



U.S. Department of Justice
Executive Office for Immigration Review

FY 2004 Statistical Year Book

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The Statistical Year Book is updated annually. The legend at the bottom of each page reflects the last revision date for that page. Yearly updates are available electronically through the EOIR Web Site at www.usdoj.gov/eoir.

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U.S. Department of Justice

Executive Office for Immigration Review

Office of the Director

Director

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April 1, 2005

MESSAGE FROM THE DIRECTOR

I am pleased to provide the FY 2004 Statistical Year Book which summarizes the work of the Executive Office for Immigration Review (EOIR) for the past five years. EOIR, an agency of the Department of Justice, carries out its mission through three main organizational components: the Office of the Chief Immigration Judge (OCIJ); the Board of Immigration Appeals (BIA); and the Office of the Chief Administrative Hearing Officer (OCAHO).

In FY 2004, OCIJ supervised 215 immigration judges located in 53 courts throughout the United States. Nineteen of the 53 immigration courts are located in either detention centers or prisons. Additionally, immigration judges travel to more than 100 other hearing locations to conduct proceedings. At each proceeding, a Department of Homeland Security (DHS)¹ Assistant Chief Counsel represents the United States Government, while the respondent alien appears on his or her own behalf or retains an attorney at no expense to the Government.

The BIA, located in Falls Church, Virginia, conducts appellate review of decisions rendered by immigration judges. All published decisions of the Board are binding on Immigration Judges and on DHS unless overruled or modified by the Attorney General or a Federal court. Unpublished decisions of the Board are binding on the Immigration Judge or the DHS with regard to the individual case at issue unless overruled or modified by the Attorney General or a Federal court. In September 2002, the Department of Justice published a final rule to revise the structure and procedures of the BIA. The BIA has implemented all the requirements of the regulation successfully, and is in compliance with the adjudicatory time frames which it established.

The third EOIR component, OCAHO, also is located in Falls Church. OCAHO resolves cases concerning employer sanctions, immigration-related employment discrimination, and document fraud.

¹These functions were previously performed by the Immigration and Naturalization Service (INS). On November 25, 2002, President George W. Bush signed the Homeland Security Act of 2002, creating the new Department of Homeland Security (DHS). In the legislation, the Attorney General continues to retain authority over EOIR, within DOJ, but the functions of the INS were transferred to the new DHS as of March 1, 2003.

EOIR collects information about aliens who appear in immigration courts and whose cases subsequently are appealed to the BIA. Both immigration court staff, located throughout the United States, and the BIA staff, record and update case information in EOIR's information processing systems.

The following report is intended to provide an introduction to the types of immigration matters processed by EOIR on a daily basis. Included in this report are data from FY 2000 - FY 2004. Data in this report have been updated, and thus may be different slightly from previously published Statistical Year Book data.

The accomplishments reported in the Statistical Year Book are the result of the effort and dedication demonstrated by EOIR staff members throughout the year.

Kevin D. Rooney
Director

FY 2004 HIGHLIGHTS

- Receipts by the immigration courts decreased slightly between FY 2003 (299,019) and FY 2004 (298,001) while completions increased by 2 percent. (Figure 1, Page B2)
- Immigration Judge decisions increased by 5 percent between FY 2003 (197,845) and FY 2004 (208,508). (Figure 4, Page D1)
- Mexico, Honduras, El Salvador, Guatemala and China represent the predominant nationalities of immigration court completions during FY 2004. (Figure 6, page E1)
- Spanish was the most frequently spoken language for immigration court case completions during FY 2004. (Figure 8, page F1).
- Forty -five (45) percent of aliens whose cases were completed in immigration courts during FY 2004 were represented. (Figure 9, page G1)
- Overall failure to appear rates increased in FY 2004 (25%) from a five year low in FY 2003 (22%) .(Figure 10, page H1)
- Asylum filings at the immigration courts decreased by over 11,000 applications in FY 2004. Most of this decrease was in affirmative receipts. (Figure 13, page I1)
- In FY 2004, the Los Angeles, CA; Miami, FL; New York, NY; and San Francisco, CA immigration courts received 49 percent of the asylum filings. (Table 6, page I3)
- Five nationalities were among the top ten nationalities granted asylum each year during the five-year period: China, India, Russia, Albania, and Haiti. (Table 7, page J2)
- The grant rate for asylum applications remained steady at 38 percent (Figure 16, page K1). The grant rate was 45 percent for affirmative applications (Figure 17, page K2), and 26 percent for defensive applications (Figure 18, page K2).
- In FY 2004, 34 percent of proceedings completed at the immigration courts had applications for relief. (Figure 22, page N1)
- Thirty-three (33) percent of FY 2004 immigration court completions involved detained aliens. (Figure 23, page O1)

- BIA had a 2 percent increase in receipts between FY 2003 (42,048) and FY 2004 (43,033). (Table 17, page T2)
- BIA has successfully implemented the reform regulation. Legacy cases have been completed, and all post-legacy cases decided in FY 2004 were adjudicated within established time frames. (Tab U)
- Mexico, China, Haiti, Colombia, and India represent the predominant nationalities of BIA case completions. (Figure 29, page V1)
- Seventy (70) percent of the cases completed by the BIA in FY 2004 were for represented aliens. (Figure 30, page W1)
- In FY 2004, 16 percent of IJ Decisions were appealed to the BIA. (Figure 32, page Y1)

Immigration Courts: Total Matters Received and Completed

An alien charged by the Department of Homeland Security (DHS) with a violation of immigration law is issued a charging document. The most common charging documents are the Notice to Appear (NTA) and the Notice of Referral to Immigration Judge. When the charging document is filed by DHS with the Immigration Court, jurisdiction over the case transfers from DHS to the Executive Office for Immigration Review (EOIR), which has oversight over the 53¹ Immigration Courts located throughout the United States. Once an alien has been ordered removed by EOIR, DHS carries out the removal; EOIR does not maintain statistics on alien removals from the United States.

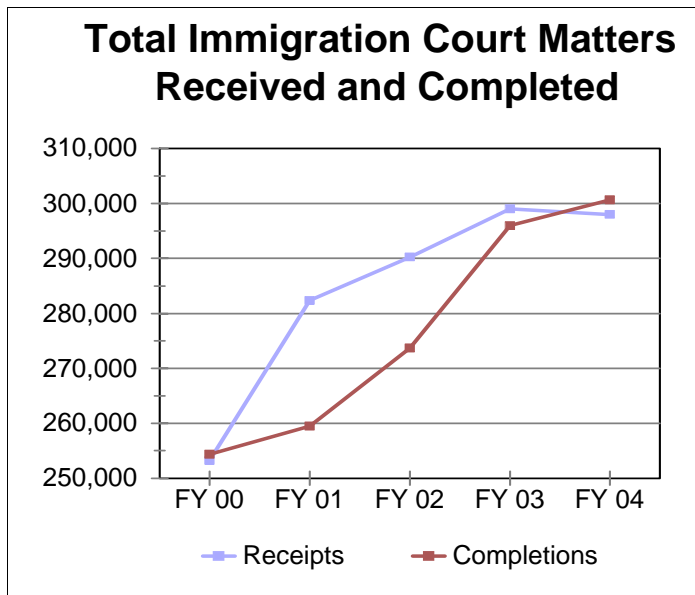
During court proceedings, aliens appear before an Immigration Judge, and either contest or concede the charges against them. In some instances, the Immigration Judge adjourns the case and sets a continuance date; for example, the judge may allow the alien time to obtain representation or to file an application for relief. After hearing a case, the Immigration Judge renders a decision. The Immigration Judge may order the alien removed, or may grant relief such as cancellation of removal, asylum, adjustment of status, etc. If the Immigration Judge decides that removability has not been established by DHS, he or she may terminate the proceedings.

In addition to proceedings, Immigration Judges consider other matters such as bonds and motions.

- Bond redetermination hearings are held when an alien in custody seeks release on his or her own recognizance, or seeks a reduction in the amount of bond. In some cases, bond redetermination hearings are held before EOIR receives the charging document from DHS. During bond redetermination hearings, the judge may decide to lower, raise, maintain, or eliminate altogether the bond amount set by DHS, or to change bond conditions.
- Additionally, either the alien or DHS may request by motion that a case previously heard by an Immigration Judge be reopened or reconsidered. Generally, aliens or DHS file motions to reopen or reconsider because of changed circumstances.

For the purposes of this Year Book, the term Immigration Court matters includes proceedings (deportation, exclusion, removal, credible fear, reasonable fear, claimed status, asylum only, rescission, continued detention review, NACARA, and withholding only), bond redeterminations, and motions. Receipts are defined as the total number of proceedings, bond redeterminations, and motions received by the Immigration Courts during the reporting period. Completions include Immigration Judge decisions on proceedings, bond redeterminations, and motions; other completions such as administrative closings and changes of venue.

¹Data in the Year Book is based on 52 Immigration Courts. The court at Headquarters serves to assist many of the Immigration Courts in the processing of their cases.



Total Immigration Court Matters		
	Receipts	Completions
FY 00	253,181	254,343
FY 01	282,305	259,434
FY 02	290,231	273,683
FY 03	299,019	295,964
FY 04	298,001	300,660

Figure 1

As shown in Figure 1 above, the number of immigration matters received by the Immigration Courts increased each year between FY 2000 and FY 2003. The increase in receipts from FY 2000 to the high in FY 2003 was 18 percent. For the first time in the last five years receipts decreased from FY 2003 to FY 2004. Immigration matters completed increased from FY 2000 to FY 2004. The five year increase in completions was 18 percent.

The FY 2004 slight decrease in court receipts was not consistent among all Immigration Courts. While some courts showed significant increases in workload over FY 2003 levels, others showed decreases. In Table 1, shown on page B3, courts with increases of 25 percent or more are shown in blue, and those with decreases of 25 percent or more are shown in red. Immigration Courts in Fishkill, NY; Florence, AZ; Harlingen, TX; and Varick, NY showed increases of 50 percent or more in receipts from FY 2003 to FY 2004. The court in Krome, FL showed the largest percentage decrease in receipts, down 45 percent, while Los Angeles, CA had the largest actual decrease in cases with 7,949 less than in FY 2003.

Table 2 on page B4 provides a comparison of FY 2003 and FY 2004 completions. Courts with increases in completions of 25 percent or more are shown in blue, and those with decreases of 25 percent or more are shown in red. Some courts, such as Philadelphia, had significant increases in completions but had significant decreases in receipts.

Table 1 - Total Immigration Court Matters Received by Court for FY 2003 and FY 2004

Immigration Court	FY 2003	FY 2004	Rate of Change
ARLINGTON, VIRGINIA	7,455	7,459	0%
ATLANTA, GEORGIA	5,163	6,076	18%
BALTIMORE, MARYLAND	4,882	5,293	8%
BATAVIA SPC, NEW YORK	1,510	1,525	1%
BLOOMINGTON (ST. PAUL), MINNESOTA	2,823	2,904	3%
BOSTON, MASSACHUSETTS	6,529	6,749	3%
BRADENTON, FLORIDA	3,630	3,107	-14%
BUFFALO, NEW YORK	2,247	2,375	6%
CHICAGO, ILLINOIS	11,602	12,236	5%
DALLAS, TEXAS	7,333	7,072	-4%
DENVER, COLORADO	7,355	6,206	-16%
DETROIT, MICHIGAN	3,265	4,020	23%
EAST MESA, CALIFORNIA	7,347	5,968	-19%
EL CENTRO SPC, CALIFORNIA	4,019	4,399	9%
EL PASO SPC, TEXAS	6,541	5,537	-15%
EL PASO, TEXAS	3,211	3,618	13%
ELIZABETH SPC, NEW JERSEY	763	998	31%
ELOY, ARIZONA	10,855	10,463	-4%
FISHKILL - NEW YORK STATE DOC, NEW YORK	544	1,004	85%
FLORENCE SPC, ARIZONA	4,798	8,271	72%
GUAYNABO (SAN JUAN), PUERTO RICO	2,604	2,334	-10%
HARLINGEN, TEXAS	10,734	18,811	75%
HARTFORD, CONNECTICUT	2,624	2,382	-9%
HONOLULU, HAWAII	1,263	1,136	-10%
HOUSTON SPC, TEXAS	3,768	4,974	32%
HOUSTON, TEXAS	6,743	8,163	21%
IMPERIAL, CALIFORNIA	1,226	1,444	18%
JAMAICA QUEENS FACILITY, NEW YORK	374	464	24%
KROME NORTH SPC, FLORIDA	5,060	2,777	-45%
LANCASTER, CALIFORNIA	6,913	6,140	-11%
LAS VEGAS, NEVADA	3,609	2,706	-25%
LOS ANGELES, CALIFORNIA	23,201	15,252	-34%
LOS FRENOS (PORT ISABEL SPC), TEXAS	10,099	8,148	-19%
MEMPHIS, TENNESSEE	2,819	2,178	-23%
MIAMI, FLORIDA	18,468	20,247	10%
NEW ORLEANS, LOUISIANA	2,530	1,781	-30%
NEW YORK CITY, NEW YORK	17,908	14,415	-20%
NEWARK, NEW JERSEY	7,400	5,938	-20%
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	3,620	4,654	29%
ORLANDO, FLORIDA	5,211	5,453	5%
PHILADELPHIA, PENNSYLVANIA	4,095	3,078	-25%
PHOENIX, ARIZONA	3,901	5,272	35%
PORTLAND, OREGON	2,160	1,596	-26%
SAN ANTONIO, TEXAS	14,670	18,604	27%
SAN DIEGO, CALIFORNIA	4,761	4,865	2%
SAN FRANCISCO, CALIFORNIA	12,475	9,668	-23%
SAN PEDRO SPC, CALIFORNIA	3,420	3,153	-8%
SEATTLE, WASHINGTON	5,427	5,816	7%
TUCSON, ARIZONA	3,921	3,968	1%
ULSTER - NEW YORK STATE DOC, NEW YORK	747	827	11%
VARICK SPC, NEW YORK	1,145	2,814	146%
YORK, PENNSYLVANIA	4,251	3,663	-14%
TOTAL	299,019	298,001	-0%



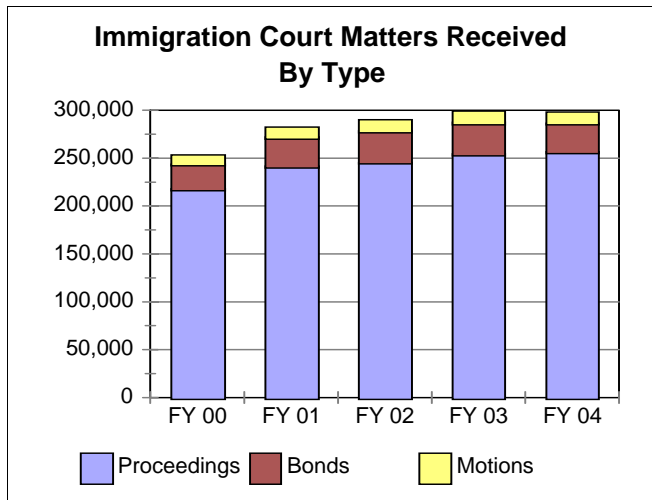
 Courts with decreases in receipts equal to or more than 25%  Courts with increases in receipts equal to or more than 25%

Table 2 - Total Immigration Court Matters Completed by Court for FY 2003 and FY 2004

Immigration Court	FY 2003	FY 2004	Rate of Change
ARLINGTON, VIRGINIA	7,078	7,237	2%
ATLANTA, GEORGIA	4,372	5,755	32%
BALTIMORE, MARYLAND	3,980	4,565	15%
BATAVIA SPC, NEW YORK	1,473	1,573	7%
BLOOMINGTON (ST. PAUL), MINNESOTA	2,839	2,772	-2%
BOSTON, MASSACHUSETTS	5,546	6,306	14%
BRADENTON, FLORIDA	3,500	2,583	-26%
BUFFALO, NEW YORK	2,626	2,324	-12%
CHICAGO, ILLINOIS	10,556	11,343	7%
DALLAS, TEXAS	6,987	7,442	7%
DENVER, COLORADO	6,479	5,905	-9%
DETROIT, MICHIGAN	2,766	4,207	52%
EAST MESA, CALIFORNIA	7,488	5,907	-21%
EL CENTRO SPC, CALIFORNIA	4,043	4,398	9%
EL PASO SPC, TEXAS	6,601	5,598	-15%
EL PASO, TEXAS	3,804	3,049	-20%
ELIZABETH SPC, NEW JERSEY	703	984	40%
ELOY, ARIZONA	10,981	10,317	-6%
FISHKILL - NEW YORK STATE DOC, NEW YORK	657	999	52%
FLORENCE SPC, ARIZONA	4,840	8,128	68%
GUAYNABO (SAN JUAN), PUERTO RICO	2,475	2,311	-7%
HARLINGEN, TEXAS	10,383	15,422	49%
HARTFORD, CONNECTICUT	2,701	2,443	-10%
HONOLULU, HAWAII	1,292	1,091	-16%
HOUSTON SPC, TEXAS	3,913	4,963	27%
HOUSTON, TEXAS	6,061	6,988	15%
IMPERIAL, CALIFORNIA	1,359	1,444	6%
JAMAICA QUEENS FACILITY, NEW YORK	395	425	8%
KROME NORTH SPC, FLORIDA	5,002	2,960	-41%
LANCASTER, CALIFORNIA	7,077	6,040	-15%
LAS VEGAS, NEVADA	3,330	3,055	-8%
LOS ANGELES, CALIFORNIA	24,348	21,376	-12%
LOS FRENOS (PORT ISABEL SPC), TEXAS	10,104	8,426	-17%
MEMPHIS, TENNESSEE	2,388	2,628	10%
MIAMI, FLORIDA	18,479	18,741	1%
NEW ORLEANS, LOUISIANA	2,566	1,690	-34%
NEW YORK CITY, NEW YORK	19,596	16,642	-15%
NEWARK, NEW JERSEY	7,275	6,560	-10%
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	3,508	4,415	26%
ORLANDO, FLORIDA	3,679	4,311	17%
PHILADELPHIA, PENNSYLVANIA	2,508	3,430	37%
PHOENIX, ARIZONA	2,571	5,032	96%
PORTLAND, OREGON	2,111	1,689	-20%
SAN ANTONIO, TEXAS	15,730	17,308	10%
SAN DIEGO, CALIFORNIA	5,025	4,404	-12%
SAN FRANCISCO, CALIFORNIA	15,391	15,044	-2%
SAN PEDRO SPC, CALIFORNIA	3,377	3,295	-2%
SEATTLE, WASHINGTON	5,646	5,567	-1%
TUCSON, ARIZONA	3,959	3,998	1%
ULSTER - NEW YORK STATE DOC, NEW YORK	699	783	12%
VARICK SPC, NEW YORK	1,444	2,970	106%
YORK, PENNSYLVANIA	4,253	3,817	-10%
TOTAL	295,964	300,660	2%

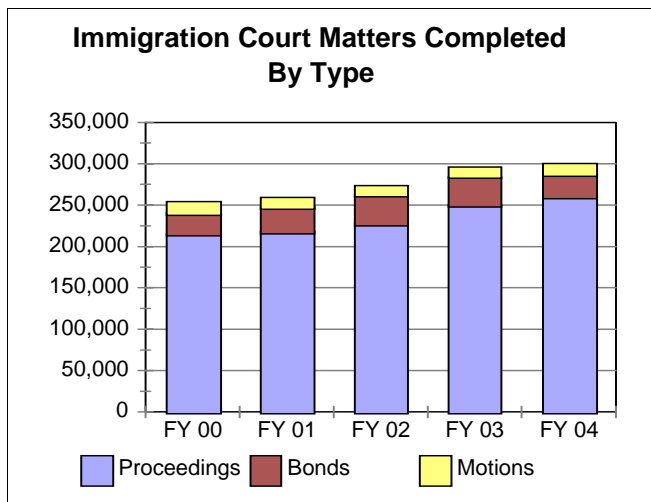
 Courts with decreases in completions equal to or more than 25%  Courts with increases in completions equal to or more than 25%

Figures 2 and 3 below provide information on the types of matters received and completed by the Immigration Courts. Proceedings make up the bulk of the courts' work, but they also process significant numbers of bonds and motions.



	Proceedings	Bonds	Motions	Total
FY 00	218,049	25,586	9,546	253,181
FY 01	241,811	30,168	10,326	282,305
FY 02	245,022	33,304	11,905	290,231
FY 03	254,216	33,092	11,711	299,019
FY 04	256,500	29,660	11,841	298,001

Figure 2



	Proceedings	Bonds	Motions	Total
FY 00	215,395	25,657	13,291	254,343
FY 01	218,253	29,953	11,228	259,434
FY 02	228,350	33,392	11,941	273,683
FY 03	250,696	33,258	12,010	295,964
FY 04	258,946	29,704	12,010	300,660

Figure 3

Immigration Courts: Proceedings Received and Completed by Type

This section of the Statistical Year Book provides further details on proceedings by type. As noted previously in Tab B, proceedings, motions, and bond redeterminations make up the various types of matters considered by the Immigration Courts.

Until April 1, 1997, the two major types of proceedings conducted by Immigration Courts were exclusion proceedings and deportation proceedings. Individuals charged by the Immigration and Naturalization Service (INS) (now reorganized under the Department of Homeland Security (DHS)) as excludable were placed in exclusion proceedings. Exclusion cases generally involved a person who tried to enter the United States, but was stopped at the point of entry because INS found the person to be inadmissible. Deportation cases usually arose when INS alleged that an alien had entered the country illegally, or had entered legally, but then violated one or more conditions of his or her visa.

Rescission cases, a less common type of case, were also received by the Immigration Courts prior to April 1, 1997, and continue to be received today. In a rescission case, DHS issues a Notice of Intent to Rescind an individual's permanent resident status, and the individual has the right to contest the charge before an Immigration Judge.

Provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which became effective on April 1, 1997, established five new types of proceedings:

- Removal Proceedings. Under removal proceedings (which replaced exclusion and deportation proceedings), DHS must file a Notice to Appear (NTA) to initiate the proceedings.
- Credible Fear Review. Arriving aliens with no documents or fraudulent documents are subject to expedited removal by DHS. If an arriving alien who has been ordered removed under the expedited removal provisions expresses a "credible fear" of persecution, the alien is referred for an interview by an asylum officer. Aliens found by the asylum officer not to have a credible fear of persecution may request a review by an Immigration Judge. If the judge determines there is "credible fear," the judge will vacate the DHS order of expedited removal, and the alien will be placed in removal proceedings.
- Reasonable Fear Review. DHS has the authority to order the administrative removal of certain aggravated felons, and to reinstate orders of removal for aliens previously removed. If an alien who has been ordered administratively removed, or whose prior order of removal has been reinstated expresses a fear of returning to the country of removal, a DHS asylum officer makes a

“reasonable fear” determination. Aliens found by the asylum officer not to have a reasonable fear of persecution may request a review by an Immigration Judge. If the judge determines there is “reasonable fear”, the alien will be placed in withholding only proceedings.

- Claimed Status Review. If an alien in expedited removal proceedings before DHS claims to be a U.S. citizen, to have been lawfully admitted for permanent residence, to have been admitted as a refugee, or to have been granted asylum, and DHS determines that the alien has no such claim, he or she can obtain a review of that claim by an Immigration Judge.
- Asylum-Only. An asylum only case is initiated when an arriving “crewman or stowaway” is not eligible to apply for admission into the United States, but wants to request asylum.

Additional types of proceedings include:

- Continued Detention Review. In response to a United States Supreme Court decision in *Zadvydas v. Davis*, a new type of proceeding was established regarding the continued detention of aliens who are subject to final orders of removal. In these cases the alien has already been ordered removed, but DHS is unable to effect the removal (e.g., lack of a travel document, no diplomatic relations with the receiving country, etc). The only issue for the Immigration Judge to decide in Continued Detention Review cases is whether or not the alien should remain in custody.
- NACARA. Cases filed under section 203 NACARA (Nicaraguan Adjustment and Central American Relief Act). Aliens apply for suspension of deportation or cancellation of removal under section 203 of NACARA.
- Withholding Only. A previous removal/deportation/exclusion order has been reinstated by DHS or the alien has been ordered removed (administratively) by DHS (based upon a conviction for an aggravated felony) and the alien expresses a fear of persecution or torture and that claim is reviewed by an asylum officer. The asylum officer has concluded that the alien has a reasonable fear of persecution or torture OR an Immigration Judge conducted a Reasonable Fear proceeding and found that “reasonable fear of persecution or torture” exists. The IJ’s Reasonable Fear findings automatically initiates a Withholding Only hearing.

Table 3 shows all types of proceedings received by the Immigration Courts between FY 2000 and FY 2004. Receipts of deportation and exclusion cases have declined from FY 2000 levels because these types of proceedings were no longer initiated by INS (now DHS) after 1997.

Table 3 - Immigration Court Proceedings Received by Case Type

Type of Proceeding	FY2000	FY 2001	FY 2002	FY 2003	FY 2004
Deportation	10,207	7,726	7,528	5,931	4,538
Exclusion	1,212	1,065	1,277	750	501
Removal	203,827	229,458	233,505	244,765	248,429
Credible Fear	126	78	85	42	41
Reasonable Fear*	74	104	85	103	92
Claimed Status	161	118	85	91	50
Asylum Only	2,267	3,038	2,233	2,296	2,614
Rescission	44	40	39	23	29
Continued Detention Review	0	0	0	5	8
NACARA	62	82	59	91	34
Withholding Only	68	102	118	117	161
Unknown	1	0	8	2	3
Total	218,049	241,811	245,022	254,216	256,500

*Previously reported under Credible Fear.

Table 4 shows all types of proceedings completed by the Immigration Courts for the period FY 2000 to FY 2004. Note that proceedings completed do not reflect only Immigration Judge decisions. These numbers include other completions such as transfers and changes of venue. As shown in Tab D, "other completions" accounted for 20 percent of the proceedings completed in FY 2004.

Table 4 - Immigration Court Proceedings Completed by Case Type

Type of Proceeding	FY2000	FY 2001	FY 2002	FY 2003	FY 2004
Deportation	16,777	10,757	8,641	8,957	6,240
Exclusion	1,430	1,213	1,087	1,236	834
Removal	195,058	203,527	215,931	237,953	249,040
Credible Fear	126	80	84	42	37
Reasonable Fear*	72	105	87	101	93
Claimed Status	159	123	84	88	54
Asylum Only	1,657	2,257	2,226	2,045	2,402
Rescission	59	39	33	47	28
Continued Detention Review	0	0	0	3	10
NACARA	1	57	60	99	70
Withholding Only	56	95	116	125	138
Unknown	0	0	1	0	0
Total	215,395	218,253	228,350	250,696	258,946

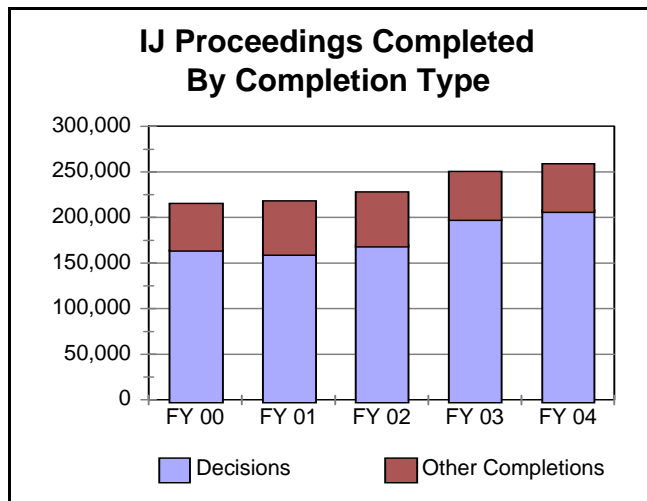
*Previously reported under Credible Fear.

Immigration Courts: Proceedings Completed by Disposition

After a hearing, the Immigration Judge either renders an oral decision, or reserves the decision and issues it at a later date. In rendering a decision, the Immigration Judge may order the alien removed from the United States, grant some form of relief, or terminate the proceedings if removability has not been established by the Department of Homeland Security (DHS) .

In addition to decisions, there are other possible proceedings outcomes which are reported here as “other” completions. Some cases are administratively closed and the Immigration Judge does not render a decision on the merits. Administrative closures are counted as “other” completions, as are cases transferred to a different hearing location or granted a change of venue.

Figure 4 provides a breakdown of proceedings from FY2000 to FY 2004 by type of completion – either through an Immigration Judge decision or through an “other” completion, such as an administrative closure or change of venue. Between FY 2000 and FY 2001, the number of cases counted as “other” completions rose significantly. Change of Venue decisions accounted for almost 4,500 of this increase. In FY 2001, “other” completions accounted for approximately 27 percent of total completions and in FY 2004 they accounted for only 19 percent of total completions.



	Decisions	Other Completions	Total
FY 00	164,415	50,980	215,395
FY 01	159,772	58,481	218,253
FY 02	170,186	58,164	228,350
FY 03	197,845	52,851	250,696
FY 04	208,508	50,438	258,946

Figure 4

Figure 5 provides a breakout of decisions by disposition type. Immigration Judges first decide whether or not the charges against an alien should be sustained. If the charges are not sustained, the judge terminates the case. If the charges are sustained, the judge decides whether to order the alien removed from the United States or to grant relief. In some cases, the Immigration Judge may permit the alien to depart the United States voluntarily. Orders of voluntary departure are included as removals. There are also a few Immigration Judge decisions classified as “other” decisions. For example, an Immigration Judge may permit an alien in proceedings to withdraw his or her application for admission.

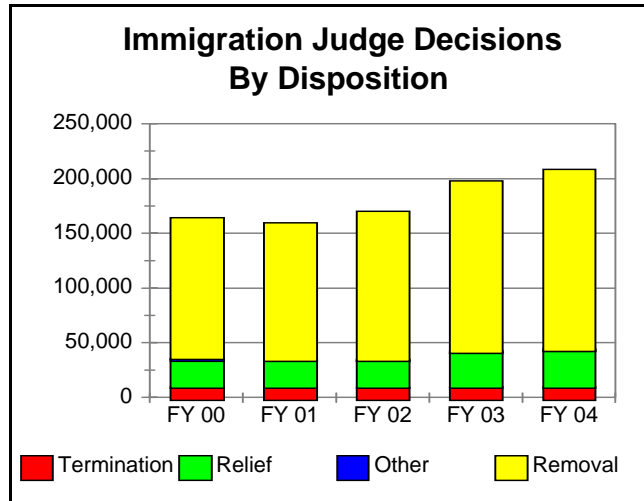


Figure 5

IJ Decisions by Disposition										
	Termination		Relief		Removal		Other		Total	
	Number	% of Total	Number	% of Total	Number	% of Total	Number	% of Total	Number	% of Total
FY 00	9,716	5.9	25,351	15.4	128,385	78.1	963	0.6	164,415	100.0
FY 01	9,709	6.1	24,199	15.1	124,812	78.1	1,052	0.7	159,772	100.0
FY 02	9,348	5.5	24,568	14.4	135,214	79.5	1,056	0.6	170,186	100.0
FY 03	9,964	5.0	31,268	15.8	155,065	78.4	1,548	0.8	197,845	100.0
FY 04	9,921	4.8	33,305	16.0	163,857	78.6	1,425	0.7	208,508	100.0

Between FY 2000 and FY 2002, the percentage of aliens ordered removed increased slightly, and the percentage of aliens granted relief decreased. This trend was reversed in FY 2003, when the percentage of removal orders decreased while the percentage of aliens granted relief increased.

Immigration Courts: Proceedings Completed by Nationality

Immigration Court staff record in EOIR's data system the nationality of aliens who appear before Immigration Judges. Data in this section provide information on the predominant nationalities for completed proceedings.

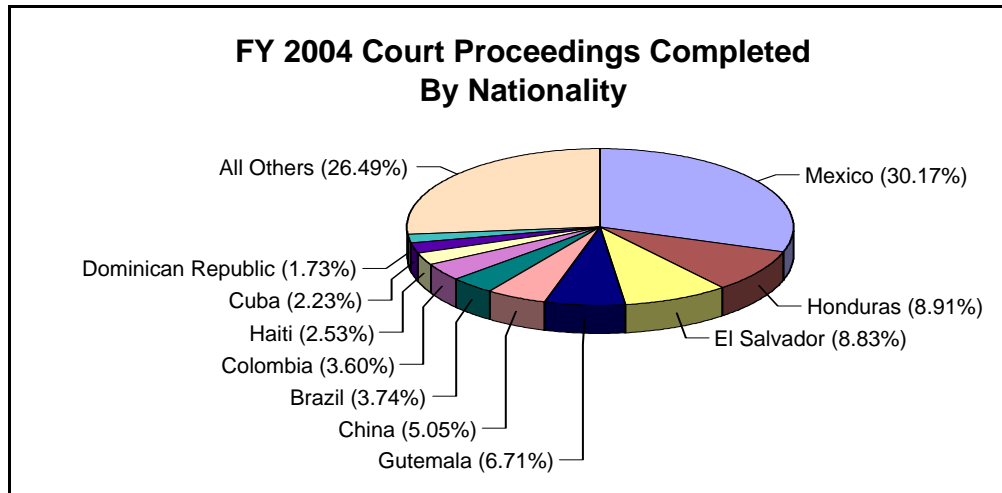


Figure 6

FY 2004 Court Proceedings Completed by Nationality		
Nationality	Cases	% of Total
Mexico	78,133	30.17%
Honduras	23,082	8.91%
El Salvador	22,861	8.83%
Guatemala	17,366	6.71%
China	13,085	5.05%
Brazil	9,677	3.74%
Colombia	9,316	3.60%
Haiti	6,547	2.53%
Cuba	5,784	2.23%
Dominican Republic	4,491	1.73%
All Others	68,604	26.49%
Total	258,946	100%

In FY 2004, the top 10 nationalities accounted for approximately 74 percent of all proceedings completed as shown in Figure 6. A total of 215 nationalities were represented in the FY 2004 Immigration Judge completions. Mexico and Central American countries are consistently among the predominant nationalities of immigration court completions. Table 5 provides information on the top 25 nationalities each year for the period FY 2000 through FY 2004. For the five-year period, nine nationalities ranked among the top ten nationalities each year: Mexico, El Salvador, Guatemala, Honduras, Haiti, Dominican Republic, Cuba, China, and Colombia.

**Table 5 - Court Proceedings Completed by Nationality
Top 25 Nationalities: FY 2000 - FY 2004**

Rank	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
1	Mexico	Mexico	Mexico	Mexico	Mexico
2	El Salvador	El Salvador	El Salvador	El Salvador	Honduras
3	Honduras	China	Honduras	Honduras	El Salvador
4	China	Honduras	China	China	Guatemala
5	Guatemala	Guatemala	Guatemala	Guatemala	China
6	Cuba	Haiti	Colombia	Colombia	Brazil
7	Haiti	Cuba	Brazil	Brazil	Colombia
8	Dominican Republic	Brazil	Haiti	Haiti	Haiti
9	India	Dominican Republic	Dominican Republic	Dominican Republic	Cuba
10	Colombia	Colombia	Cuba	Cuba	Dominican Republic
11	Ecuador	Ecuador	India	India	India
12	Jamaica	India	Ecuador	Pakistan	Indonesia
13	Nicaragua	Jamaica	Albania	Albania	Pakistan
14	Peru	Albania	Jamaica	Indonesia	Jamaica
15	Brazil	Pakistan	Pakistan	Jamaica	Albania
16	Somalia	Nicaragua	Nicaragua	Philippines	Nicaragua
17	Philippines	Sri Lanka	Peru	Nicaragua	Ecuador
18	Sri Lanka	Peru	Philippines	Ecuador	Philippines
19	Pakistan	Philippines	Armenia	Peru	Peru
20	Russia	Russia	Indonesia	Armenia	Russia
21	Albania	Somalia	Russia	Russia	Egypt
22	Nigeria	Nigeria	Nigeria	Egypt	Armenia
23	Canada	Iran	Egypt	Nigeria	Nigeria
24	Vietnam	Canada	Iran	Iran	Iran
25	Yugoslavia	Armenia	Canada	Canada	Canada

Immigration Courts: Proceedings Completed by Language

Figure 7 below shows a breakdown of FY 2000 Immigration Court proceedings completed by language. Of 202 languages spoken in court proceedings during FY 2000, 85 percent were in the following five languages: Spanish, English, Mandarin, Foo Chow, and Creole.

Figure 8 below shows comparable data for FY 2004. Although four of the top five languages were the same, there was more diversity in languages in FY 2004. A total of 237 different languages were spoken in court proceedings in the Immigration Courts during FY 2004. The top five languages accounted for 85 percent of the proceedings completed in FY 2004. FY 2004 highlights include:

- Spanish language cases were 62 percent of the total caseload, consistent with the 62 percent in FY 2000.
- In the “Other” category, Foo Chow, Arabic, and Russian represented the three most frequently spoken languages.
- The number of different languages used in court proceedings has increased by 17 percent over FY 2000.

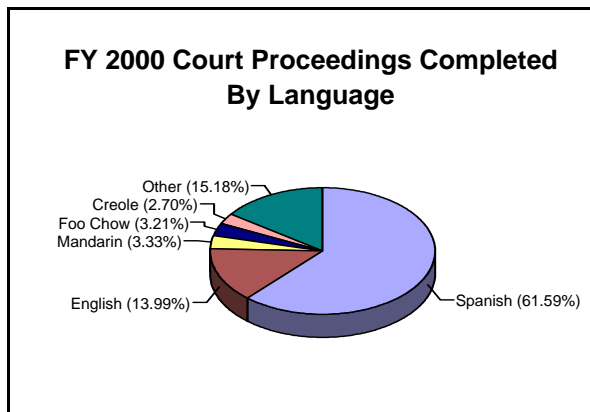


Figure 7

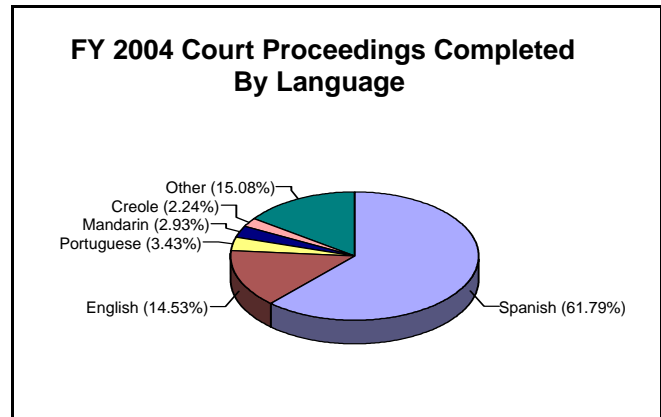


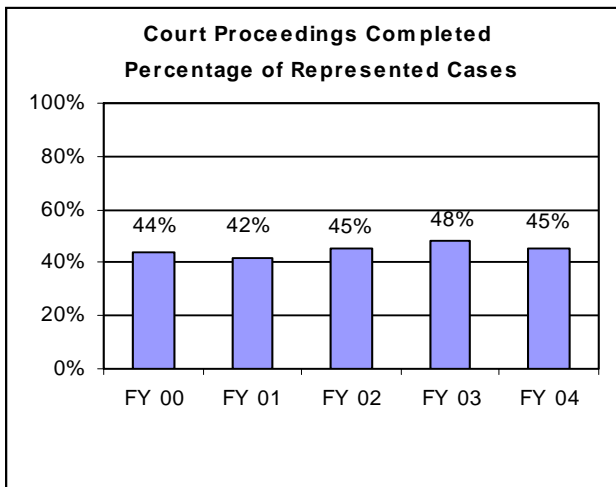
Figure 8

Immigration Courts: Proceedings Completed by Representation Status

The Immigration and Nationality Act states that individuals in removal proceedings before an Immigration Judge may be represented by counsel, but at no expense to the Government. Prior to representing an alien before the Immigration Court, representatives must file a Notice of Appearance with the court.

Many individuals in removal proceedings are indigent and cannot afford a private attorney. Some seek free or *pro bono* representation, while others proceed without counsel on their own, or *pro se*. Of great concern to EOIR is the large number of individuals appearing *pro se*. Immigration Judges, in order to ensure that such individuals understand the nature of the proceedings, as well as their rights and responsibilities, must take extra care and spend additional time explaining this information. An individual may ask for a continuance of a proceeding to obtain counsel.

As shown in Figure 9, less than half of the aliens whose proceedings were completed during the period FY 2000 – FY 2004 were represented. The percentage of represented aliens for FY 2000 to FY 2004 remained fairly steady, ranging from 42 percent to 48 percent.



	Represented	Unrepresented	Total
FY 00	95,294	120,101	215,395
FY 01	91,954	126,299	218,253
FY 02	102,890	125,460	228,350
FY 03	120,038	130,658	250,696
FY 04	117,393	141,553	258,946

Figure 9

Immigration Courts: Failures to Appear

When an alien fails to appear for a hearing, the Immigration Judge may conduct an *in absentia* (in absence of) hearing and order the alien removed from the United States. Before the Immigration Judge orders the alien removed *in absentia*, the Department of Homeland Security (DHS) Assistant Chief Counsel must establish by clear, unequivocal, and convincing evidence that the alien is removable. Further, the Immigration Judge must be satisfied that notice of time and place of the hearing were provided to the alien or the alien's representative. A failure to appear does not always result in an *in absentia* order. In some instances, the Immigration Judge may administratively close the case without ordering the alien removed *in absentia*. Since most administrative closures relate to failures to appear, we have included those figures in calculating the failure to appear rates below.

Figure 10 compares Immigration Judge decisions and administrative closures with failures to appear. Overall, of the Immigration Judge decisions rendered in FY 2004, 25 percent of them involved aliens who had failed to appear. Failure to appear rates decreased each year from FY 2000 to FY 2003. In FY 2004 they have increased.

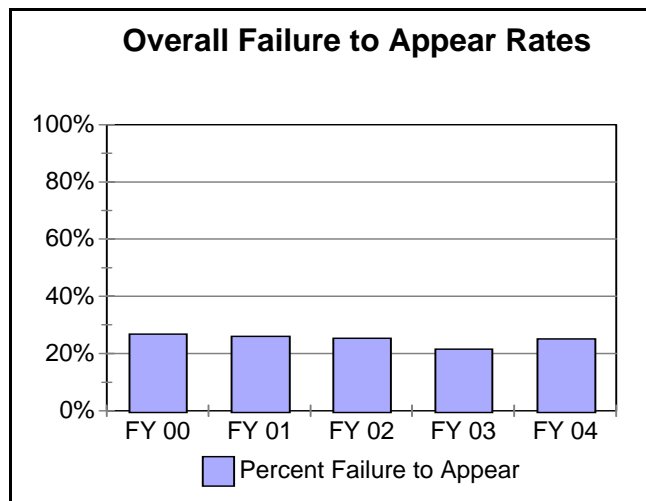


Figure 10

Overall Failure to Appear Rates					
	Failures to Appear			IJ Decisions/ Admin Closures	Failure to Appear Rate
	In Absentia Orders	Administrative Closures	Total Failure to Appear		
FY 00	39,720	5,945	45,665	170,360	27%
FY 01	36,762	6,534	43,296	166,306	26%
FY 02	37,311	7,798	45,109	177,984	25%
FY 03	36,946	7,293	44,239	205,138	22%
FY 04	47,176	6,823	53,999	215,331	25%

EOIR collects its data on failures to appear by detention status: non-detained aliens, aliens released on bond or recognizance, and detained aliens. Failures to appear for detained cases occur very infrequently, generally only because of illness or transportation problems, and are not broken out in the following figures.

