost 90 percent of asylum cases from October 1994 through April 2007, nine factors affected variability in asylum outcomes: (1) filed affirmatively (originally with DHS at his/her own initiative) or defensively (with DOJ, if in removal proceedings); (2) applicant's nationality; (3) time period of the asylum decision; (4) representation; (5) applied within 1 year of entry to the United States; (6) claimed dependents on the application; (7) had ever been detained (defensive cases only); (8) gender of the immigration judge and (9) length of experience as an immigration judge. After statistically controlling for these factors, disparities across immigration courts and judges existed. For example, affirmative applicants in San Francisco were still 12 times more likely than those in Atlanta to be granted asylum. Further, in 14 of 19 immigration courts for affirmative cases, and 13 of 19 for defensive cases, applicants were at least 4 times more likely to be granted asylum if their cases were decided by the judge with the highest versus the lowest likelihood of granting asylum in that court.

EOIR expanded its programs designed to assist applicants with obtaining representation and has attempted to improve the capabilities of some IJs. EOIR has conducted two grant rate studies and was using information on IJs with unusually high or low grant rates, together with other indicators of IJ performance, to identify IJs who might benefit from additional training and supervision. However, EOIR lacked the expertise to statistically control for factors that could affect asylum outcomes, and this limited the completeness, accuracy, and usefulness of grant rate information. Without such information, to be used in conjunction with other performance indicators, EOIR's ability to identify IJs who may need additional training and supervision was hindered. EOIR assigned some IJ supervisors to field locations to improve oversight of immigration courts, but EOIR has not determined how many supervisors it needs to effectively supervise IJs and has not provided supervisors with guidance on how to carry out their supervisory role.

Following streamlining (procedural changes) at the BIA in March 2002, BIA's appeals backlog decreased, as did the number of decisions favoring asylum seekers. Such decisions were more than 50 percent lower in the 4 years after streamlining compared to 4 years prior. The authority to affirm the IJ's decisions without writing an opinion was used in 44 percent of BIA's asylum decisions. In June 2008, EOIR proposed regulatory changes to the streamlining rules, but it is too soon to tell how they will affect appeals outcomes.

Data limitations prevented GAO from determining the (1) effect of the 1-year rule on fraudulent applications and denials and (2) resources adjudicators have spent addressing related issues. EOIR lacked measures of fraud, data on whether the 1-year rule was the basis for asylum denials, and records of time spent addressing such issues. Congress would need to direct EOIR to develop a cost-effective method of collecting data to determine the effect of the rule.