

GAO Highlights

Highlights of [GAO-20-250](#), a report to congressional addressees

Why GAO Did This Study

Individuals apprehended by DHS and placed into expedited immigration proceedings are to be removed from the country without a hearing in immigration court unless they express an intention to apply for asylum, or a fear of persecution, torture, or return to their country. Those with such “fear claims” are referred to USCIS for a credible fear screening. Individuals who have certain criminal convictions or who have a reinstated order of removal and claim fear are referred for a reasonable fear screening. Those with negative outcomes can request a review by EOIR’s immigration judges. GAO was asked to review USCIS’s and EOIR’s processes for fear screenings.

This report examines (1) USCIS and EOIR data on fear screenings, (2) USCIS policies and procedures for overseeing fear screenings, and (3) USCIS and EOIR processes for workload management. GAO analyzed USCIS and EOIR data from fiscal years 2014 through mid-2019; interviewed relevant headquarters and field officials; and observed fear screenings in California, Texas, and Virginia, where most screenings occur.

What GAO Recommends

GAO is making four recommendations, including that USCIS provide additional pre-departure training to USCIS asylum officers before they begin screening families, systematically record case outcomes of family members, and collect and analyze information on case delays. DHS concurred with GAO’s recommendations.

View [GAO-20-250](#). For more information, contact Rebecca Gambler at (202) 512-8777 or gambler@gao.gov.

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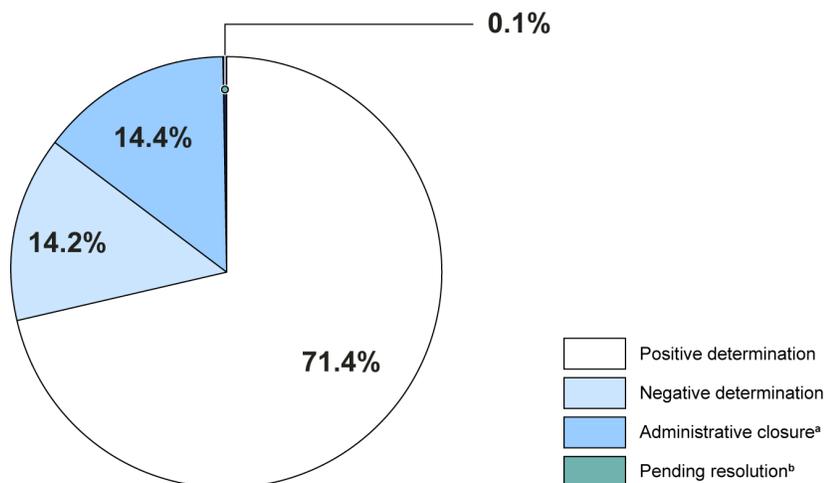
Actions Needed to Strengthen USCIS’s Oversight and Data Quality of Credible and Reasonable Fear Screenings

What GAO Found

Data from the Department of Homeland Security’s (DHS) U.S. Citizenship and Immigration Services (USCIS) and Department of Justice’s Executive Office for Immigration Review (EOIR) indicate that their credible and reasonable fear caseloads generally increased from fiscal year 2014 through fiscal year 2018.

- USCIS’s caseloads nearly doubled during this timeframe—from about 56,000 to almost 109,000 referrals for credible and reasonable fear screenings. Further, the credible fear caseload was larger in the first two quarters of fiscal year 2019 alone than in each of fiscal years 2014 and 2015. Referrals to USCIS for reasonable fear screenings also increased from fiscal years 2014 through 2018. USCIS asylum officers made positive determinations in 71 percent of all credible and reasonable fear screenings between fiscal years 2014 and the first two quarters of fiscal year 2019. The outcomes of the remaining screenings were generally split evenly (14 percent each) between negative determinations or administrative closures (such as if the applicant was unable to communicate).
- EOIR’s caseload for immigration judge reviews of USCIS’s negative credible and reasonable fear determinations also increased between fiscal year 2014 and fiscal year 2018. EOIR’s immigration judges reviewed about 55,000 cases from fiscal year 2014 through the third quarter of 2019 (the most recent data available), and judges upheld USCIS’s negative determinations in about three-quarters of all reviews.