Figure 11 shows a comparison of the number of failures to appear with the number of Immigration Judge decisions for non-detained aliens. The non-detained category is made up of aliens who were never detained. Like the overall failure to appear rate, the rate for this population decreased from FY 2000 to FY 2003 then rose in FY 2004.

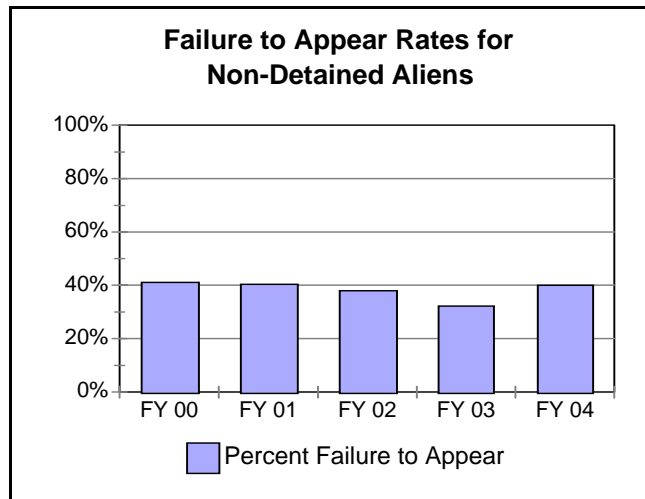


Figure 11

Failure to Appear Rates for Non-Detained Aliens			
	Failures to Appear		IJ Decisions/ Admin Closures
	Number	% of Total	
FY 00	34,871	41%	84,859
FY 01	28,338	40%	70,268
FY 02	28,072	38%	73,988
FY 03	29,568	32%	91,570
FY 04	43,479	40%	108,459

Failures to appear for aliens released on bond or on their own recognizance are shown in Figure 12. For the five-year period, the failure to appear rate peaked in FY 2001, and has decreased annually since then. For each year shown here, the failure to appear rates for released aliens were higher than those for non-detained aliens except for FY 2004.

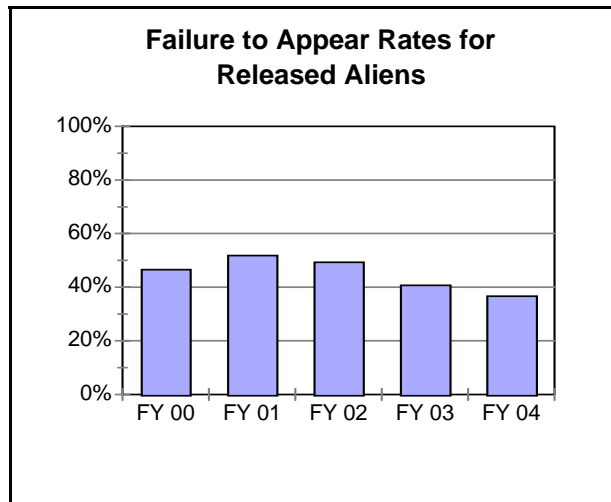


Figure 12

Failure to Appear Rates for Released Aliens			
	Failures to Appear		IJ Decisions/ Admin Closures
	Number	% of Total	
FY 00	9,531	46%	20,500
FY 01	13,692	52%	26,435
FY 02	15,801	49%	32,080
FY 03	13,446	41%	33,031
FY 04	9,411	37%	25,725

Immigration Courts: Asylum Cases Received and Completed

An important form of relief that aliens may request is asylum. Aliens request asylum if they fear harm if returned to their native country or if they have suffered harm in the past. To be granted asylum, an alien must demonstrate past persecution or a well-founded fear of persecution based on the alien’s race, religion, nationality, political beliefs, and/or membership in a particular social group.

There are two ways that aliens may request asylum: “affirmatively,” by completing an asylum application and filing it with a Department of Homeland Security (DHS) Asylum Office; or “defensively” by requesting asylum before an Immigration Judge. Aliens who file affirmatively with DHS, but whose requests for asylum are not granted, may be placed in removal proceedings and referred to the appropriate Immigration Court for further review of the case.

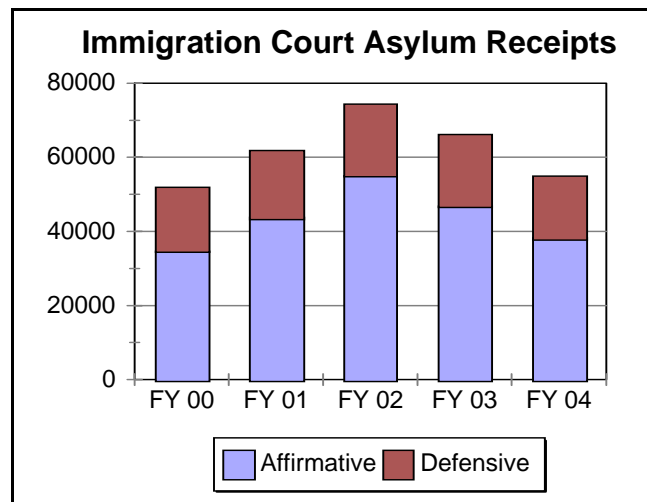


Figure 13

Immigration Court Asylum Receipts				
	Affirmative	Defensive	Unknown	Total
FY 00	34,602	17,296	69	51,967
FY 01	43,836	18,044	59	61,939
FY 02	55,025	19,332	48	74,405
FY 03	46,820	19,404	93	66,317
FY 04	38,242	16,761	64	55,067

As shown in Figure 14 below, asylum receipts increased from FY 2000 to FY 2002. This trend was reversed from FY 2002 to FY 2004 when receipts declined by 26 percent. Receipts peaked in FY 2002.

Asylum completions decreased from FY 2000 to FY 2001. In FY 2002, asylum completions increased by 17 percent compared to FY 2001. There was a 23 percent increase in asylum completions from FY 2002 to FY 2003. There was a 3% decline in completions from FY 2003 to FY 2004.

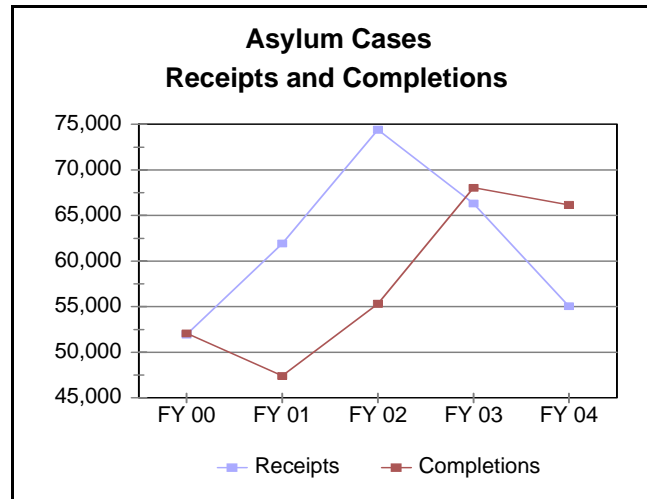


Figure 14

Asylum Receipts and Completions		
	Receipts	Completions
FY 00	51,967	52,097
FY 01	61,939	47,426
FY 02	74,405	55,312
FY 03	66,317	68,041
FY 04	55,067	66,164

Table 6, shown on page I3, provides information on FY 2004 asylum receipts and completions by Immigration Court. In FY 2004, the Los Angeles, CA; Miami, FL; New York, NY; and San Francisco, CA Immigration Courts received 49 percent of asylum filings. In FY 2004, 27 out of 53 Immigration Courts had more receipts than completions. However, all four of the largest courts completed more cases than they received.

Table 6 - Asylum Receipts and Completions by Court for FY 2004

Immigration Court	Receipts	Completions
ARLINGTON, VIRGINIA	2,337	1,912
ATLANTA, GEORGIA	1,725	1,407
BALTIMORE, MARYLAND	1,985	1,630
BATAVIA SPC, NEW YORK	81	73
BLOOMINGTON (ST. PAUL), MINNESOTA	685	509
BOSTON, MASSACHUSETTS	1,606	1,222
BRADENTON, FLORIDA	340	147
BUFFALO, NEW YORK	133	175
CHICAGO, ILLINOIS	2,478	1,696
DALLAS, TEXAS	576	633
DENVER, COLORADO	547	541
DETROIT, MICHIGAN	560	958
EAST MESA, CALIFORNIA	94	91
EL CENTRO SPC, CALIFORNIA	110	107
EL PASO SPC, TEXAS	78	72
EL PASO, TEXAS	75	85
ELIZABETH SPC, NEW JERSEY	277	329
ELOY, ARIZONA	182	176
FISHKILL - NEW YORK STATE DOC, NEW YORK	29	39
FLORENCE SPC, ARIZONA	70	63
GUAYNABO (SAN JUAN), PUERTO RICO	190	237
HARLINGEN, TEXAS	698	308
HARTFORD, CONNECTICUT	296	376
HONOLULU, HAWAII	250	250
HOUSTON SPC, TEXAS	72	84
HOUSTON, TEXAS	767	725
IMPERIAL, CALIFORNIA	17	20
JAMAICA QUEENS FACILITY, NEW YORK	211	204
KROME NORTH SPC, FLORIDA	446	499
LANCASTER, CALIFORNIA	172	176
LAS VEGAS, NEVADA	422	618
LOS ANGELES, CALIFORNIA	6,014	12,244
LOS FRENOS (PORT ISABEL SPC), TEXAS	79	57
MEMPHIS, TENNESSEE	848	1,302
MIAMI, FLORIDA	8,799	9,265
NEW ORLEANS, LOUISIANA	164	157
NEW YORK CITY, NEW YORK	7,666	10,017
NEWARK, NEW JERSEY	1,667	1,743
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	223	191
ORLANDO, FLORIDA	2,729	1,859
PHILADELPHIA, PENNSYLVANIA	1,520	1,316
PHOENIX, ARIZONA	488	293
PORTLAND, OREGON	347	372
SAN ANTONIO, TEXAS	184	173
SAN DIEGO, CALIFORNIA	492	626
SAN FRANCISCO, CALIFORNIA	4,575	9,555
SAN PEDRO SPC, CALIFORNIA	231	249
SEATTLE, WASHINGTON	844	683
TUCSON, ARIZONA	66	42
ULSTER - NEW YORK STATE DOC, NEW YORK	16	14
VARICK SPC, NEW YORK	324	359
YORK, PENNSYLVANIA	282	285
TOTAL	55,067	66,164

Immigration Courts: Asylum Grants by Nationality

This section provides information on asylum grants by nationality. In Figure 15, we have shown the top ten nationalities granted asylum (including conditional grants) in FY 2004. In FY 2004, the top 10 nationalities accounted for 63 percent of all asylum grants. A total of 147 nationalities were represented among cases granted asylum in FY 2004. Table 7 provides information for comparative purposes on the top nationalities granted asylum each fiscal year for the period FY 2000 to FY 2004. Five nationalities were among the top ten nationalities granted asylum each year during the five-year period: China, India, Russia, Albania, and Haiti. For more complete information on asylum data by nationality, see <http://www.usdoj.gov/eoir/eoia/FY04AsyStats.pdf>.

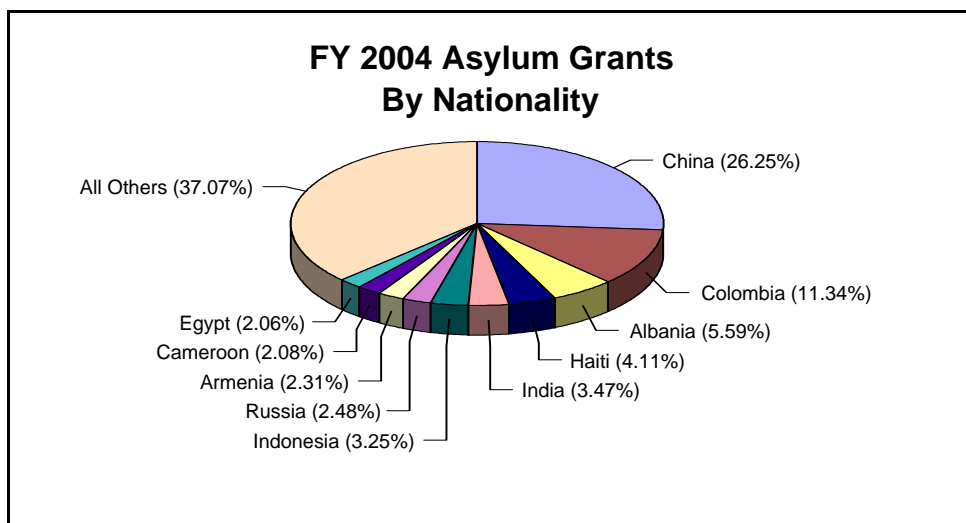


Figure 15

FY 2004 Asylum Grants by Nationality		
Nationality	Cases	% of Total
China	3,402	26.25%
Colombia	1,470	11.34%
Albania	724	5.59%
Haiti	533	4.11%
India	450	3.47%
Indonesia	421	3.25%
Russia	321	2.48%
Armenia	299	2.31%
Cameroon	270	2.08%
Egypt	267	2.06%
All Others	4,805	37.07%
Total	12,962	100.00%

**Table 7 - Asylum Grants by Nationality
Top 25 Nationalities: FY 2000 - FY 2004**

Rank	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
1	China	China	China	China	China
2	India	Albania	Colombia	Colombia	Colombia
3	Russia	India	Albania	Albania	Albania
4	Somalia	Colombia	India	India	Haiti
5	Albania	Haiti	Haiti	Haiti	India
6	Yugoslavia	Somalia	Armenia	Armenia	Indonesia
7	Peru	Russia	Russia	Russia	Russia
8	Ethiopia	Iran	Indonesia	Indonesia	Armenia
9	Egypt	Ethiopia	Iraq	Egypt	Cameroon
10	Haiti	Sri Lanka	Somalia	Ethiopia	Egypt
11	Guatemala	Armenia	Ethiopia	Pakistan	Guinea
12	Colombia	Egypt	Egypt	Iran	Ethiopia
13	Pakistan	Iraq	Iran	Iraq	Mauritania
14	Bangladesh	Indonesia	Pakistan	Cameroon	Iran
15	Iran	Yugoslavia	Yugoslavia	Mauritania	Yugoslavia
16	Sri Lanka	Pakistan	Liberia	Yugoslavia	Guatemala
17	Indonesia	Guatemala	Sri Lanka	Guatemala	Pakistan
18	Afghanistan	Cameroon	Congo	Guinea	Bangladesh
19	El Salvador	Afghanistan	Burma (Myanmar)	Somalia	Burma (Myanmar)
20	Congo	Liberia	Mauritania	Liberia	Congo
21	Cuba	Peru	Cameroon	Congo	Sierra Leone
22	Mauritania	Congo	Guatemala	Burma (Myanmar)	Iraq
23	Ukraine	Burma (Myanmar)	Sierra Leone	Peru	Peru
24	Liberia	Bangladesh	Bangladesh	Sierra leone	Fiji
25	Cameroon	Fiji	Ukraine	Bangladesh	Nepal

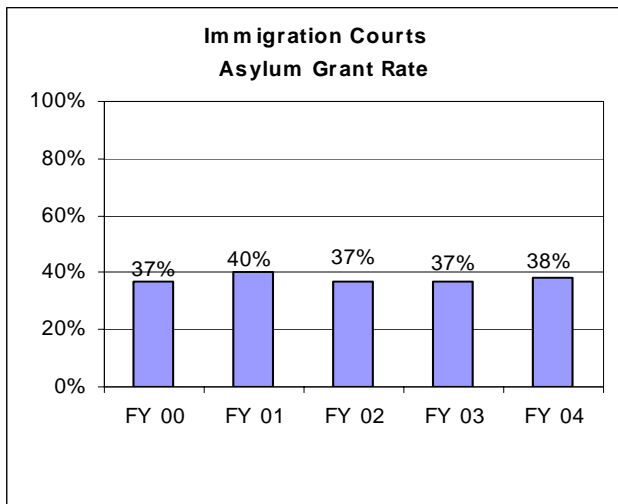
Immigration Courts: Disposition of Asylum Cases

During removal proceedings, an alien may request asylum as relief from removal. The Immigration Judge must then decide whether to deny or grant an alien's application for asylum. If the asylum applicant fails to appear for a scheduled court hearing, the application is considered abandoned. In other instances, the asylum applicant chooses to withdraw his or her application for asylum. EOIR tracks each of these possible outcomes as completed cases: grants, denials, withdrawals, and abandoned applications for asylum.

A substantial number of closed cases do not fall into one of the four categories listed above, and are counted as "other" asylum completions, e.g., change of venue to another court. Further, in some instances, an alien with a pending asylum claim may apply for and be granted some other type of relief besides asylum, and this is also recorded as an "other" completion.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) provided that refugee status or asylum could be granted to as many as 1,000 applicants annually whose claims were based on coercive population control (CPC). IIRIRA amended the Immigration and Nationality Act to include opposition to coercive population control methods to be considered as a political opinion. Immigration Judges began granting asylum based on CPC in FY 1997. Grants of asylum based on CPC are conditional grants. At the end of each year, DHS and EOIR determine the number of grants based on CPC; the condition is removed for all cases within the annual cap.

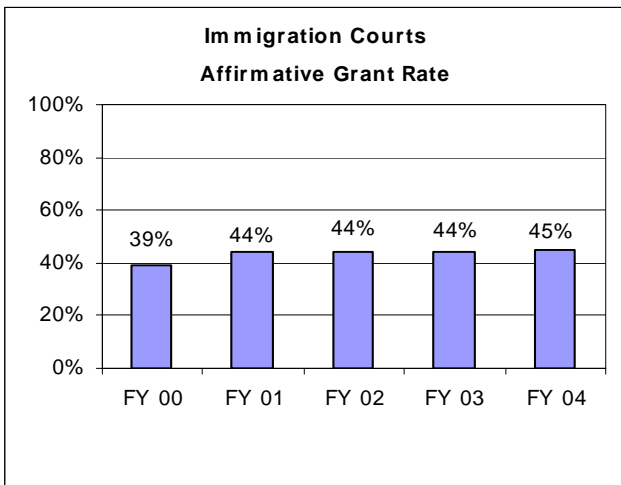
Figure 16 provides the asylum grant rate for the past five years. The grant rate is calculated as a percentage of asylum claims decided on the merits, i.e., grants (including conditional grants) and denials. The number and percent of aliens granted asylum increased from FY 2000 to FY 2001. In FY 2002, the number of grants continued to increase, but the grant rate fell slightly to 37 percent. If the grant rate were calculated as a percentage of all 66,165 asylum completions (as opposed to only the claims decided on the merits), it would be significantly lower, e.g., 20 percent for FY 2004 as opposed to 38 percent.



Asylum Grant Rate			
	Grants	Denials	Grant Rate
FY 00	9,236	16,021	37%
FY 01	10,001	15,031	40%
FY 02	10,977	18,363	37%
FY 03	13,374	22,361	37%
FY 04	12,962	20,838	38%

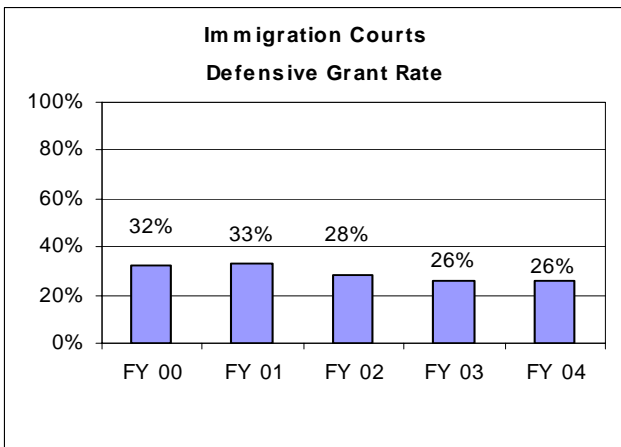
Figure 16

There is some difference in the grant rates depending on whether the asylum application was filed affirmatively or defensively. From FY 2000 to FY 2004, grant rates for affirmative asylum claims were higher than grant rates for defensive claims. Figures 17 and 18 show the grant rates for affirmative and defensive asylum claims. In a few instances, (176 grants and 92 denials) data were incomplete, and it was unclear whether the claim was affirmative or defensive.



	Grants	Denials	Grant Rate
FY 00	6,700	10,561	39%
FY 01	6,781	8,555	44%
FY 02	7,666	9,889	44%
FY 03	9,910	12,768	44%
FY 04	9,803	12,087	45%

Figure 17



	Grants	Denials	Grant Rate
FY 00	2,510	5,449	32%
FY 01	3,190	6,464	33%
FY 02	3,289	8,456	28%
FY 03	3,405	9,581	26%
FY 04	3,120	8,712	26%

Figure 18

Figure 19 illustrates graphically all asylum case completions. The number of denials decreased from FY 2000 through FY 2001, but increased substantially during FY 2002 and FY 2003, then declined in FY 2004. The number of asylum grants has increased each year from FY 2000 to FY 2003 then declined in FY 2004. In FY 2004, the number of asylum grants was 40 percent higher than the number of grants in FY 2000.

