



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

# FY 2006 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](http://www.usdoj.gov/eoir).

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## U.S. Department of Justice

Executive Office for Immigration Review

*Office of the Director*

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Director

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March 9, 2007

### **MESSAGE FROM THE DIRECTOR**

I am pleased to provide the FY 2006 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 2006, OCIJ supervised immigration judges located in 52 immigration courts throughout the United States. Immigration Judges travel to more than 100 other hearing locations to conduct proceedings. At each proceeding, a Department of Homeland Security (DHS) 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 reviews 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 Unpublished decisions of the Board are binding on the Immigration Judge or the DHS with regard to the individual case at issue, unless overruled or modified by the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.

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

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 2002 - FY 2006. Data in this report have been updated, and thus may be slightly different 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 2006 HIGHLIGHTS

- Immigration court receipts increased by 20 percent between FY 2002 (290,400) and FY 2006 (348,216). However, receipts in FY 2006 decreased by 6 percent from FY 2005. (Figure 1, page B2)
- Immigration court completions increased by 34 percent between FY 2002 (273,787) and FY 2006 (365,851). Completions in FY 2006 increased by 4 percent from FY 2005. (Figure 1, page B2)
- Immigration Judge (IJ) decisions increased by 61 percent between FY 2002 (170,222) and FY 2006 (273,615). (Figure 4, page D1)
- Mexico, El Salvador, Honduras, Guatemala, and China were the leading nationalities of immigration court completions during FY 2006, representing 68 percent of the caseload. (Figure 6, page E1)
- Spanish was the most frequently spoken language for immigration court case completions during FY 2006. (Figure 8, page F1).
- Thirty-five (35) percent of aliens whose cases were completed in immigration courts during FY 2006 were represented. The representations rate for FY 2005 and FY 2006 would be 48 percent if failure to appear completions were removed from the data. (Figure 9, page G1)
- The overall failure to appear rate increased in FY 2006 (39%) from a five year low in FY 2003 (22%). The rate remained static from FY 2005 to FY 2006. (Figure 10, page H2)
- Asylum applications filed with the immigration courts decreased by 27 percent from FY 2002 to FY 2006. Nearly 90 percent of this decrease was in affirmative receipts. (Figure 13, page I1)
- In FY 2006, the Los Angeles, CA; Miami, FL; New York, NY; and San Francisco, CA immigration courts received 54 percent of the asylum applications filed with the courts. (Table 6, page I3)
- Seven nationalities were among the top ten nationalities granted asylum each year during the five-year period FY 2002-06: China, Colombia, Haiti, Albania, India, Indonesia, and Armenia. (Table 7, page J2)
- The grant rate for asylum applications increased to 45 percent in FY 2006. The grant rate was 51 percent for affirmative applications and 34 percent for defensive applications. (Figures 16, 17, and 18, pages K2 and K3)

- In FY 2006, 26 percent of proceedings completed at the immigration courts had applications for relief. (Figure 22, page N1)
- Twenty-nine (29) percent of FY 2006 immigration court completions involved detained aliens. (Figure 23, page O1)
- BIA had a 14 percent increase in receipts between FY 2002 (34,834) and FY 2006 (39,707) and a 12 percent decrease in completions during the same period. (Table 17, page T2)
- Mexico, China, Haiti, Colombia, and Guatemala were the leading nationalities of BIA IJ decision appeals completed in FY 2006, representing 53 percent of the caseload. (Figure 29, page V1)
- Seventy-one (71) percent of the BIA IJ decision appeals completed in FY 2006 were for represented aliens. (Figure 30, page W1)
- In FY 2006, 9 percent of IJ decisions were appealed to the BIA. The percent of IJ decisions appealed has decreased each year since 2003, when 17 percent of IJ decisions were appealed. (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 53<sup>1</sup> 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.

