

GAO Highlights

Highlights of [GAO-17-72](#), a report to congressional committees

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 gambler@gao.gov.

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ASYLUM

Variation Exists in Outcomes of Applications Across Immigration Courts and Judges

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.