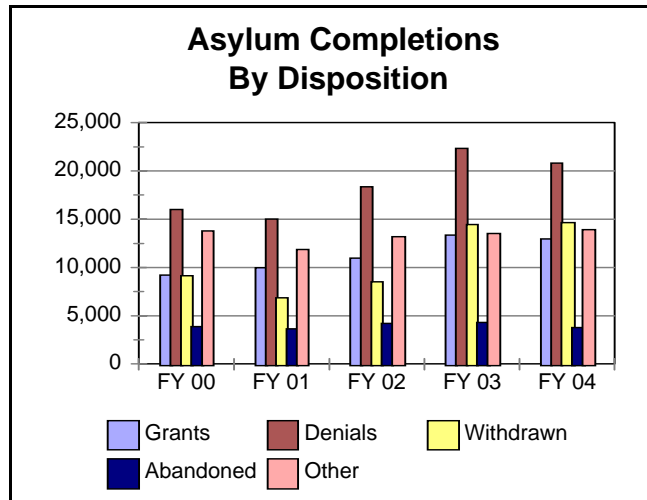


Figure 19

	Grants	Denials	Withdrawn	Abandoned	Other	Total
FY 00	9,236	16,021	9,145	3,893	13,802	52,097
FY 01	10,001	15,031	6,846	3,675	11,873	47,426
FY 02	10,977	18,363	8,537	4,241	13,194	55,312
FY 03	13,374	22,361	14,465	4,307	13,534	68,041
FY 04	12,962	20,838	14,643	3,791	13,930	66,164

Table 8, shown on page K5, provides information on the FY 2004 asylum grant rate for each individual Immigration Court.

Table 8 - FY 2004 Asylum Grant Rate by Immigration Court

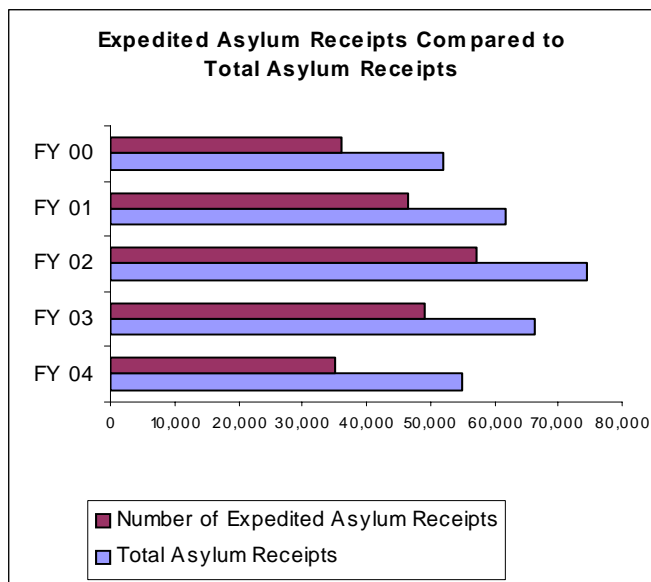
Immigration Court	Denials	Grants	Conditional Grants	Grant Rate
ARLINGTON, VIRGINIA	572	316	7	36%
ATLANTA, GEORGIA	285	53	1	16%
BALTIMORE, MARYLAND	733	376	14	35%
BATAVIA SPC, NEW YORK	33	2	0	6%
BLOOMINGTON (ST. PAUL), MINNESOTA	214	73	0	25%
BOSTON, MASSACHUSETTS	490	287	19	38%
BRADENTON COUNTY JAIL, FLORIDA	96	4	0	4%
BUFFALO, NEW YORK	93	12	1	12%
CHICAGO, ILLINOIS	551	238	18	32%
DALLAS, TEXAS	233	111	3	33%
DENVER, COLORADO	181	107	5	38%
DETROIT, MICHIGAN	465	159	4	26%
EAST MESA, CALIFORNIA	59	12	2	19%
EL CENTRO SPC, CALIFORNIA	57	1	1	3%
EL PASO SPC, TEXAS	28	8	0	22%
EL PASO, TEXAS	32	7	0	18%
ELIZABETH SPC, NEW JERSEY	179	37	9	20%
ELOY, ARIZONA	119	1	0	1%
FISHKILL - NEW YORK STATE DOC, NEW YORK	1	0	0	0%
FLORENCE SPC, ARIZONA	30	12	0	29%
GUAYNABO (SAN JUAN), PUERTO RICO	72	7	3	12%
HARLINGEN, TEXAS	10	27	3	75%
HARTFORD, CONNECTICUT	185	82	3	31%
HONOLULU, HAWAII	49	30	48	61%
HOUSTON SPC, TEXAS	36	12	1	27%
HOUSTON, TEXAS	289	82	3	23%
IMPERIAL, CALIFORNIA	6	4	1	45%
JAMAICA QUEENS FACILITY, NEW YORK	69	42	0	38%
KROME NORTH SPC, FLORIDA	211	12	2	6%
LANCASTER, CALIFORNIA	90	11	0	11%
LAS VEGAS, NEVADA	125	59	1	32%
LOS ANGELES, CALIFORNIA	2,072	1,189	71	38%
LOS FRENOS (PORT ISABEL SPC), TEXAS	25	9	2	31%
MEMPHIS, TENNESSEE	319	202	13	40%
MIAMI, FLORIDA	5,306	1,375	12	21%
NEW ORLEANS, LOUISIANA	89	28	6	28%
NEW YORK CITY, NEW YORK	2,908	3,101	1,710	62%
NEWARK, NEW JERSEY	611	260	93	37%
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	50	15	0	23%
ORLANDO, FLORIDA	372	500	19	58%
PHILADELPHIA, PENNSYLVANIA	615	149	38	23%
PHOENIX, ARIZONA	14	63	9	84%
PORTLAND, OREGON	148	72	3	34%
SAN ANTONIO, TEXAS	53	45	0	46%
SAN DIEGO, CALIFORNIA	291	144	11	35%
SAN FRANCISCO, CALIFORNIA	1,750	1,261	20	42%
SAN PEDRO SPC, CALIFORNIA	38	26	0	41%
SEATTLE, WASHINGTON	210	94	2	31%
TUCSON, ARIZONA	4	22	1	85%
ULSTER - NEW YORK STATE DOC, NEW YORK	2	0	0	0%
VARICK SPC, NEW YORK	205	15	3	8%
YORK, PENNSYLVANIA	163	42	4	22%
TOTAL	20,838	10,796	2,166	38%

Immigration Courts: Expedited Asylum Cases

There are two ways that aliens may request asylum: “affirmatively,” by completing an asylum application and filing it with a Department of Homeland Security (DHS) Asylum Office; or “defensively” by requesting asylum before an Immigration Judge. Aliens who file affirmatively with DHS, but whose requests for asylum are not granted, are placed in removal proceedings and referred to the appropriate Immigration Court for a hearing.

Asylum regulations implemented in 1995 called for asylum applications to be processed within 180 days after filing. The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 reiterated that time frame and calls for the administrative adjudication of an asylum application within 180 days of the application filing date, absent exceptional circumstances. This process is time sensitive because the asylum applicant may not apply for employment authorization until 150 days after filing, and DHS then has 30 days to grant or deny employment authorization. The applicant can only be granted employment authorization if the asylum application has not been decided within 180 days of filing, provided there are no delays caused by the alien. Consequently, expedited processing of asylum applications occurs when (1) an alien files “affirmatively” at a DHS Asylum Office and the application is referred to EOIR within 75 days of filing; or (2) an alien files an asylum application “defensively” with EOIR.

As shown in Figure 20 below, the number of expedited asylum cases has increased from FY 2000 to FY 2002. From FY 2002 to FY 2004 both expedited asylum receipts and total asylum receipts decreased.



Expedited Asylum Receipts		
	Number of Expedited Asylum Receipts	Total Asylum Receipts
FY 00	36,009	51,967
FY 01	46,512	61,939
FY 02	57,329	74,405
FY 03	49,076	66,317
FY 04	34,980	55,067

Figure 20

Depicted in Figure 21 below are the number of receipts and completions for expedited asylum cases between FY 2000 and FY 2004.

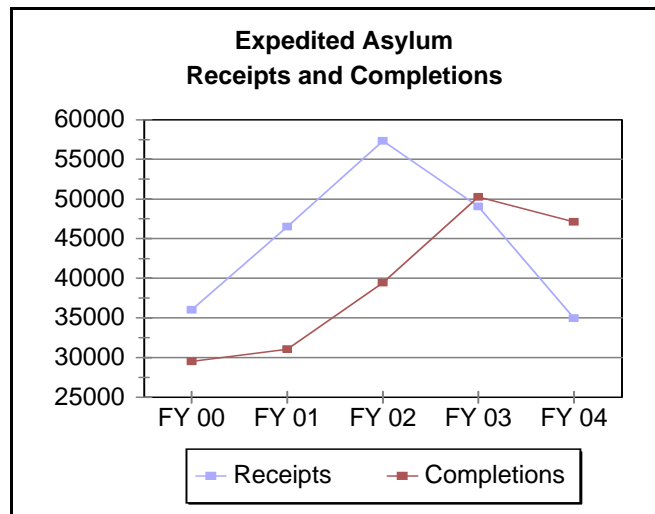


Figure 21

Expedited Asylum Receipts and Completions FY 2000 - 2004		
	Receipts	Completions
FY 00	36,009	29,520
FY 01	46,512	31,034
FY 02	57,329	39,452
FY 03	49,076	50,245
FY 04	34,980	47,078

Table 9 - Completion Times for Expedited Asylum Cases

Days at Completions	# of Cases	% of Total
180 or Less	41,731	89%
181-260	1,544	3%
Over 260 days	3,803	8%
Total	47,078	100%

Immigration Courts: Convention Against Torture

In 1999, the Department of Justice implemented regulations regarding the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture) (CAT). Under these regulations, aliens in removal, deportation, or exclusion proceedings may claim that they “more likely than not” will be tortured if removed from the United States. The regulation provides jurisdiction to the Immigration Courts to hear these claims, and provides jurisdiction to the BIA to hear appeals from the Immigration Courts’ decisions regarding CAT claims.

There are two forms of protection under the 1999 regulations:

- The regulation established a new form of withholding of removal which is granted to an alien who establishes that he or she would be tortured in the proposed country of removal.
- The second protection concerns aliens who would be tortured in the country of removal, but who are barred from withholding of removal. These aliens may be granted deferral of removal, a less permanent form of protection than withholding of removal, and one that is more easily and quickly terminated if it becomes possible to remove the alien.

As shown in Table 10 below, the Immigration Courts adjudicated 33,938 CAT applications during FY 2004. Of those, 535 CAT cases were granted, the majority of which were granted withholding.

The grant rate for CAT cases was approximately 3 percent in FY 2004. This percentage is calculated based only on grants and denials, and does not consider abandoned applications, withdrawn applications, or other case closures.

Table 10 - FY 2004 Convention Against Torture Cases by Disposition

Granted			Denied	Other	Withdrawn	Abandoned	Total
Withholding	Deferral	Total					
430	105	535	19,992	6,773	5,952	686	33,938

Table 11 on the following page shows a breakdown of CAT completions by Immigration Courts. The Los Angeles, CA; Miami, FL; New York City, NY; and San Francisco, CA Immigration Courts combined completed approximately 61 percent of the total FY 2004 CAT cases.

Table 11 - FY 2004 Convention Against Torture Completions by Court

Immigration Court	Completions
ARLINGTON, VIRGINIA	847
ATLANTA, GEORGIA	448
BALTIMORE, MARYLAND	905
BATAVIA SPC, NEW YORK	51
BLOOMINGTON (ST. PAUL), MINNESOTA	397
BOSTON, MASSACHUSETTS	670
BRADENTON COUNTY JAIL, FLORIDA	108
BUFFALO, NEW YORK	147
CHICAGO, ILLINOIS	723
DALLAS, TEXAS	344
DENVER, COLORADO	254
DETROIT, MICHIGAN	687
EAST MESA, CALIFORNIA	85
EL CENTRO SPC, CALIFORNIA	80
EL PASO SPC, TEXAS	16
EL PASO, TEXAS	16
ELIZABETH SPC, NEW JERSEY	354
ELOY, ARIZONA	164
FISHKILL - NEW YORK STATE DOC, NEW YORK	37
FLORENCE SPC, ARIZONA	46
GUAYNABO (SAN JUAN), PUERTO RICO	300
HARLINGEN, TEXAS	12
HARTFORD, CONNECTICUT	195
HONOLULU, HAWAII	160
HOUSTON SPC, TEXAS	61
HOUSTON, TEXAS	162
IMPERIAL, CALIFORNIA	18
JAMAICA QUEENS FACILITY, NEW YORK	123
KROME NORTH SPC, FLORIDA	288
LANCASTER, CALIFORNIA	158
LAS VEGAS, NEVADA	132
LOS ANGELES, CALIFORNIA	5,285
LOS FRENOS (PORT ISABEL SPC), TEXAS	28
MEMPHIS, TENNESSEE	644
MIAMI, FLORIDA	7,133
NEW ORLEANS, LOUISIANA	109
NEW YORK CITY, NEW YORK	5,510
NEWARK, NEW JERSEY	1,093
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	151
ORLANDO, FLORIDA	657
PHILADELPHIA, PENNSYLVANIA	905
PHOENIX, ARIZONA	12
PORTLAND, OREGON	142
SAN ANTONIO, TEXAS	54
SAN DIEGO, CALIFORNIA	404
SAN FRANCISCO, CALIFORNIA	2,636
SAN PEDRO SPC, CALIFORNIA	241
SEATTLE, WASHINGTON	402
TUCSON, ARIZONA	1
ULSTER - NEW YORK STATE DOC, NEW YORK	13
VARICK SPC, NEW YORK	254
YORK, PENNSYLVANIA	276
TOTAL	33,938

Immigration Courts: Proceedings Completed with Applications for Relief

Some aliens who are found deportable may be eligible for relief from removal. Aliens apply for various forms of relief by completing the appropriate application. Specific types of relief for aliens in proceedings are discussed in other sections of this Year Book. Asylum is addressed in more detail in Tabs I, J, K, and L. Other applications for relief are addressed in Tab R. Tab M provides information about protection afforded certain aliens under the United Nations Convention Against Torture. For the purpose of this Year Book, voluntary departure (discussed in Tab Q) is not considered an application for relief.

Figure 22 provides information on the percent of cases where the alien filed an application for relief. Generally, cases with no applications for relief are processed faster and expend fewer court resources.

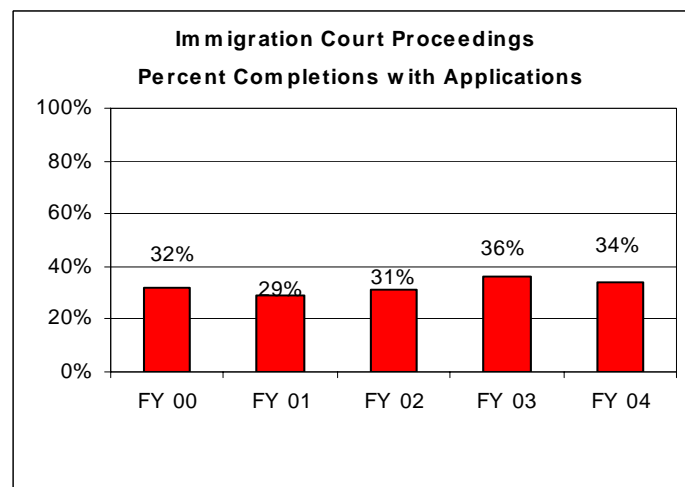


Figure 22

Court Completions (Proceedings) with Applications for Relief					
	With Applications	Percent with Applications	Without Applications	Percent Without Applications	Total
FY 00	68,398	32%	146,997	68%	215,395
FY 01	62,799	29%	155,454	71%	218,253
FY 02	71,678	31%	156,672	69%	228,350
FY 03	89,430	36%	161,266	64%	250,696
FY 04	89,094	34%	169,852	66%	258,946

Table 12 on page N2 shows the number and percentage of proceedings completed with applications for relief at each Immigration Court in FY 2004. Typically, courts along the United States border, courts co-located with the Department of Homeland Security (DHS) detention facilities, and courts which handle Institutional Hearing Program cases involving criminal aliens receive fewer applications for relief. Courts with a low percentage of applications for relief (10 percent or less) are shown in red. Courts where 65 percent or more of the completions involved applications for relief are shown in blue.

Table 12 - FY 2004 Immigration Court Completions (Proceedings) With Applications for Relief

Immigration Court	Total Completions	# of Completions With Applications	Percent With Applications
ARLINGTON, VIRGINIA	6,579	2,533	39%
ATLANTA, GEORGIA	5,276	1,619	31%
BALTIMORE, MARYLAND	3,923	2,000	51%
BATAVIA SPC, NEW YORK	921	101	11%
BLOOMINGTON (ST. PAUL), MINNESOTA	2,253	775	34%
BOSTON, MASSACHUSETTS	5,240	2,054	39%
BRADENTON COUNTY JAIL, FLORIDA	1,937	277	14%
BUFFALO, NEW YORK	2,148	416	19%
CHICAGO, ILLINOIS	9,561	2,476	26%
DALLAS, TEXAS	6,639	1,380	21%
DENVER, COLORADO	4,559	966	21%
DETROIT, MICHIGAN	3,565	1,363	38%
EAST MESA, CALIFORNIA	4,370	174	4%
EL CENTRO SPC, CALIFORNIA	3,560	294	8%
EL PASO SPC, TEXAS	4,907	188	4%
EL PASO, TEXAS	2,874	341	12%
ELIZABETH SPC, NEW JERSEY	866	386	45%
ELOY, ARIZONA	7,891	691	9%
FISHKILL - NEW YORK STATE DOC, NEW YORK	983	60	6%
FLORENCE SPC, ARIZONA	6,357	153	2%
GUAYNABO (SAN JUAN), PUERTO RICO	1,753	409	23%
HARLINGEN, TEXAS	15,160	520	3%
HARTFORD, CONNECTICUT	1,790	605	34%
HONOLULU, HAWAII	851	361	42%
HOUSTON SPC, TEXAS	2,943	185	6%
HOUSTON, TEXAS	6,694	1,548	23%
IMPERIAL, CALIFORNIA	1,400	280	20%
JAMAICA QUEENS FACILITY, NEW YORK	358	217	61%
KROME NORTH SPC, FLORIDA	2,526	560	22%
LANCASTER, CALIFORNIA	4,485	480	11%
LAS VEGAS, NEVADA	2,622	1,005	38%
LOS ANGELES, CALIFORNIA	19,462	15,057	77%
LOS FRENOS (PORT ISABEL SPC), TEXAS	5,830	196	3%
MEMPHIS, TENNESSEE	2,425	1,468	61%
MIAMI, FLORIDA	17,246	12,593	73%
NEW ORLEANS, LOUISIANA	1,309	237	18%
NEW YORK CITY, NEW YORK	15,216	11,473	75%
NEWARK, NEW JERSEY	5,530	2,306	42%
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	2,923	377	13%
ORLANDO, FLORIDA	4,069	2,166	53%
PHILADELPHIA, PENNSYLVANIA	3,281	1,590	48%
PHOENIX, ARIZONA	4,886	596	12%
PORTLAND, OREGON	1,428	623	44%
SAN ANTONIO, TEXAS	15,760	634	4%
SAN DIEGO, CALIFORNIA	4,157	1,445	35%
SAN FRANCISCO, CALIFORNIA	13,923	11,123	80%
SAN PEDRO SPC, CALIFORNIA	2,261	442	20%
SEATTLE, WASHINGTON	4,763	1,248	26%
TUCSON, ARIZONA	3,960	118	3%
ULSTER - NEW YORK STATE DOC, NEW YORK	758	27	4%
VARICK SPC, NEW YORK	2,387	480	20%
YORK, PENNSYLVANIA	2,381	478	20%
TOTAL	258,946	89,094	34%



Courts with a low percentage of applications for relief



Courts with a high percentage of applications for relief

Immigration Courts: Proceedings Completed for Detained Cases

Under the Immigration and Nationality Act, the Department of Homeland Security (DHS) has authority to detain an alien pending a decision on whether or not the alien is removable. Immigration Courts conduct hearings for both detained and non-detained aliens, and EOIR maintains data on the custody status of aliens in proceedings.

Detention locations include DHS Service Processing Centers (SPCs), DHS contract detention facilities, state and local government jails, and Bureau of Prisons (BOP) institutions. For the purpose of this Year Book, Institutional Hearing Program (IHP) cases are considered detained cases (IHP is discussed further in Tab P). Figure 23 below provides a comparison of detained completions to total proceedings completed. For the period FY 2000 – FY 2004, detained completions ranged from 33 to 34 percent of total completions.

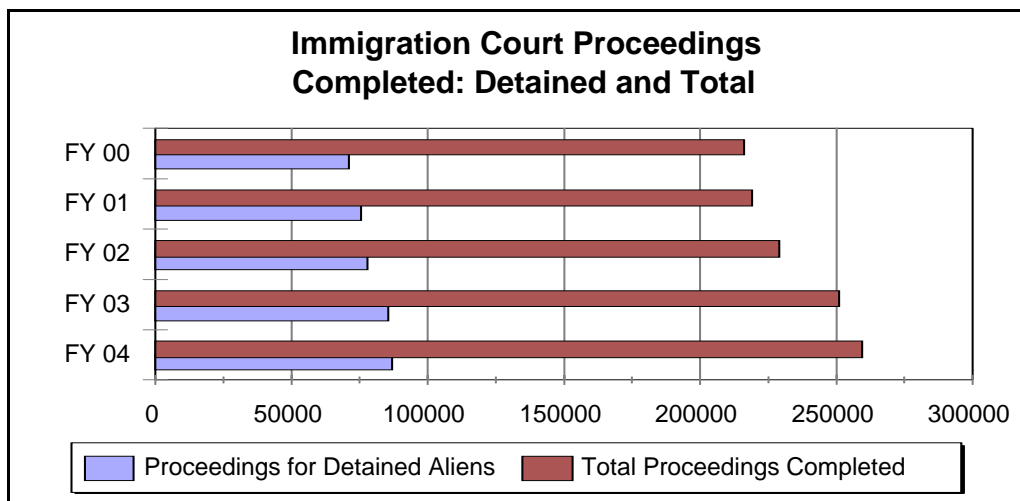



Figure 23

Immigration Court (Proceedings) Completions			
	Proceedings Completed for Detained Aliens (Including IHP)		
	Proceedings for Detained Aliens	Total Proceedings Completed	Percent Detained
FY 00	70,623	215,395	33%
FY 01	75,030	218,253	34%
FY 02	77,005	228,350	34%
FY 03	85,063	250,696	34%
FY 04	86,105	258,946	33%

Table 13 on the following page provides information, by Immigration Court, on FY 2004 detained completions. The Immigration Courts in Chicago, IL; East Mesa, CA; El Paso SPC, TX; Eloy, AZ; and Florence SPC, AZ each completed more than 4,000 proceedings in detained cases in FY 2004. Overall, Immigration Courts located in three border States – Texas, California, and Arizona – accounted for 60 percent of the detained completions in FY 2004. Courts in those three States are highlighted in blue in Table 13.