Outcomes of U.S. Citizenship and Immigration Services (USCIS) Credible and Reasonable Fear Screenings, Fiscal Years 2014 through the First Two Quarters of Fiscal Year 2019



Source: GAO analysis of USCIS data. | [GAO-20-250](#)

*According to USCIS, administrative closures occur when the asylum officer conducting the screening closes the case without a determination for reasons such as death, presence in state or federal custody, inability to communicate, or other reasons.

^bUSCIS cases occurred from October 1, 2013 through March 30, 2019 and their status was as of July 22, 2019. Cases that remained in progress as of July 22, 2019 were “pending resolution.”

USCIS has developed various policies and procedures for overseeing credible and reasonable fear screenings in accordance with the regulations governing those screenings, such as interview requirements and mandatory supervisory review. USCIS provides basic training for new asylum officers and other training at individual asylum offices that includes credible and reasonable fear. The training at asylum offices includes on-the-job training for officers newly-assigned to credible and reasonable fear cases and ongoing weekly training for incumbent officers—some of which includes credible and reasonable fear. However, USCIS asylum offices do not all provide additional pre-departure training before officers begin screening families in person at DHS’s family residential centers. Asylum Division officials told GAO that additional training for asylum officers before they begin screening such cases is important—in particular, credible fear screenings at these facilities represent about one-third of USCIS’s caseload. Almost all USCIS asylum offices send officers to the family residential centers, including those offices with small fear caseloads at the local level. Some asylum offices provide pre-departure training to officers being sent to screen families, but such training is inconsistent across offices. By comparison, officials from the Chicago and New York offices stated they do not provide formal pre-departure training, but rather direct or recommend that officers review Asylum Division guidance and procedures on family processing independently before they travel. Officials from two other offices stated they rely on the training asylum officers may receive throughout the year related to credible and reasonable fear, which can vary. Providing pre-departure training, in addition to USCIS’s basic training for new asylum officers, would help USCIS ensure that officers from all asylum offices are conducting efficient and effective fear screenings of families.

Further, consistent with regulation, USCIS policy is to include any dependents on a principal applicant’s credible fear determination if the principal applicant receives a positive determination, resulting in the principal and any dependents being placed into full removal proceedings with an opportunity to apply for various forms of relief or protection, including asylum. For example, a parent as a principal applicant may receive a negative determination, but his or her child may receive a separate positive determination. In the interest of family unity, USCIS may use discretion to place both the parent and child into full removal proceedings rather than the parent being expeditiously ordered removed in accordance with the expedited removal process. However, USCIS’s case management system does not allow officers to record whether an individual receives a determination on his or her case as a principal applicant, dependent, or in the interest of family unity. Without complete data on all such outcomes, USCIS is not well-positioned to report on the scope of either the agency’s policy for family members who are treated as dependents, pursuant to regulation, or USCIS’s use of discretion in the interest of family unity.

USCIS and EOIR have processes for managing their respective credible and reasonable fear workloads. For example, USCIS uses national- and local-level staffing models to inform staffing allocation decisions. USCIS also sets and monitors timeliness goals for completing credible and reasonable fear cases. Although USCIS monitors overall processing times, it does not collect comprehensive data on some types of case delays, which officers told us can occur on a regular basis. Asylum officers whom GAO interviewed stated that certain delays could affect the number of credible or reasonable fear cases they can complete each day. Collecting and analyzing additional information on case delays would better position USCIS to mitigate the reasons for the delays and improve efficiency. EOIR has developed processes for immigration courts and judges to help manage its workload that include performance measures with timeliness goals for credible and reasonable fear reviews. EOIR data indicate that about 30 percent of credible and reasonable fear reviews are not completed within the required timeframes. EOIR officials said they plan to implement an automated tool in early 2020 to monitor court performance, including the credible and reasonable fear performance goals. Because implementation of the automated tool is planned for early 2020, it is too soon to know if EOIR will use the tool to monitor adherence to the required credible and reasonable fear review time frames or if it will help EOIR understand reasons for case delays.