Table 13 - FY 2004 Immigration Court Completions (Proceedings) for Detained Cases

Immigration Court	Completions
ARLINGTON, VIRGINIA	1,624
ATLANTA, GEORGIA	1,484
BALTIMORE, MARYLAND	379
BATAVIA SPC, NEW YORK	855
BLOOMINGTON (ST. PAUL), MINNESOTA	1,093
BOSTON, MASSACHUSETTS	787
BRADENTON COUNTY JAIL, FLORIDA	1,583
BUFFALO, NEW YORK	71
CHICAGO, ILLINOIS	4,836
DALLAS, TEXAS	3,461
DENVER, COLORADO	2,336
DETROIT, MICHIGAN	689
EAST MESA, CALIFORNIA	4,139
EL CENTRO SPC, CALIFORNIA	3,333
EL PASO SPC, TEXAS	4,039
EL PASO, TEXAS	761
ELIZABETH SPC, NEW JERSEY	671
ELOY, ARIZONA	7,538
FISHKILL - NEW YORK STATE DOC, NEW YORK	980
FLORENCE SPC, ARIZONA	5,178
GUAYNABO (SAN JUAN), PUERTO RICO	729
HARLINGEN, TEXAS	972
HARTFORD, CONNECTICUT	646
HONOLULU, HAWAII	362
HOUSTON SPC, TEXAS	1,957
HOUSTON, TEXAS	573
IMPERIAL, CALIFORNIA	884
JAMAICA QUEENS FACILITY, NEW YORK	271
KROME NORTH SPC, FLORIDA	1,223
LANCASTER, CALIFORNIA	3,691
LAS VEGAS, NEVADA	1,012
LOS ANGELES, CALIFORNIA	360
LOS FRENOS (PORT ISABEL SPC), TEXAS	3,304
MEMPHIS, TENNESSEE	199
MIAMI, FLORIDA	1,002
NEW ORLEANS, LOUISIANA	702
NEW YORK CITY, NEW YORK	70
NEWARK, NEW JERSEY	1,009
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	2,585
ORLANDO, FLORIDA	926
PHILADELPHIA, PENNSYLVANIA	284
PHOENIX, ARIZONA	465
PORTLAND, OREGON	567
SAN ANTONIO, TEXAS	2,905
SAN DIEGO, CALIFORNIA	1,508
SAN FRANCISCO, CALIFORNIA	1,142
SAN PEDRO SPC, CALIFORNIA	1,577
SEATTLE, WASHINGTON	2,402
TUCSON, ARIZONA	3,529
ULSTER - NEW YORK STATE DOC, NEW YORK	756
VARICK SPC, NEW YORK	748
YORK, PENNSYLVANIA	1,908
TOTAL	86,105

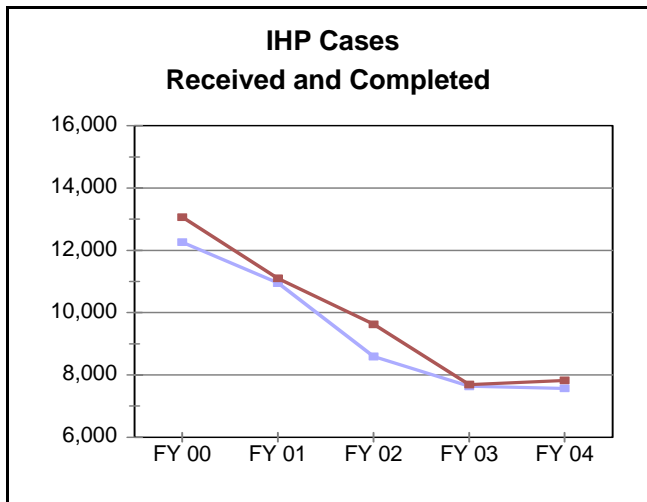
 Immigration Courts in U.S./Mexico Border States

Immigration Courts: Institutional Hearing Program Case Processing

The Institutional Hearing Program (IHP) is a cooperative effort between EOIR; the Department of Homeland Security (DHS); and various Federal, State, and municipal corrections agencies. The goal of the IHP is to complete proceedings for incarcerated criminal aliens serving federal or state sentences prior to their release from prison or jail. This allows DHS to remove aliens with final orders expeditiously after release from incarceration.

In FY 2004, DHS filed charging documents with the Immigration Courts for incarcerated aliens in 76 different institutions. Immigration Judges and court staff traveled to these institutions, or used televideo where available, to conduct IHP hearings.

Figure 24 provides information on IHP receipts and completions. IHP receipts have declined since FY 2000. This decline may have been the result of the 1997 implementation of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. IIRIRA authorized DHS to decide some cases that were previously handled by the Immigration Courts. Of particular relevance to the IHP are the IIRIRA provisions which allow DHS to reinstate prior orders of removal; and the provisions authorizing DHS to order the administrative removal of convicted aggravated felons who are not Lawful Permanent Residents and are not eligible for relief.



IHP Cases		
	Receipts	Completions
FY 00	12,263	13,068
FY 01	10,959	11,108
FY 02	8,595	9,631
FY 03	7,638	7,696
FY 04	7,569	7,835

Figure 24

Table 14 provides a breakdown of IHP completions by disposition – either through an Immigration Judge decision, or through an “other” completion, such as an administrative closure or change of venue.

Table 14
IHP Completions by Disposition

	FY 00	FY 01	FY 02	FY 03	FY 04
Total Decisions in IHP Cases	10,319	8,549	7,161	5,984	5,861
<i>Removal</i>	9,898	8,072	6,768	5,714	5,594
<i>Termination</i>	286	388	322	187	219
<i>Relief</i>	124	81	63	73	39
<i>Other</i>	11	8	8	10	9
Other Completions	2,749	2,559	2,470	1,712	1,974
Total Completions	13,068	11,108	9,631	7,696	7,835

Immigration Courts: Immigration Judge Grants of Voluntary Departure

Under certain circumstances, an Immigration Judge may allow an alien to depart the United States voluntarily. An alien allowed to depart voluntarily concedes removability, but is not barred from future re-entry. Failure to depart within the time granted subjects the alien to a fine, and makes the alien ineligible for voluntary departure and several forms of relief for a ten-year period.

Prior to the completion of proceedings, aliens may request voluntary departure in lieu of removal. The Immigration Judge has discretion to grant up to 120 days for the alien to depart voluntarily if the alien is able to pay for his or her removal, and if he or she is not removable as an aggravated felon or a terrorist.

Immigration Judges also have discretion in certain cases to grant voluntary departure in lieu of removal at the conclusion of proceedings. If the judge finds that the alien has been present in the United States for one year immediately preceding the issuance of the Notice to Appear, has been a person of good moral character for the past five years, is not removable under aggravated felony or terrorist grounds, and has the means to depart the United States and intends to do so, the Immigration Judge may grant up to 60 days for the alien to depart voluntarily. Aliens allowed to depart voluntarily are not barred from re-entry.

Voluntary departure is considered a form of removal, not a type of relief. Immigration Judge decisions on proceedings (as discussed in Tab D) include grants of voluntary departure under removal. Table 15 shows the percentage of removal orders that are grants of voluntary departure.

Table 15 - IJ Removal Decisions Compared to Voluntary Departure Decisions

IJ Removal Decisions Compared to Voluntary Departure Decisions			
	Total Removal Decisions	Voluntary Departure Decisions	Percent Voluntary Departure Decisions
FY 00	128,385	19,419	15%
FY 01	124,812	15,755	13%
FY 02	135,214	20,157	15%
FY 03	155,065	28,205	18%
FY 04	163,857	27,362	17%

Immigration Courts: Applications for Relief other than Asylum

Although asylum is the most common form of relief requested before an Immigration Judge, other forms of relief are also granted to eligible aliens. (See Tabs I-L for information on asylum, and Tab M for information on protection granted under the Convention Against Torture.)

This tab describes other forms of relief such as adjustment of status; suspension and cancellation; and Section 212(c) relief. The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 provided a new form of relief called cancellation of removal. Cancellation of removal was intended to replace the former Immigration and Nationality Act Section 212(c) waiver and suspension of deportation. Table 16 on page R3 provides information on relief granted under the following provisions:

- Adjustment of Status is a type of relief from deportation, removal, or exclusion, for an alien who is eligible for lawful permanent resident status based on a visa petition approved by the Department of Homeland Security. Normally, the visa petition has been filed by a United States citizen spouse.
- Prior to the passage of IIRIRA, Section 212(c) of the Immigration and Nationality Act provided relief from deportation for long-term lawful permanent residents who had committed a crime. In order to be eligible to apply for 212(c) relief, an applicant had to show that he or she had been a lawful permanent resident for at least seven years, had served less than five years of a sentence if the underlying crime was classified as an aggravated felony, had been rehabilitated, and had no other criminal record. If an applicant in exclusion or deportation proceedings is able to establish these factors, the immigration judge has discretion to grant relief under 212(c).
- Suspension of Deportation is another pre-IIRIRA form of discretionary relief. Certain non-lawful permanent resident aliens in deportation proceedings who have maintained continuous physical presence in the United States for specific periods of time, and have met the other statutory requirements may be granted suspension of deportation and adjustment of status to that of lawful permanent resident. The total number of adjustments to lawful permanent resident status under suspension of deportation or cancellation of removal is limited to a 4,000 annual cap under IIRIRA. Applicants for suspension of deportation who applied for this relief prior to the implementation of IIRIRA, or who meet certain conditions of the Nicaraguan Adjustment and Central American Relief Act (NACARA) are not subject to the cap.

- As noted above, Cancellation of Removal is a form of relief provided by IIRIRA. There are two IIRIRA provisions addressing cancellation of removal:
 - Permanent Residents. Under the first provision, a lawful permanent resident facing removal on criminal grounds who has been lawfully admitted for permanent residence for at least five years, and who has resided continuously in the United States for seven years after a lawful admission may request cancellation, provided he or she has no aggravated felony convictions.
 - Nonpermanent Residents. Under the second provision, applicants physically present in the United States for a continuous period of ten years who have not been convicted of a criminal offense may seek cancellation of removal and adjustment of status to permanent resident alien. The applicant must demonstrate exceptional and extremely unusual hardship to a citizen or lawful permanent resident alien spouse, parent or child. IIRIRA limits to 4,000 annually the total number of adjustments to lawful permanent resident status under suspension of deportation or cancellation of removal. Applicants for cancellation of removal who meet certain conditions are not subject to the cap.

Table 16 reflects grants of relief under the various provisions described above during the period FY 2000 - FY 2004.

Table 16
Grants of Relief:
Adjustment of Status; 212(c) Waivers; Suspension of Deportation; and Cancellation of Removal

	Relief Granted to Lawful Permanent Residents		Relief Granted to Non-Lawful Permanent Residents				
	Relief Granted Under Section 212(c)	Cancellation of Removal	Not Subject to Annual Cap of 4,000 Grants			Subject to Annual Cap of 4,000 Grants	
			Adjustment of Status to LPR	Suspension of Deportation	Cancellation of Removal	Suspension of Deportation	Cancellation of Removal
FY 2000	260	2,416	7,764	1,235	690	1,554	1,585
FY 2001	455	2,402	6,887	1,219	511	577	1,388
FY 2002	566	1,793	7,002	513	415	405	1,149
FY 2003	661	2,137	8,326	346	440	565	2,345
FY 2004	380	2,298	9,383	231	525	257	3,570

Board of Immigration Appeals: Total Cases Received and Completed

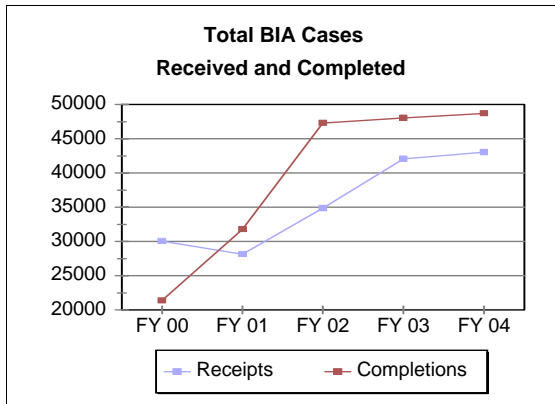
The Board of Immigration Appeals (BIA) has nationwide jurisdiction to hear appeals from certain decisions rendered by Immigration Judges or certain Department of Homeland Security (DHS) officials. Published BIA decisions are binding on all DHS officers and Immigration Judges unless modified or overruled by the Attorney General or a federal court. Unpublished decisions of the Board are binding on the Immigration Judge or the DHS with regard to the individual case at issue unless overruled or modified by the Attorney General or a Federal court.

The majority of cases reviewed by the BIA involve decisions made by Immigration Judges in removal, deportation, or exclusion proceedings, and for the purposes of this Statistical Year Book are referred to as Immigration Judge (IJ) appeals. These appeals are filed directly with the BIA in Falls Church, VA, and must be filed within 30 days of the IJ decision.

Other types of cases over which the BIA has jurisdiction include appeals of certain DHS decisions involving (1) family-based visa petitions adjudicated by DHS officials; (2) fines and penalties imposed upon carriers for violations of immigration laws; and (3) bonds set subsequent to an Immigration Judge's ruling. For the purposes of this Statistical Year Book, appeals from these DHS decisions are referred to as DHS decision appeals.

As shown in Figure 25 on page S2, BIA case receipts declined slightly from FY 2000 to FY 2001. In FY 2002, there was a 24 percent increase in receipts over FY 2001. Receipts continued to significantly increase with a 23 percent increase from FY 2002 to FY 2004.

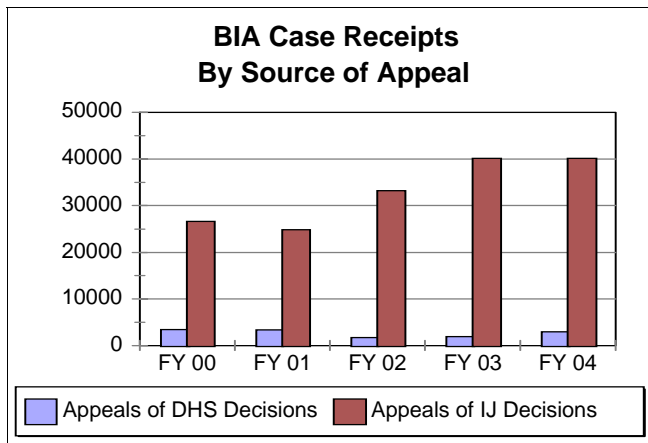
The data in Figure 25 indicate significant increases in case completions beginning in FY 2000. In response to a growing caseload, the BIA has initiated a variety of management and regulatory improvements to increase efficiency while maintaining due process guarantees. In late FY 2000, the BIA's Streamlining Initiative was launched. Published regulations allowed for noncontroversial cases that met specified criteria to be reviewed and adjudicated by a single Board Member. Streamlining helped the BIA increase its output in FY 2001 by almost 50 percent over FY 2000. In February 2002, the Department of Justice proposed a regulatory amendment to address additional procedural changes at the BIA. The regulation, which became final in September 2002, imposes time frames for the adjudicatory process at the BIA. In FY 2002, the BIA again increased completions by almost 50 percent over the prior year. FY 2004 completion figures were slightly higher than FY 2003.



	Receipts	Completions
FY 00	30,049	21,380
FY 01	28,148	31,801
FY 02	34,849	47,325
FY 03	42,048	48,048
FY 04	43,033	48,707

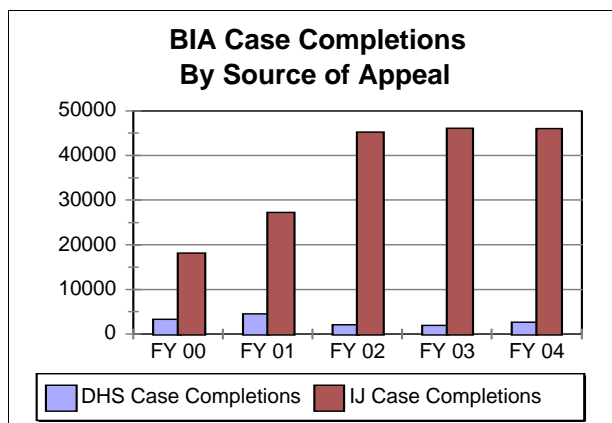
Figure 25

As noted earlier, BIA handles two types of cases: those generated from an IJ decision, and those generated from a DHS decision. Figures 26 and 27 below provide information on the types of cases received and completed by the BIA. Appeals of IJ decisions make up the bulk of the BIA's work.



	Appeals of DHS Decisions	Appeals of IJ Decisions	Total Appeals
FY 00	3,431	26,618	30,049
FY 01	3,345	24,803	28,148
FY 02	1,661	33,188	34,849
FY 03	1,894	40,154	42,048
FY 04	2,933	40,100	43,033

Figure 26



	DHS Case Completions	IJ Case Completions	Total Appeals
FY 00	3,253	18,127	21,380
FY 01	4,528	27,273	31,801
FY 02	2,095	45,230	47,325
FY 03	1,943	46,105	48,048
FY 04	2,654	46,053	48,707

Figure 27

Board of Immigration Appeals: Cases Received and Completed by Type of Case

The Board of Immigration Appeals (BIA) has nationwide jurisdiction to hear appeals from certain decisions rendered by Immigration Judges or the Department of Homeland Security (DHS) officials. The BIA has jurisdiction over the following types of cases arising from Immigration Judge (IJ) decisions:

- Case appeals from the decisions of Immigration Judges in removal, deportation, and exclusion proceedings at the court level;
- Appeals filed from the decisions of Immigration Judges on motions to reopen proceedings;
- Motions to reopen cases already decided by the BIA;
- Appeals pertaining to bond, parole, or detention; and
- Interlocutory appeals relating to important jurisdictional questions regarding the administration of the immigration laws or recurring problems in the handling of cases by Immigration Judges.

The BIA also has jurisdiction to review appeals arising from certain decisions rendered by DHS officials. These types of appeals are listed below. Until FY 2000, when a revised regulation was published regarding detention of aliens with removal orders, BIA also had jurisdiction to review custody determinations (bonds) for aliens with final orders of removal.

- Family-based visa petitions adjudicated by DHS district directors or regional service center directors;
- Waivers of inadmissibility for non-immigrants under the §212(c)(3) of the Immigration and Nationality Act; and
- Fines and penalties imposed upon air carriers for violations of immigration laws.

As shown in Table 17, there was a large increase in case receipts from FY 2001 to FY 2002, which continued in FY 2003, in IJ case appeals and in motions to reopen or reconsider before the BIA. The Appeals from IJ Decisions in FY 2004 are consistent with FY 2003. The data in Table 18 show a decrease in the completion of IJ case appeals, but increases in the completion of motions to reopen or reconsider before the BIA. For both receipts and completions there was a significant increase from FY 2003 to FY 2004 in appeals from DHS.

Table 17 provides a breakdown of the types of cases received by the BIA between FY 2000 and FY 2004.

Table 17 - BIA Receipts by Type

	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Total Appeals from IJ Decisions	26,618	24,803	33,188	40,154	40,100
Case Appeal	21,362	18,956	22,049	27,433	27,288
Appeal of IJ Motion to Reopen	1,975	1,822	2,098	2,179	2,075
Motion to Reopen-BIA	2,534	3,402	7,225	9,038	9,630
Bond Appeal	632	530	1,728	1,373	974
Interlocutory Appeal	115	93	88	131	133
Total Appeals from DHS Decisions	3,431	3,345	1,661	1,894	2,933
Decisions on Visa Petitions	1,227	1,129	1,122	1,763	2,856
212 Waiver Decisions	45	20	31	19	52
Decisions on Fines and Penalties	2,050	2,188	506	112	25
Bond Decisions	109	8	2	0	0
Grand Total	30,049	28,148	34,849	42,048	43,033

Table 18 provides a breakdown of the types of cases completed by the BIA between FY 2000 and FY 2004.

Table 18 - BIA Completions by Type

	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Total Appeals from IJ Decisions	18,127	27,273	45,230	46,105	46,053
Case Appeal	12,935	20,566	34,254	32,313	31,583
Appeal of IJ Motion to Reopen	1,020	2,237	3,470	2,195	2,828
Motion to Reopen-BIA	3,288	3,748	6,377	9,631	10,120
Bond Appeal	777	602	1,032	1,833	1,373
Interlocutory Appeal	107	120	97	133	149
Total Appeals from DHS	3,253	4,528	2,095	1,943	2,654
Decisions on Visa Petitions	1,256	1,272	1,363	1,766	2,586
212 Waiver Decisions	38	25	52	23	37
Decisions on Fines and Penalties	1,790	3,219	676	154	31
Bond Decisions	169	12	4	0	0
Grand Total	21,380	31,801	47,325	48,048	48,707

Board of Immigration Appeals: Update on Implementation of Reform Regulation

In February 2002, the Department of Justice proposed a regulatory amendment to address procedural changes at the Board of Immigration Appeals (BIA). The regulation, which became effective on September 25, 2002, imposed time frames for the adjudicatory process at the BIA, and reduced the number of Board Members from 21 to 11.

Cases that were ready for adjudication on the effective date of the regulation have been termed “legacy” cases. The regulation required these cases to be completed within established time frames: 90 days for single Board Member decisions, and 180 days from the date of referral for cases referred to a three Board Member panel. The regulation permitted a discretionary one-time extension of an additional 120 days for legacy cases. The BIA completed 50 of these legacy cases. There are no more legacy cases pending at the BIA.

The regulation also established adjudicatory time frames for “post-legacy” cases. These are cases processed and made ready for adjudication after September 25, 2002. The time frames for post-legacy cases are similar to those established for legacy cases: 90 days for cases decided by a single Board Member, and 180 days from the date of referral for cases referred to a three Board Member panel. In exigent circumstances, post-legacy cases are eligible for a 60-day extension. Virtually every post-legacy case decided in FY 2004 met the 90- and 180-day time frames imposed by the regulation. Very few of these cases required the 60-day extension.

Table 19 below shows the breakout of the BIA’s 48,707 FY 2004 completions by the categories specified in the regulation.

Table 19 - BIA FY 2004 Completions

Category	Number of Completions
Total Legacy Cases	50
Single Board Member	8
Three Board Member Panel	42
Total Post-Legacy Cases	48,657
Single Board Member	45,316
Three Board Member Panel	3,341
Grand Total	48,707

The number of BIA pending cases also has decreased substantially since implementation of the regulation. At the beginning of FY 2004, there were 40,662 cases pending at the BIA. By the end of FY 2004, the number of pending cases had been reduced to 33,544 cases. The age of pending cases has also lessened. At the beginning of the FY 2004, 29 percent of the cases were more than two years old (i.e., had been filed before FY 2002). By the end of the year, the percent of cases more than two years old (filed before 2003) had declined to less than 2 percent. Figure 28 below illustrates the age of BIA's pending caseload.

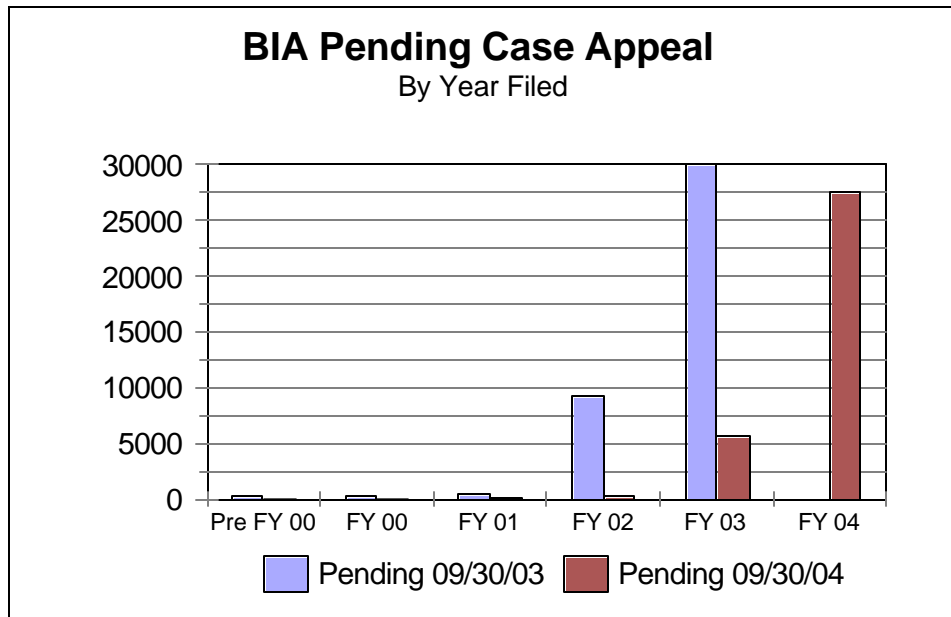


Figure 28

BIA Pending Appeal Cases		
Year Filed	Pending 09/30/03	Pending 09/30/04
Pre FY 00	256	35
FY 00	333	20
FY 01	571	62
FY 02	9,219	297
FY 03	30,283	5,645
FY 04		27,485
Total	40,662	33,544

Board of Immigration Appeals: IJ Decision Appeals Completed by Nationality

This section provides information on appeal completions by nationality. Only completions of Immigration Judge (IJ) decision appeals are included in these data; we have not included appeals of Department of Homeland Security (DHS) decisions. In FY 2004, the top 10 nationalities accounted for 68 percent of all completions as shown in Figure 29. A total of 193 nationalities were represented in the FY 2004 completions. Data in Table 20 compare the predominant nationalities for completed Immigration Judge appeals in fiscal years 2000-2004. For the five-year period, seven nationalities ranked among the top ten each year: Mexico, El Salvador, Guatemala, Haiti, Dominican Republic, India, and China. FY 2003 was the only year where Mexico did not rank first in BIA IJ decision appeal completions, it was outranked by China.

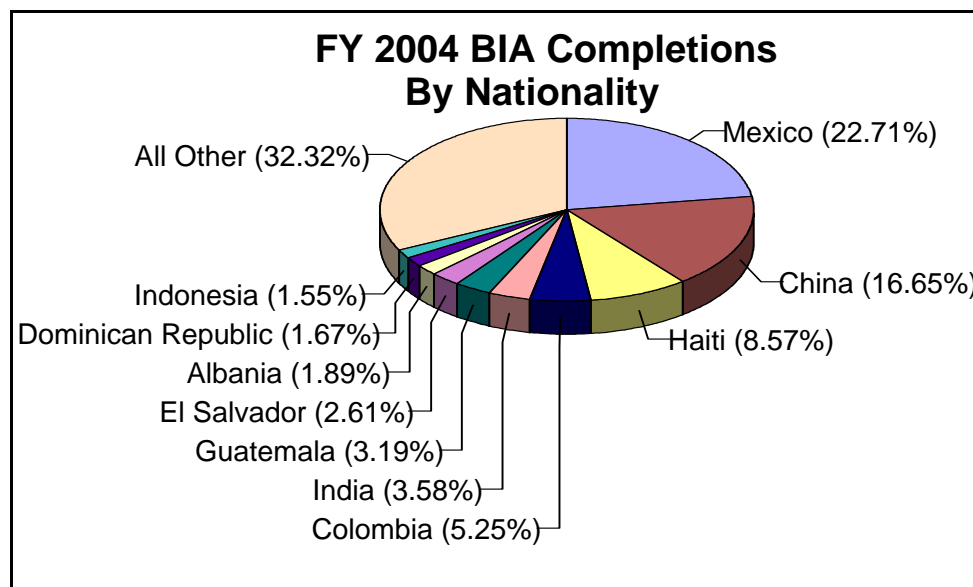


Figure 29

FY 2004 IJ Appeals Completed by Nationality		
Nationality	Cases	% of Total
Mexico	10,460	22.71%
China	7,666	16.65%
Haiti	3,949	8.57%
Colombia	2,420	5.25%
India	1,647	3.58%
Guatemala	1,468	3.19%
El Salvador	1,203	2.61%
Albania	870	1.89%
Dominican Republic	769	1.67%
Indonesia	715	1.55%
All Other	14,886	32.32%
Total	46,053	100.00%

**Table 20 - BIA - IJ Decision Appeals Completed by Nationality
Top 25 Nationalities: FY 1999 - FY 2004**

Rank	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
1	Mexico	Mexico	Mexico	China	Mexico
2	China	El Salvador	China	Mexico	China
3	El Salvador	China	Haiti	Haiti	Haiti
4	Dominican Republic	Haiti	Guatemala	India	Colombia
5	Guatemala	Guatemala	India	Guatemala	India
6	Haiti	Cuba	El Salvador	Colombia	Guatemala
7	Jamaica	Dominican Republic	Jamaica	El Salvador	El Salvador
8	India	India	Dominican Republic	Albania	Albania
9	Philippines	Jamaica	Colombia	Dominican Republic	Dominican Republic
10	Nigeria	Philippines	Philippines	Jamaica	Indonesia
11	Cuba	Nigeria	Peru	Nigeria	Jamaica
12	Colombia	Colombia	Nigeria	Ethiopia	Philippines
13	Peru	Peru	Mauritania	Pakistan	Pakistan
14	Nicaragua	Honduras	Pakistan	Peru	Ethiopia
15	Liberia	Pakistan	Bangladesh	Philippines	Nigeria
16	Pakistan	Nicaragua	Somalia	Bangladesh	Honduras
17	Honduras	Ethiopia	Honduras	Somalia	Armenia
18	Vietnam	Bangladesh	Cuba	Mauritania	Peru
19	Iran	Vietnam	Ethiopia	Russia	Yugoslavia
20	Trinidad and Tobago	Yugoslavia	Albania	Honduras	Cameroon
21	Guyana	Iran	Nicaragua	Armenia	Mauritania
22	Ethiopia	Guyana	Yugoslavia	Yugoslavia	Iran
23	Yugoslavia	Ecuador	Russia	Iran	Russia
24	Bangladesh	Trinidad and Tobago	Iran	Indonesia	Egypt
25	Ecuador	Ghana	Ecuador	Ukraine	Guinea

Board of Immigration Appeals: IJ Decision Appeals Completed by Representation Status

The Immigration and Nationality Act states that individuals who have appealed the decision in their removal proceedings may be represented by counsel, but at no expense to the Government. Before representing an alien before the Board of Immigration Appeals (BIA), representatives must file a Notice of Appearance with the BIA.

Many individuals who file appeals with the BIA are indigent and cannot afford a private attorney. Some seek free or *pro bono* representation, while others proceed without counsel on their own, or *pro se*. The percentage of represented appellate cases completed is higher than the percentage of represented cases at the Immigration Court level.

As shown in Figure 30, the representation rate gradually increased from FY 2000 to FY 2004. A slight decrease occurred from FY 2003 to FY 2004 where 70 percent of appellate cases completed by the BIA involved a represented alien. Only appeals of IJ decisions are included in these data.

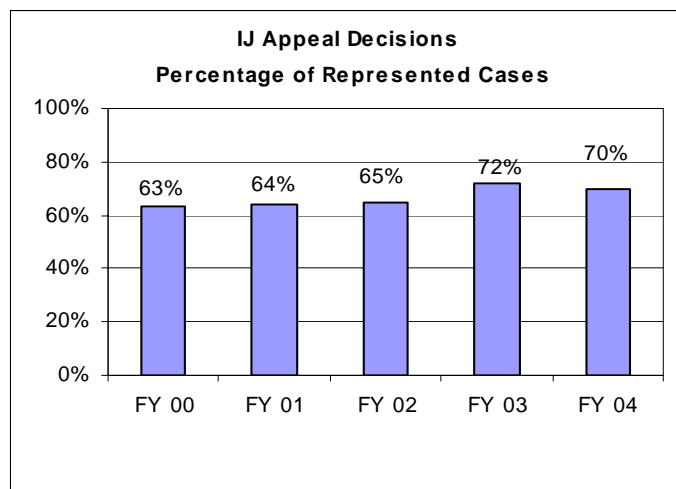


Figure 30

Represented Before the BIA			
	Represented	Unrepresented	Total
FY 00	11,372	6,755	18,127
FY 01	17,375	9,898	27,273
FY 02	29,558	15,672	45,230
FY 03	33,163	12,942	46,105
FY04	32,193	13,860	46,053

Board of Immigration Appeals: IJ Decision Appeals Completed for Detained Cases

Under the Immigration and Nationality Act, DHS has authority to detain an alien pending a decision on whether or not the alien is removable. EOIR maintains data on the custody status of aliens in proceedings. The Board of Immigration Appeals (BIA) handles detained cases (including aliens in the Institutional Hearing Program (IHP)) as priority cases.

Depicted in Figure 31 is the number of Immigration Judge (IJ) case appeal decisions between FY 2000 and FY 2004 along with the number of Immigration Judge case appeal decisions that involved detainees. The figures for detained appeal decisions also include IHP cases.

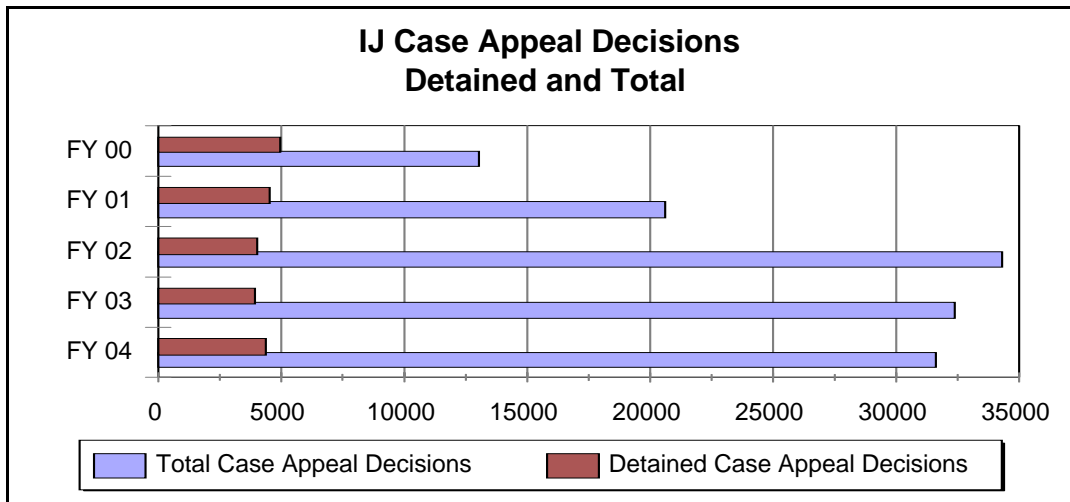


Figure 31

Detained IJ Case Appeal Decisions (Including IHP)			
	Detained Case Appeal Decisions (Including IHP)	Total IJ Case Appeal Decisions	Percent Detained
FY 00	4,884	12,935	38%
FY 01	4,438	20,566	22%
FY 02	3,961	34,254	12%
FY 03	3,845	32,313	12%
FY 04	4,317	31,583	14%

Table 21 shows a breakdown of total detained case appeals completed by the BIA, and of those, the number who were serving sentences at an IHP location. In FY 2004, 19 percent of detained BIA completions involved aliens whose removal orders had been issued prior to their release from a Federal, State, or municipal corrections facility. This drop in the percentage of IHP completions is caused by an increase in total detained completions and a drop in IHP completions, which have been consistently declining since FY 2000.

Table 21
Breakdown of BIA Detained Completions

	Total Detained Completions	IHP Completions	Percent IHP Completions
FY 2000	4,884	1,952	40%
FY 2001	4,438	1,676	38%
FY 2002	3,961	1,151	29%
FY 2003	3,845	1,047	27%
FY 2004	4,317	830	19%

Immigration Courts and Board of Immigration Appeals: Immigration Judge Decisions (Proceedings) Appealed

The majority of cases reviewed by the Board of Immigration Appeals (BIA) involve decisions made by Immigration Judges in removal, deportation, or exclusion proceedings. Either the Department of Homeland Security (DHS) or the alien may file an appeal. Appeals must be filed within 30 days of the Immigration Judge's decision. Only a relatively small percentage of Immigration Judge decisions are appealed to the BIA. Figure 32 below compares Immigration Judge decisions with the number of aliens who appealed their decisions to the BIA for fiscal years 2000 through 2004. All other figures and tables in Tabs S-X reflect cases (which can involve multiple aliens). In this instance, reporting on aliens who appealed is a more accurate representation of appeal rate.

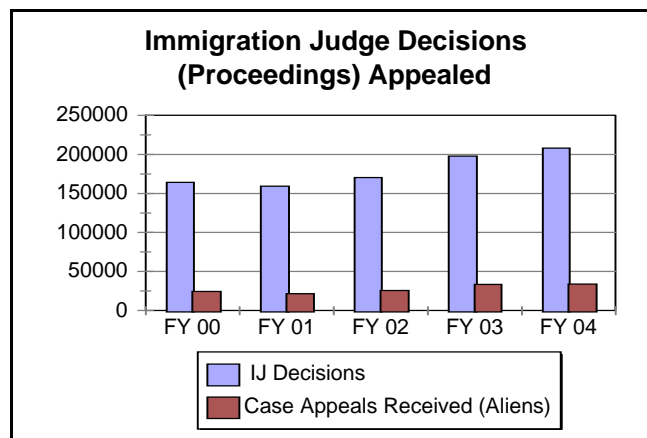


Figure 32

	IJ Decisions	Case Appeals Received (Aliens)	Percent Appealed
FY 00	164,415	24,713	15%
FY 01	159,772	21,779	14%
FY 02	170,186	26,090	15%
FY 03	197,845	33,652	17%
FY 04	208,508	34,109	16%

Office of the Chief Administrative Hearing Officer Total Cases Received and Completed

The Office of the Chief Administrative Hearing Officer (OCAHO) is headed by the Chief Administrative Hearing Officer, who is responsible for the general supervision of Administrative Law Judges. OCAHO's Administrative Law Judges hear cases and adjudicate issues arising under provisions of the Immigration and Nationality Act relating to:

- Unlawful hiring, recruiting, or referring for a fee, or continued employment of unauthorized aliens, and failure to comply with employment verification requirements;
- Immigration-related unfair employment practices; and
- Document fraud.

Complaints may be brought by the Department of Homeland Security (DHS), the Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices, or private litigants.

Figure 33 provides information on the number of cases received and completed by OCAHO between FY 2000 and FY 2004. Completions may include cases received in a prior fiscal year.

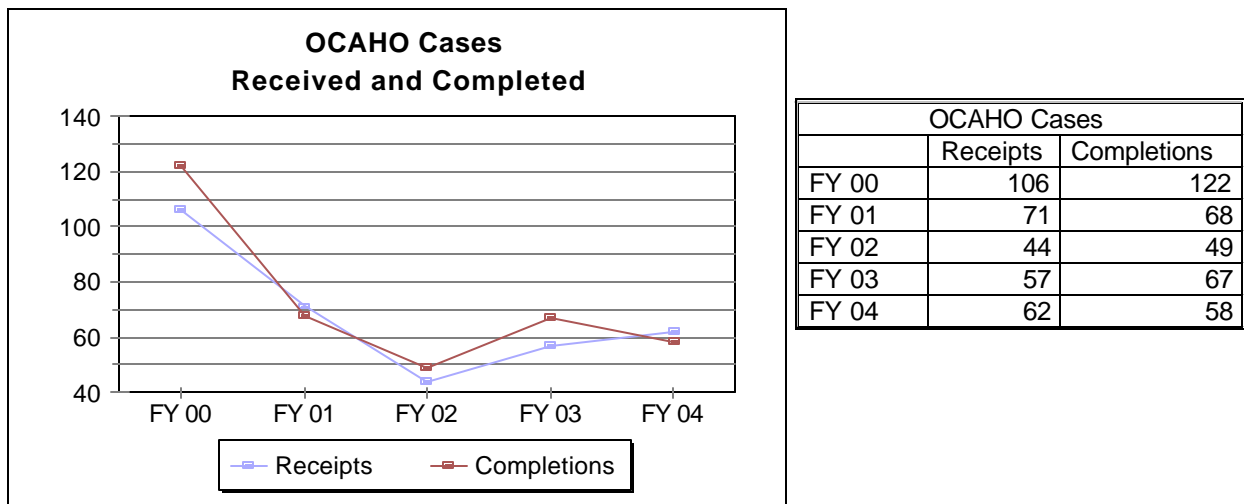


Figure 33

GLOSSARY OF TERMS

Disclaimer

This Glossary has been compiled as an addendum to the FY 2004 Statistical Year Book of the Executive Office for Immigration Review (EOIR). Its intent is to define terms as they are used in the Year Book, and is strictly informational in nature. These terms may have further meaning in the context of other immigration matters. This Glossary is not intended, in any way, to substitute for a careful study of the pertinent laws and regulations. This Glossary does not carry the weight of law or regulation. This Glossary is not intended, nor should it be construed in any way, as legal advice, nor does it extend or limit the jurisdiction of EOIR as established by law and regulation.

A

Abandoned

If an applicant for relief fails to appear for a court hearing, the application is considered abandoned.

Accredited Representative

A non-attorney who is authorized to practice before the Immigration Courts, the Board of Immigration Appeals, and the Department of Homeland Security. In order to be an accredited representative, one must be affiliated with a recognized non-profit, religious, charitable, or social service organization.

Adjustment of Status

A type of relief from deportation, removal, or exclusion for an alien who is eligible for Lawful Permanent Resident status based on a visa petition approved by the Department of Homeland Security. Normally, the visa petition has been filed by a U.S. citizen spouse.

Administrative Closure

Administrative closure of a case is used to temporarily remove the case from an Immigration Judge's calendar or from the Board of Immigration Appeal's docket. Administrative closure of a case does not result in a final order. It is merely an administrative convenience which allows the removal of cases from the calendar in appropriate situations.

Administrative Law Judges

Administrative Law Judges (ALJs), in the Office of the Chief Administrative Hearing Officer (OCAHO), preside over hearings and adjudicate issues arising under provisions of the Immigration and Nationality Act of 1952, as amended, relating to (1) employer sanctions for the unlawful hiring or continued employment of unauthorized aliens, or the failure to comply with employment eligibility verification requirements, (2) immigration-related document fraud, and (3) immigration-related unfair employment practices based on certain national origin or citizenship status discrimination. OCAHO ALJs are required by statute to have special training in employment discrimination issues.

Affirmative Asylum Application

An asylum application initially filed with the Department of Homeland Security before the alien is placed in proceedings.

Aggravated Felony

As defined by the Immigration and Nationality Act, aggravated felony includes, but is not limited to, murder; rape or sexual abuse of a minor; drug trafficking; firearm trafficking; money laundering; crimes of violence for which the term of imprisonment, even if suspended, is at least one year or more; theft or burglary; gambling; tax fraud; transportation for prostitution purposes; commercial bribery; counterfeiting; forgery; stolen vehicle trafficking; obstruction of justice; perjury; bribery of a witness; and failure to appear to answer for a criminal offense.

Anti-Drug Abuse Act of 1988

This Act established provisions for aggravated felons and expanded the §241(a)(14) (currently section 237(a)(2)(C)) of the Immigration and Nationality Act of 1952, as amended, to provide for deportation for virtually all weapons offenses.

Anti-terrorism and Effective Death Penalty Act of 1996 (AEDPA)

This Act amended the Immigration and Nationality Act to provide for expedited removal of criminal and terrorist aliens.

Appeal from Decision of an Immigration Judge

In an appeal from a decision of an Immigration Judge, the appealing party, which could be an alien, the Department of Homeland Security, or both, states why he or she disagrees with the Immigration Judge's decision. By filing an appeal, the appealing party asks the Board of Immigration Appeals to review the decision of the Immigration Judge.

Appeal from Decision of a Department of Homeland Security (DHS) District Director

In an appeal from a decision of a DHS District Director, the respondent states why he or she disagrees with a District Director's decision. By filing an appeal, the respondent asks the Board of Immigration Appeals to review the decision of DHS.

Application for Relief

Aliens may request a number of forms of relief from removal such as asylum or cancellation of removal. Many forms of relief require the alien to fill out an appropriate application.

Asylum

An Immigration Judge may grant asylum if he or she determines that an alien is a refugee. The INA defines a refugee as any person who is outside his or her country of nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to or to avail himself or herself of the protection of that country, because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Aliens generally must apply for asylum within one year of arrival in the United States. In the absence of exceptional circumstances, final administrative adjudication of the asylum application, not including administrative appeal, must be completed within 180 day after the date the application is filed.

Asylum Grants

Immigration Judges may decide to either grant or deny an alien's application for asylum. An asylum grant allows the alien to remain in the United States and authorizes employment. One year after a grant of asylum, the asylee can apply for adjustment of status to become lawfully admitted for permanent residence.

Asylum-only

Certain aliens are not entitled to a removal hearing under § 240 of the Immigration and Nationality Act of 1952, as amended, (INA), yet these aliens are entitled to an asylum-only hearing before an Immigration Judge. If an alien who is not entitled to a removal hearing under § 240 of the INA requests asylum, and has not been granted asylum by the Department of Homeland Security (DHS), DHS will file a Form I-863, Notice of Referral to Immigration Judge, with the Immigration Court. The Immigration Judge may not consider forms of relief other than asylum, withholding, and Convention Against Torture (CAT). Aliens eligible for asylum-only hearings include crewmen, stowaways, Visa Waiver Program beneficiaries, and those ordered removed from the United States on security grounds. Asylum-only cases will be heard, to the maximum extent practical, within the same time frame as asylum claims in removal cases, i.e. within 180 days.

B

Board of Immigration Appeals

The Board of Immigration Appeals (BIA) is the highest administrative body for interpreting and applying immigration laws. The BIA has been given nationwide jurisdiction to hear appeals from certain decisions rendered by Immigration Judges and by Department of Homeland Security (DHS) District Directors in a wide variety of proceedings in which the U.S. Government is one party and the other party is either an alien, a citizen, or a business firm. In addition, the BIA is responsible for the recognition of organizations and accreditation of representatives requesting permission to practice before DHS, the Immigration Courts, and the BIA.

Bond

The Department of Homeland Security (DHS) may detain a respondent who is in removal or deportation proceedings and may condition his or her release from custody upon the posting of a bond to ensure the respondent's appearance at the hearing. The amount of money set by DHS as a condition of release is known as a bond. A bond may be also set by an Immigration Judge as a condition for allowing a respondent to voluntarily leave the country.

Bond Redetermination Hearing

When the Department of Homeland Security has set a bond amount as a condition for release from custody, the respondent has the right to ask an Immigration Judge to redetermine the bond. In a bond redetermination hearing, the Judge can raise, lower, or maintain the amount of the bond; eliminate it; or change any of the conditions over which the Immigration Court has authority. The bond redetermination hearing is completely separate from the removal or deportation hearing. It is not recorded and has no bearing on the subsequent removal or deportation proceeding.

C

Cancellation of Removal

There are two different forms of cancellation of removal:

(A) Cancellation of removal for certain lawful permanent residents who were admitted more than five years ago, have resided in the United States for seven or more years, and have not been convicted of an aggravated felony. See §240A(a) of the Immigration and Nationality Act of 1952, as amended. Application for this form of discretionary relief is made during the course of a hearing before an Immigration Judge.

(B) Cancellation of removal and adjustment of status for certain nonpermanent resident aliens who have maintained continuous physical presence in the United States for 10 years and have met all the other statutory requirements for such relief. See §240A(b) of the Immigration and Nationality Act of 1952, as amended. Application for this form of discretionary relief is made during the course of a hearing before an Immigration Judge. The status of an alien who is granted cancellation of removal for certain nonpermanent resident aliens is adjusted to that of an alien lawfully admitted for permanent residence.

Case

In an immigration proceeding before an Immigration Judge, one case involves one alien.

In an immigration proceeding before the Board of Immigration Appeals, one case involves one lead alien and may also include other family members.

In a proceeding before an Administrative Law Judge in the Office of the Chief Administrative Hearing Office, one case involves a complainant and a respondent. In cases brought under Immigration and Nationality Act (INA) § 274A and § 274C, the complainant is the Department of Homeland Security, and the respondent is an employer. In INA § 247B cases, the complainant is either the Office of Special Counsel for Immigration-Related Unfair Employment Practices or an individual employee, and the respondent is an employer. An employee is a U.S. citizen or an alien authorized to work in the United States.

Change of Venue

Responsibility (venue) for Immigration Court proceedings lies with the Immigration Court assigned by the Administrative Control Court where the charging document is filed by the Department of Homeland Security. Immigration Judges may, upon a proper motion by one of the parties, change venue (move the proceeding to another Immigration Court) in those proceedings. The standard for granting a motion for change of venue (COV) is "good cause." The regulation provides that venue may be changed only after one of the parties has filed a motion to change venue and the other party has been given notice and an opportunity to respond.

Claimed Status Review

If an alien in expedited removal proceedings claims under oath to be a U.S. citizen, to have been lawfully admitted for permanent residence, to have been admitted as a refugee, or to have been granted asylum, and the Department of Homeland Security determines that the alien has no such claim, he or she can obtain a review of that claim by an Immigration Judge.

Coercive Population Control

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 provided that those who have suffered persecution on account of Coercive Population Control (CPC) policies can now qualify as refugees. Up to a total of 1,000 refugee admissions and asylum grants may be made each fiscal year to applicants who raise claims based on CPC. If applicants for asylum meet the criteria for a CPC grant, they are given conditional asylum and are granted permanent asylum when a number becomes available. See “conditional asylum grants.”

Completions

Within the context of the Office of the Chief Immigration Judge, a matter is considered completed once an Immigration Judge renders a decision. Proceedings may also be completed for other reasons, such as administrative closures, changes of venue, transfers, and grants of temporary protected status. For matters before the Office of the Chief Administrative Hearing Officer, a case is completed when the Administrative Law Judge issues a final decision disposing of all remaining issues and the time for appeal has ended. For matters before the Board of Immigration Appeals, a case is considered completed once the Board renders a final decision.

Conditional Asylum Grants

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 provided that up to a total of 1,000 refugee admissions and asylum grants could be made each fiscal year to applicants who raise claims based on Coercive Population Control (CPC) policies. If applicants for asylum meet the criteria for a CPC grant, they are given conditional asylum. This conditional asylum places a person in line until their number becomes available. For example, if the person is number 1002, then that person would wait until the following fiscal year and would be number two in line to receive the grant of asylum.

Continuance

The adjournment of a proceeding to a subsequent day or time in order to allow either party additional time to prepare for the hearing.

Convention Against Torture

On March 22, 1999, the Department of Justice implemented regulations regarding the United Nations' Convention Against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment (Conviction Against Torture) (CAT). Under this regulation, aliens in removal, deportation, or exclusion proceedings may claim that they “more likely than not” will be tortured if removed from the United States. Among other things, the regulation provides jurisdiction to the Immigration Courts and the Board of Immigration Appeals for reviewing these claims. See also “deferral of removal” and “withholding-only.”

Credible Fear Review

If an alien seeking to enter the United States has no documents or no valid documents to enter, but expresses a fear of persecution or an intention to apply for asylum, that alien will be referred to a Department of Homeland Security (DHS) officer for a credible fear determination. If the DHS officer determines that the alien has not established a credible fear of persecution and a DHS supervisor concurs, the alien may request review of that determination by an Immigration Judge. That review must be concluded as expeditiously as possible, to the maximum extent practicable within 24 hours, but in no event later than seven days after the date of the determination by the supervisory asylum officer.

Custody Status

Whether an alien is in the actual custody (detained, physical detention) of the Department of Homeland Security, or is at liberty. This Year Book describes three custody categories: detained, non-detained (EOIR has no record of the alien having been detained), and released (detained, then released on bond, recognizance, or some other condition).

D

Decision

A determination and order arrived at after consideration of facts and law, by either an Immigration Judge, the Board of Immigration Appeals, or the Office of the Chief Administrative Hearing Officer.

Defensive Asylum Application

An asylum application initially filed with the Immigration Court after the alien has been put into proceedings to remove him or her from the United States.

Deferral of Removal

If an Immigration Judge concludes that it is more likely than not that a removable alien will be tortured in a country, but the alien is ineligible for withholding of removal under the Convention Against Torture (CAT), the alien’s removal will be deferred. The alien’s removal is deferred only to the country in which it has been determined that the alien is likely to be tortured. However, the alien may be removed at any time to another country where he or she is not likely to be tortured. In addition, deferral of removal is effective only until it is terminated. The major difference between deferral of removal and withholding of removal is that there is a streamlined termination process for deferral of removal.

Denials

When an Immigration Judge denies an alien's application for relief from removal.

Department of Homeland Security (DHS)

On March 1, 2003, the Department of Homeland Security (DHS) absorbed the functions of the former Immigration and Naturalization Service (INS). Three major components of DHS have functions which relate closely to the Executive Office for Immigration Review. U.S. Citizenship and Immigration Services processes all immigrant and non-immigrant benefits, incorporating the adjudication and naturalization functions of the former INS. U.S. Immigration and Customs Enforcement is charged with the enforcement of federal immigration laws, and includes functions of the former investigations and detention and removal components of INS. U.S. Customs and Border Protection absorbed the border patrol and inspections functions of the former INS.

Deportation Proceedings

Prior to April 1, 1997, a deportation case usually arose when the Immigration and Naturalization Service (INS) (now Department of Homeland Security (DHS)) alleged that a respondent entered the country illegally by crossing the border without being inspected by an immigration officer. Deportation cases also occurred when INS alleged that a respondent entered the country legally with a visa but then violated one or more conditions of the visa. When INS became aware of a respondent believed deportable, they issued a charging document called an Order to Show Cause (OSC). An OSC is the charging document that was used prior to April 1, 1997. A deportation proceeding actually began when the OSC was filed with an Immigration Court. In such proceedings, the Government, represented by INS, had to prove that a respondent was deportable for the reasons stated in the OSC. As of April 1, 1997, deportation and exclusion proceedings were replaced by removal proceedings.

Detained

The Executive Office for Immigration Review (EOIR) maintains data on the custody status of aliens in proceedings. Detained aliens are those in the physical custody of the Department of Homeland Security (DHS). For the purpose of this Year Book, EOIR also includes in its statistical data on detained aliens, the number of incarcerated aliens in the Institutional Hearing Program. Immigration Court hearings for detained aliens are conducted in DHS Service Processing Centers, contract detention facilities, State and local government jails, and Bureau of Prisons Institutions. See also "custody status."

Detention of an Alien

The confinement of an alien by the Department of Homeland Security.

Disposition

In immigration proceedings, the latest ruling on removability.

District Director (DD)

Under the former Immigration and Naturalization Service, the District Director was the highest ranking immigration official in each of the INS's 30+ districts. The INS was transferred out of the Department of Justice to the Department of Homeland Security on March 1, 2003. The District Directors are located organizationally under the U.S. Citizenship and Immigration Services. The DD has the delegated authority to grant or deny most applications and petitions, except those that are specifically delegated to asylum officers.

E

Employment Authorization

Employment authorization is permission given by the Department of Homeland Security (DHS) to certain aliens to work in the United States. Among others, asylum seekers, asylees and refugees, students, and persons in temporary protected status must apply to the DHS for employment authorization.

Exclusion Proceedings

Prior to April 1, 1997, an exclusion case involved a person who tried to enter the United States but was stopped at the port of entry because the Immigration and Naturalization Service (INS) (now Department of Homeland Security (DHS)) found the person to be inadmissible. This situation occurred, for example, when an INS officer believed the applicant's entry papers were fraudulent.

To place an applicant for admission to the United States in exclusion proceedings, INS issued a charging document referred to as an "I-122" and filed it with an Immigration Court. The INS District Director could either detain the applicant or "parole" the applicant into the country; i.e., release from detention and allow to remain free until completion of the hearing. In either case, the applicant technically had not entered the country.

In the course of the exclusion proceedings, the burden of proof was on the applicant to prove admissibility to the United States. All exclusion proceedings were closed to the public unless requested otherwise by the applicant. Beginning April 1, 1997, deportation and exclusion proceedings were replaced by removal proceedings.

Executive Office for Immigration Review (EOIR)

The Executive Office for Immigration Review (EOIR) was created on January 9, 1983, through an internal Department of Justice (DOJ) reorganization which combined the Board of Immigration Appeals with the Immigration Judge function, which was previously performed by Special Inquiry Officers of the Immigration and Naturalization Service (INS) (now Department of Homeland Security (DHS)). Besides establishing EOIR as a separate agency within DOJ, this reorganization made the Immigration Courts independent of INS, the agency charged with enforcement of Federal immigration laws. The Office of the Chief

Administrative Hearing Officer (OCAHO) was added in 1987 to provide the administrative hearing process for employer sanctions and immigration-related unfair employment practices cases required by the Immigration Reform and Control Act of 1986 (IRCA). EOIR's primary mission is to adjudicate immigration cases in a careful and timely manner, including cases involving detained aliens, criminal aliens, and aliens seeking relief from removal, while ensuring the standards of due process and fair treatment for all parties involved.

Expedited Asylum

Asylum regulations implemented in 1995 mandated that asylum applications be processed within 180 days after filing either at a Department of Homeland Security (DHS) Asylum Office or at an Immigration Court. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) reiterated the 180-day rule. Consequently, expedited processing of asylum applications occurs when (1) an alien files “affirmatively” at a DHS Asylum Office on or after January 4, 1995, and the application is referred to the Executive Office for Immigration Review (EOIR) by DHS within 75 days of the filing; or (2) an alien files an application “defensively” with EOIR on or after January 4, 1995.

F

Failure to Appear

A failure to appear is when either party to a proceeding does not arrive or make an appearance at a court proceeding. Failure to appear by the respondent may result in either an *in absentia* order of removal or an administrative closure.

Filing

A filing occurs with the actual receipt of a document by the appropriate Immigration Court, the Board of Immigration Appeals, or the Office of the Chief Administrative Hearing Officer.

Fines and Penalties

Certain provisions of the Immigration and Nationality Act render individuals and carriers liable for transporting unauthorized aliens in the United States. Fines may be assessed by certain Department of Homeland Security officials. The respondent is notified in writing of the decision and, if adverse, of the reasons for the decision. The respondent may appeal this decision to the Board of Immigration Appeals.

Fiscal Year

A 12-month period for which an organization plans the use of its funds. In the U.S. Government, the fiscal year runs from October 1 through September 30.

G

Grant of Relief

When an Immigration Judge or the Board of Immigration Appeals awards the relief for which the alien has applied.

Grant of Motion

There are many types of motions in immigration proceedings. However, only two types are tracked in the Statistical Year Book: motions to reopen and motions to reconsider. A motion to reconsider is granted when an Immigration Judge or the Board of Immigration Appeals allows a reconsideration of the decision based on a possible error in law or fact, or a change in the law. A motion to reopen is granted when an Immigration Judge or the Board of Immigration Appeals allows a proceeding to be reopened because of new facts or evidence in a case.

H

Haitian Refugee and Immigration Fairness Act (HRIFA)

On October 21, 1998, the President signed into law a Fiscal Year 1999 Omnibus Appropriations Act, Public Law 105–277 (112 Stat. 2681). Division A, title IX of that statute, the Haitian Refugee and Immigration Fairness Act (HRIFA), contained a provision, § 902, that allows certain nationals of Haiti to adjust their status to that of lawful permanent resident.

I

Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)

Among other things, IIRIRA focused on enforcement of immigration laws by streamlining the procedures that were previously required to remove aliens from the United States.

Immigration Act of 1990 (IMMACT)

In 1990, the Congress of the United States passed amendments to the Immigration and Nationality Act of 1952 (INA). The statute modified many of the INA's provisions. IMMACT reformed the rules pertaining to the legal entry of foreign nationals and expanded the regulations enacted by the Immigration Reform and Control Act of 1986 (IRCA). Among other things, IMMACT added two types of crimes to the INA's definition of "aggravated felony:" (1) Crimes of violence for which the alien is sentenced to or confined for a period of five years, and (2) money laundering.

Immigration and Nationality Act of 1952 (INA)

The Immigration and Nationality Act of 1952 consolidated previous immigration laws into one coordinated statute. As amended, the 1952 Act provides the foundation for

immigration law in effect today. The INA deals with the immigration, temporary admission, naturalization, and removal of aliens.

Immigration and Naturalization Service (INS)

Until its transition to the Department of Homeland Security (DHS) on March 1, 2003, INS was the agency responsible for administering immigration and nationality laws relating to the temporary admission, immigration, naturalization, and removal of aliens. Specifically, INS inspected aliens to determine their admissibility into the United States, adjudicated requests of aliens for benefits under the law, guarded against illegal entry into the United States, removed aliens in this country who are in violation of the law, examined alien applicants seeking to become citizens, and enforced immigration-related employment verification and document fraud laws.

Immigration Court

Each Immigration Court is staffed with Immigration Judges who conduct immigration hearings. They function in an independent decision-making capacity to determine the facts in each case, apply the law, and render a decision. Their decisions are final unless appealed to the Board of Immigration Appeals. Management functions of the Immigration Court are supervised by a Court Administrator.

Immigration Judge

The Immigration Judge is an administrative hearing officer designated by the Attorney General to conduct immigration proceedings. Immigration Judges preside over courtroom proceedings in removal, deportation, exclusion, and other proceedings authorized by 8 C.F.R. § 1003.10.

Immigration Reform and Control Act of 1986 (IRCA)

Among other things, IRCA addressed the problem of undocumented aliens by imposing sanctions on employers of illegal aliens, and legalizing the status of certain undocumented entrants who had arrived prior to January 1, 1982. The Immigration and Naturalization Service (now Department of Homeland Security) was also provided with significant new resources to enforce the immigration laws through IRCA. IRCA also created protections for workers against discrimination based on citizenship status and national origin.

In Absentia

A Latin phrase meaning “in the absence of”. When an alien fails to appear (FTA) for a hearing, an Immigration Judge may conduct a hearing without the alien present and order the alien removed from the United States. In such a hearing, the Department of Homeland Security trial attorney must establish by clear, unequivocal, and convincing evidence that the alien is removable before an Immigration Judge orders the alien removed in absentia. The Immigration Judge must also be satisfied that notice of time and place of the hearing were provided to the alien or the alien’s representative.

Inadmissible

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) replaced the term “excludable” with the term “inadmissible.” Section 212 of the Immigration and Nationality Act defines classes of aliens ineligible to receive visas and ineligible for admission. Aliens who, at the time of entry, are within one of these classes of inadmissible aliens are removable.

Individual Calendar

Cases in which the alien seeks relief from removal are set on the Immigration Judge's individual calendar. In an individual hearing on the merits of the case, the alien presents his case and applications for relief.

Institutional Hearing Program (IHP)

The Immigration Reform and Control Act of 1986 requires the Attorney General to expeditiously commence immigration proceedings for alien inmates convicted of crimes in the United States. To meet this requirement, the Department of Justice established the Institutional Hearing Program (IHP) where removal hearings are held inside correctional institutions prior to the alien completing his or her criminal sentence. The IHP is a collaborative effort between the Executive Office for Immigration Review and the Department of Homeland Security and various Federal, state, and local corrections agencies throughout the country.

L**Lawful Permanent Resident (LPR)**

An alien who has been conferred permanent resident status and has been issued an identification document, which is often referred to as a “green card.”

M**Master Calendar**

All new cases, motions to recalendar, granted motions to reopen/reconsider, and remanded cases are set for Master Calendar hearings. In Master Calendar hearings, the Immigration Judge rules on the charges that the Department of Homeland Security has filed against the alien on the charging document and establishes the type of relief (if any) the person is seeking from deportation, exclusion, or removal.

Matters

Matters before the Immigration Courts include all proceedings, bond redeterminations, and motions to reopen or reconsider. There may be multiple matters per case.

Motion

A motion is a formal request from either party (the alien or the Department of Homeland Security) in proceedings before the Immigration Court, or the Board of Immigration Appeals, to carry out an action or make a decision. Motions include, for example, motions for change of venue, motions for continuance, motions to terminate proceedings, etc. Only motions to reopen or reconsider are currently tracked and reported in this Statistical Year Book.

N

Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA)

Under § 202 of NACARA, certain nationals of Nicaragua and Cuba in the United States were eligible to adjust their immigration status to become lawful permanent residents. In addition, § 203 of NACARA provides special rules regarding applications for suspension of deportation and cancellation of removal by certain Guatemalan, Salvadoran, and particular former Soviet bloc nationals.

Non-detained

The status of an alien who has not been in the physical custody of the Department of Homeland Security or the Institutional Hearing Program. See also “released.”

Notice to Appear (NTA)

The document (Form I-862) used by the Department of Homeland Security (DHS) to charge an alien with being removable from the United States. The filing of an NTA transfers jurisdiction in the case from DHS to the Executive Office for Immigration Review.

Notice of Intent

In a rescission case, the Department of Homeland Security issues a Notice of Intent to Rescind an individual’s permanent resident status, and the individual has the right to contest the charge before an Immigration Judge.

O

Office of the Chief Administrative Hearing Officer (OCAHO)

The Office of the Chief Administrative Hearing Officer has jurisdiction over three types of cases arising under the Immigration and Nationality Act of 1952, as amended: (1) employer sanctions for the unlawful hiring or continued employment of unauthorized aliens; (2) immigration-related unfair employment practices; and, (3) immigration-related document fraud. OCAHO is headed by a Chief Administrative Hearing Officer (CAHO) who provides overall program direction, articulates policies and procedures, establishes priorities and administers the hearing process presided over by Administrative Law Judges (ALJs). The

OCAHO also conducts administrative review of ALJs' decisions in the areas of employer sanctions and document fraud, and may modify or vacate those ALJ decisions. Complaints are brought by the Department of Homeland Security, the Office of Special Counsel for Immigration-Related Unfair Employment Practices, or private individuals as prescribed by statute.

Office of the Chief Immigration Judge

The Office of the Chief Immigration Judge (OCIJ) provides overall program direction, articulates policies and procedures, and establishes priorities for more than 220 Immigration Judges. In FY 2004, 215 of those Immigration Judges were located in 53 Immigration Courts throughout the nation, while the remainder served in supervisory roles in Headquarters. The Chief Immigration Judge carries out these responsibilities with the assistance and support of two Deputy Chief Immigration Judges and nine Assistant Chief Immigration Judges. Immigration Judges are responsible for conducting formal court proceedings, and act independently in deciding the matters before them. Their decisions are administratively final unless appealed or certified to the Board of Immigration Appeals.

P

Parole

An alien who is determined to be inadmissible by the Department of Homeland Security (DHS), but for “urgent humanitarian reasons” or “significant public benefit” is allowed to enter the United States, provided the alien is not a security or flight risk. Parole is granted by DHS.

Pro Bono

A Latin phrase meaning legal representation done or performed free of charge. Because aliens in removal proceedings are not entitled to publicly-funded legal assistance, some attorneys offer their services on a *pro bono* basis.

Pro Se

A Latin phrase meaning that the party represents him or herself in legal proceedings without an attorney or representative.

Proceeding

The legal process conducted before the Immigration Court and Board of Immigration Appeals.

R

Reasonable Fear Review

Reasonable Fear Review proceedings are available to aliens who have been ordered removed by the Department of Homeland Security (DHS) under § 238 of the Immigration and Nationality Act (INA) (covering aliens who are not lawful permanent residents and have been convicted of an aggravated felony) and under § 241(a)(5) of the INA (covering aliens who are the subjects of previously issued final orders of removal). Under this process, an alien who has been ordered removed by DHS and expresses a fear of persecution or torture will have his or her claim screened by an asylum officer. If the asylum officer determines that the alien has not established a reasonable fear of persecution or torture, the alien may request a review of that determination by an Immigration Judge.

Receipts

The number of judicial filings received by the Executive Office for Immigration Review. For the Immigration Courts, receipts include bond redetermination hearings, proceedings, and motions. For the Board of Immigration Appeals, receipts include case, bond, motion, and interlocutory appeals, as well as certain appeals of Department of Homeland Security decisions. For the Office of the Chief Administrative Hearing Officer, receipts represent the number of new complaints filed.

Reconsider, Motion to

Aliens may request, by motion, the reconsideration of a case previously heard by an Immigration Judge or the Board of Immigration Appeals. A motion to reconsider either identifies an error in law or fact in a prior proceeding or identifies a change in law and asks the Immigration Judge or BIA to re-examine its ruling. A motion to reconsider is based on the existing record and does not seek to introduce new facts or evidence. Before an Immigration Judge, a motion to reconsider must be filed within 30 days after the date of entry of a final administrative decision; before the BIA a motion to reconsider must be filed with 30 days after the mailing of a BIA decision.

Released

A released alien is an individual who was detained at some point during proceedings and subsequently released on bond or on their own recognizance.

Relief from Removal

In hearings before an Immigration Judge, an alien may be able to seek relief from removal. Various types of discretionary relief may be sought, including asylum, cancellation of removal, or adjustment of status.

Removable

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 replaced the terms “excludable” and “deportable” with the umbrella term “removable.” An alien may be found to be removable from the United States by an Immigration Judge or the Board of Immigration Appeals. Additionally, some aliens are determined to be removable by the Department of Homeland Security, e.g., in expedited removal or administrative removal proceedings. Only aliens found removable by the Executive Office for Immigration Review are reported in this Year Book.

Removal Proceedings

An Immigration Court proceeding begun on or after April 1, 1997, seeking to either stop certain aliens from being admitted to the United States or to remove them from the United States.

A removal case usually arises when the Department of Homeland Security (DHS) alleges that a respondent is inadmissible to the United States, has entered the country illegally by crossing the border without being inspected by an immigration officer, or has violated the terms of his or her admission. The DHS issues a charging document called a Notice to Appear (NTA) and files it with an Immigration Court to begin a removal proceeding.

Reopen, Motion to

Aliens may request, by motion, the reopening of a case previously heard by an Immigration Judge or the Board of Immigration Appeals (BIA). A motion to reopen asks an Immigration Judge or the BIA to consider new and previously unavailable facts or evidence in a case. Before the Immigration Judge, a motion to reopen must be filed within 90 days of the date of entry of a final administrative order of removal, deportation, or exclusion. Before the BIA, a motion to reopen must be filed within 90 days of the BIA’s final administrative decision.

Represented

A represented individual has an attorney or accredited representative act as his agent in proceedings before the Immigration Courts or the Board of Immigration Appeals.

Rescission Hearing

A less common type of proceeding that comes before the Immigration Court is a rescission case. If, within five years of granting adjustment of status, the Department of Homeland Security (DHS) discovers that the respondent/applicant was not entitled to lawful permanent residence (LPR) status when it was granted, DHS issues a Notice of Intent to Rescind. If the respondent/applicant requests a hearing before an Immigration Court, DHS will file the Notice with the Immigration Court, and the proceeding to rescind the individual's LPR status commences. As with deportation cases, the Government has the burden of proof to show that rescission is warranted. If an individual loses LPR status, he or she then is usually subject to removal proceedings. Although rescission proceedings still exist after

April 1, 1997, the DHS may also place an LPR into removal proceedings. An order of removal is sufficient to rescind the alien's status.

Respondent

A party to an immigration proceeding against whom charges have been lodged and findings may be made.

S

Suspension of Deportation

Suspension of Deportation is a discretionary form of relief for certain aliens in deportation proceedings who have maintained continuous physical presence in the United States for seven years and have met the other statutory requirements for such relief. See former §244 of the Immigration and Nationality Act of 1952, as amended. Application for this relief is made during the course of a hearing before an Immigration Judge. The status of an alien who is granted this relief is adjusted to that of an alien lawfully admitted for permanent residence. See also cancellation of removal.

T

Temporary Protected Status

Temporary Protected Status (TPS) is a temporary immigration status granted to eligible individuals of designated countries. The Secretary of the Department of Homeland Security may designate countries for TPS when, for example, there is ongoing armed conflict, an environmental disaster, or other extraordinary temporary conditions.

Termination

A termination is a type of completion in which a case is closed by an Immigration Judge without a final order of removal or deportation. Normally, the Immigration Judge finds that the respondent is not removable.

U

Unrepresented

An individual in proceedings may represent himself or herself before an Immigration Court or the Board of Immigration Appeals instead of being represented by an attorney or accredited representative. See also *pro se*.

V

Visa Petition

A visa petition is the first step toward obtaining lawful permanent residence for a foreign-born individual or family. It is usually filed by a U.S. citizen, lawful permanent resident, or employer on behalf of an alien. Visa petitions are adjudicated by the Department of Homeland Security (DHS) and, once approved, may be revoked or revalidated by DHS under certain circumstances. If a visa petition is denied or revoked, or the revalidation of a visa petition is denied, an appeal may be taken to the Board of Immigration Appeals (BIA) in some instances. For visa petition appeals within the BIA's jurisdiction, DHS is initially responsible for management of the appeal, including the briefing process. The BIA's role in the appeal process does not begin until the completed record is received from DHS.

Voluntary Departure

Voluntary departure is the departure of an alien from the United States without an order of removal. The departure may or may not have been preceded by a hearing before an Immigration Judge. An alien allowed to voluntarily depart concedes removability but is not barred from seeking admission at a port of entry in the future. Failure to depart within the time granted results in a fine and a ten-year bar against the alien applying for several forms of relief from removal.

W

Waiver of Inadmissibility

Nonimmigrant (temporary) Visa applicants who are inadmissible to the United States require a waiver from the Department of Homeland Security which, if granted, permits them to apply for temporary admission.

Waiver of Removability

Once an alien has been found removable, he or she may be able to apply for relief from expulsion from the United States in the form of a waiver. Eligibility for waivers of removability depend upon the alien's ability to establish hardship on himself or herself or on close family members if he or she were to be removed from the United States.

Withdrawal of an Appeal

An appealing party may, at any time prior to the entry of a decision by the Board of Immigration Appeals, voluntarily withdraw his or her appeal, with or without the consent of the opposing party.

Withdrawal of an Application for Admission

Withdrawal of an application is an arriving alien's voluntary retraction of an application for admission to the United States in lieu of a removal hearing before an Immigration Judge or an expedited removal by the Department of Homeland Security.

Withdrawal of an Application for Relief

An alien in proceedings may, at any time prior to a decision in his or her case, voluntarily withdraw any application for relief filed on his or her behalf.

Withholding of Removal

Pursuant to INA section 241(b)(3), an Immigration Judge may not remove an alien to a country if the Immigration Judge decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion. A request for withholding of removal is generally filed with a request for asylum in removal proceedings.

Withholding-Only

An alien in administrative removal proceedings under § 238 of the Immigration and Nationality Act (INA) (covering aliens who are not lawful permanent residents and have been convicted of an aggravated felony) and aliens subject to reinstatement of removal under § 241(a)(5) of the INA are now able to apply for withholding of removal under § 241(b)(3) of the INA, as well as under the Convention Against Torture, after a screening process by an asylum officer. In a withholding-only proceeding, an Immigration Judge may only consider the alien's application for withholding of removal under § 241(b)(3) of the INA and the Convention Against Torture. The process is similar to an asylum-only hearing pursuant to 8 C.F.R. §208(b).

**U.S. Department of Justice
Executive Office for Immigration Review
Office of Planning, Analysis, and Technology**

**Immigration Courts
FY 2004 Asylum Statistics**

NATIONALITY	RECEIVED	GRANTED	CONDITIONAL	DENIED	ABANDONED	WITHDRAWN	OTHER
AFGHANISTAN	114	58	0	35	4	13	58
ALBANIA	1,226	724	0	627	31	87	330
ALGERIA	81	13	0	36	3	23	16
ANDORRA	2	0	0	1	0	0	0
ANGOLA	65	9	0	18	4	6	6
ANTIGUA AND BARBUDA	0	0	0	1	0	1	0
ARGENTINA	490	18	0	300	23	111	80
ARMENIA	773	299	0	391	81	112	258
AUSTRALIA	5	0	0	4	0	1	0
AUSTRIA	8	0	0	8	1	3	0
AZERBAIJAN	98	30	0	21	22	4	47
BAHAMAS	14	0	0	4	0	0	9
BAHRAIN	18	2	0	2	0	1	0
BANGLADESH	435	149	0	162	30	76	92
BARBADOS	3	0	0	1	0	0	0
BE REMOVED FROM THE UNITED STATES	1	0	0	0	0	0	0
BELARUS	158	10	0	6	7	5	33
BELGIUM	20	0	0	2	3	1	2
BELIZE	16	3	0	6	0	6	1
BENIN	10	4	0	5	0	0	0
BERMUDA	4	2	0	0	0	0	1
BHUTAN	2	2	0	2	0	0	3
BOLIVIA	36	7	0	20	0	5	9

**U.S. Department of Justice
Executive Office for Immigration Review
Office of Planning, Analysis, and Technology**

**Immigration Courts
FY 2004 Asylum Statistics**

NATIONALITY	RECEIVED	GRANTED	CONDITIONAL	DENIED	ABANDONED	WITHDRAWN	OTHER
BOSNIA-HERZEGOVINA	44	6	0	18	0	7	11
BOTSWANA	3	0	0	1	0	0	2
BRAZIL	816	33	0	79	77	36	199
BRITISH INDIAN OCEAN TERRITORY	9	0	0	0	0	0	0
BUKINA FASO	20	3	0	12	1	3	6
BULGARIA	180	42	0	51	9	16	63
BURMA (MYANMAR)	257	138	0	69	16	5	52
BURUNDI	58	12	0	19	5	1	14
BYELORUSSIA (BELARUS)	109	46	0	17	1	7	34
CAMBODIA	174	5	0	36	3	13	37
CAMEROON	1,015	270	0	298	20	39	168
CANADA	12	5	1	2	1	0	1
CAPE VERDE	5	0	0	0	0	2	1
CAYMAN ISLANDS	1	0	0	0	0	0	0
CENTRAL AFRICAN REPUBLIC	51	2	0	21	3	0	12
CHAD	28	5	0	9	1	2	3
CHILE	21	6	0	11	1	10	7
CHINA	6,191	1,240	2,162	3,052	311	307	1,426
COLOMBIA	5,127	1,470	0	3,064	344	619	1,102
COMORO ISLANDS	2	1	0	0	0	0	0
CONGO	258	129	0	122	21	18	74
COSTA RICA	12	6	0	11	0	3	2
CROATIA	15	4	0	3	0	2	1

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CUBA	454	32	1	104	8	179	233
CYPRUS	2	0	0	1	0	0	0
CZECH REPUBLIC	12	3	0	8	1	1	4
CZECHOSLOVAKIA	24	3	0	8	2	3	10
DEMOCRATIC REPUBLIC OF CONGO	113	17	0	22	8	4	28
DENMARK	2	0	0	4	0	0	1
DJIBOUTI	0	1	0	0	0	0	0
DOMINICA	1	0	0	1	0	2	1
DOMINICAN REPUBLIC	89	3	0	24	1	26	29
ECUADOR	138	4	0	35	6	38	37
EGYPT	460	267	0	166	9	42	106
EL SALVADOR	2,519	42	0	608	140	398	1,061
EQUATORIAL GUINEA	2	0	0	0	0	0	1
ERITREA	136	61	0	35	2	11	25
ESTONIA	45	8	0	4	4	5	13
ETHIOPIA	788	258	0	233	27	51	178
FEDERATED STATES OF MICRONESA	2	0	0	0	0	2	1
FIJI	200	95	0	135	36	61	230
FINLAND	0	0	0	1	0	0	0
FRANCE	29	4	0	3	0	14	17
FRENCH POLYNESIA	0	0	0	0	0	1	0
GABON	4	5	0	2	2	0	0
GAMBIA	142	16	0	36	6	13	21

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GAZA STRIP	2	0	0	0	0	0	0
GEORGIA	249	66	0	80	19	24	63
GERMANY	25	4	0	9	0	4	5
GHANA	70	5	0	32	4	13	13
GIBRALTAR	0	0	0	0	1	0	0
GREECE	9	3	0	6	0	1	3
GRENADA	2	0	0	2	0	1	1
GUADELOUPE	1	0	0	0	0	0	0
GUATEMALA	3,396	176	0	864	776	651	701
GUINEA	699	258	0	221	39	25	79
GUINEA BISSAU	18	4	0	3	1	1	5
GUYANA	176	31	0	152	11	33	42
HAITI	4,942	533	0	2,371	259	248	647
HONDURAS	701	46	0	236	54	100	188
HONG KONG	5	1	1	2	0	1	3
HUNGARY	16	3	0	5	1	3	10
ICELAND	7	1	0	2	0	0	2
INDIA	1,338	450	0	620	169	194	632
INDONESIA	2,428	421	0	1,226	87	218	420
IRAN	503	202	0	162	38	99	207
IRAQ	221	115	0	206	14	39	46
IRELAND	1	0	0	1	0	1	0
ISRAEL	90	9	0	40	9	9	13

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ITALY	16	1	0	9	1	2	2
IVORY COAST (COTE D'IVOIRE)	395	77	0	94	16	12	46
JAMAICA	165	3	0	46	7	26	31
JAPAN	72	1	0	10	2	5	5
JORDAN	188	28	0	49	16	19	56
KAMPUCHEA	23	26	0	26	6	7	8
KAZAKHSTAN	58	25	0	28	2	7	18
KENYA	338	62	0	86	16	26	78
KIRGHIZIA (KYRGYZSTAN)	31	16	0	8	0	4	7
KIRIBATI	2	0	0	0	0	0	0
KOSOVE	8	4	0	8	0	1	2
KUWAIT	21	8	0	9	2	4	14
LAOS	277	5	0	45	30	39	224
LATVIA	44	17	0	12	2	2	16
LEBANON	205	41	0	85	8	24	76
LESOTHO	2	0	0	0	0	0	2
LIBERIA	409	91	0	103	29	43	253
LIBYA	10	1	0	0	0	1	2
LITHUANIA	79	9	0	17	4	7	26
MACEDONIA	67	14	0	52	4	8	31
MADAGASCAR	2	0	0	0	1	2	3
MALAWI	8	8	0	1	0	2	0
MALAYSIA	32	4	0	8	2	5	7

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MALDIVES	1	0	0	0	0	1	0
MALI	55	10	0	16	3	10	9
MALTA	2	0	0	1	1	2	2
MAURITANIA	848	218	1	211	119	26	326
MAURITIUS	1	0	0	0	0	0	0
MEXICO	3,319	68	0	591	231	9,051	948
MOLDAVIA (MOLDOVA)	32	13	0	17	4	4	13
MONACO	2	0	0	1	0	0	1
MONGOLIA	81	13	0	28	5	0	8
MONTSERRAT	1	0	0	1	0	0	0
MOROCCO	59	2	0	18	0	10	8
NAMIBIA	1	0	0	0	0	0	0
NEPAL	235	93	0	48	7	8	26
NETHERLANDS	13	1	0	8	0	0	2
NEW ZEALAND	5	0	0	0	0	5	2
NICARAGUA	178	6	0	93	15	31	44
NIGER	75	6	0	20	3	6	13
NIGERIA	310	50	0	132	3	48	89
NIUE	3	0	0	0	0	1	1
NORTH KOREA	6	1	0	0	4	1	0
NORWAY	4	0	0	1	0	0	1
OMAN	1	1	0	0	0	0	0
PAKISTAN	991	164	0	364	39	190	221

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PALESTINIAN	12	1	0	9	0	1	1
PANAMA	25	8	0	8	2	3	6
PARAGUAY	7	1	0	3	0	1	3
PERU	456	108	0	213	23	133	125
PHILIPPINES	280	29	0	117	15	162	170
POLAND	118	5	0	19	7	11	25
PORTUGAL	20	0	0	2	2	4	6
QATAR	0	1	0	0	0	0	3
ROMANIA	163	61	0	68	6	25	54
RUSSIA	771	321	0	210	54	85	295
RWANDA	39	28	0	9	2	1	14
SAN MARINO	1	0	0	2	0	0	0
SAUDI ARABIA	15	5	0	7	1	1	3
SENEGAL	93	17	0	34	8	6	15
SERBIA MONTENEGRO	40	5	0	10	1	1	7
SEYCHELLES	7	6	0	6	0	1	1
SIERRA LEONE	364	121	0	170	37	30	118
SINGAPORE	12	4	0	6	1	1	3
SLOVAK REPUBLIC	20	0	0	8	0	0	5
SLOVENIA	5	0	0	4	0	0	2
SOMALIA	344	89	0	61	62	14	145
SOUTH AFRICA	60	5	0	23	3	6	14
SOUTH KOREA	25	4	0	6	0	3	5

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SOVIET UNION	658	86	0	56	74	8	148
SPAIN	19	1	0	6	1	4	5
SRI LANKA	249	63	0	65	15	38	63
ST. HELENA	0	0	0	0	1	0	0
ST. KITTS, WEST INDIES	1	0	0	1	0	0	0
ST. LUCIA	3	0	0	1	0	0	1
ST. VINCENT AND THE GRENADINES	1	0	0	0	0	0	0
STATELESS - ALIEN UNABLE TO NAME A CO	169	59	0	38	4	8	39
SUDAN	133	67	0	57	9	11	36
SURINAME	8	0	0	0	2	2	6
SWAZILAND	0	1	0	0	0	0	0
SWEDEN	7	0	0	1	0	1	1
SWITZERLAND	1	0	0	2	0	0	0
SYRIA	105	10	0	50	3	19	26
TAIWAN	6	0	0	2	0	3	1
TAJIKISTAN (TADZHIK)	13	6	0	1	0	1	2
TANZANIA	57	2	0	18	1	6	6
THAILAND	41	0	0	12	1	9	25
TOGO	390	66	0	128	7	6	73
TONGA	10	0	0	4	1	3	1
TRINIDAD AND TOBAGO	31	1	0	8	2	9	13
TUNISIA	36	2	0	11	1	3	8
TURKEY	75	27	0	41	7	12	21

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TURKMENISTAN	44	15	0	1	2	1	8
UGANDA	121	50	0	49	4	5	30
UKRAINE	262	90	0	101	14	41	92
UNITED ARAB EMIRATES	15	6	0	6	0	0	3
UNITED KINGDOM	45	7	0	14	0	8	15
UNKNOWN NATIONALITY	3	0	0	9	0	0	0
URUGUAY	36	4	0	20	1	16	11
UZEBEKISTAN	244	76	0	43	22	19	64
VENEZUELA	1,615	57	0	248	27	66	134
VIETNAM	188	5	0	95	2	51	57
WESTERN SAMOA	3	0	0	0	0	1	2
YEMEN	84	9	0	43	3	16	24
YUGOSLAVIA	383	198	0	184	21	45	91
ZAIRE	15	6	0	5	1	6	1
ZAMBIA	52	5	0	13	2	5	5
ZIMBABWE	344	71	0	47	0	30	41
TOTAL	55,067	10,796	2,166	20,838	3,791	14,643	13,930