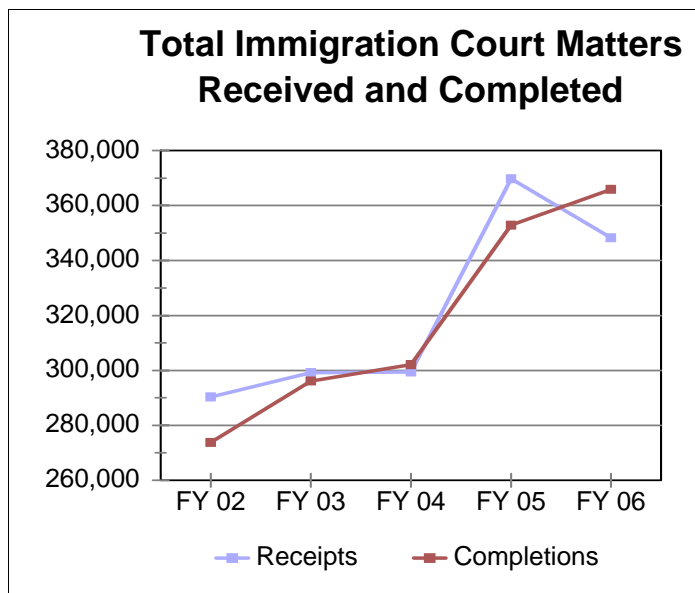
- Bond redetermination hearings are held when an alien in custody seeks release on his or her own recognizance, or seeks a reduction in the amount of bond. In some cases, bond redetermination hearings are held before EOIR receives the charging document from DHS. During bond redetermination hearings, 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.

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<sup>1</sup>Data 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 but is not credited with case completions.





	Receipts	Completions
FY 02	290,400	273,787
FY 03	299,197	296,120
FY 04	299,475	302,049
FY 05	369,760	352,869
FY 06	348,216	365,851

Figure 1



As shown in Figure 1 above, the number of immigration matters received by the Immigration Courts increased each year between FY 2002 and FY 2005. The increase in receipts from FY 2002 to FY 2005 was 27 percent. The decrease in receipts from FY 2005 to FY 2006 was 6 percent. Immigration matters completed increased from FY 2002 to FY 2006. The five year increase in completions was 34 percent.

While some courts showed increases in receipts over FY 2005 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. The Immigration Court in Salt Lake City, Utah showed the largest percentage increase in receipts, up 147%. The Immigration Court in Fishkill, NY showed the largest decrease, down 59 percent.

Table 2 on page B4 provides a comparison of FY 2005 and FY 2006 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. The Immigration Court in Salt Lake City, Utah had a significant increase in both receipts and completions.



**Table 1 - Total Immigration Court Matters Received by Court for FY 2005 and FY 2006**

Immigration Court	FY 2005	FY 2006	Rate of Change
ARLINGTON, VIRGINIA	7,884	8,108	3%
ATLANTA, GEORGIA	7,863	9,413	20%
BALTIMORE, MARYLAND	5,946	6,009	1%
BATAVIA SPC, NEW YORK	1,106	1,424	29%
BLOOMINGTON (ST. PAUL), MINNESOTA	2,641	3,010	14%
BOSTON, MASSACHUSETTS	12,295	7,692	-37%
BRADENTON, FLORIDA	3,561	1,534	-57%
BUFFALO, NEW YORK	2,293	2,891	26%
CHICAGO, ILLINOIS	13,057	14,466	11%
DALLAS, TEXAS	6,780	7,924	17%
DENVER, COLORADO	5,261	7,236	38%
DETROIT, MICHIGAN	3,951	4,386	11%
EAST MESA, CALIFORNIA	7,785	7,466	-4%
EL CENTRO SPC, CALIFORNIA	4,537	4,117	-9%
EL PASO SPC, TEXAS	4,520	5,734	27%
EL PASO, TEXAS	5,202	3,749	-28%
ELIZABETH SPC, NEW JERSEY	1,957	2,030	4%
ELOY, ARIZONA	14,802	15,184	3%
FISHKILL - NEW YORK STATE DOC, NEW YORK	1,022	420	-59%
FLORENCE SPC, ARIZONA	8,275	5,392	-35%
GUAYNABO (SAN JUAN), PUERTO RICO	2,700	3,739	38%
HARLINGEN, TEXAS	34,940	25,725	-26%
HARTFORD, CONNECTICUT	4,154	2,461	-41%
HONOLULU, HAWAII	647	819	27%
HOUSTON SPC, TEXAS	4,268	4,329	1%
HOUSTON, TEXAS	11,607	11,449	-1%
IMPERIAL, CALIFORNIA	1,904	1,840	-3%
KROME NORTH SPC, FLORIDA	3,628	3,322	-8%
LANCASTER, CALIFORNIA	7,128	8,880	25%
LAS VEGAS, NEVADA	3,677	3,138	-15%
LOS ANGELES, CALIFORNIA	17,185	19,618	14%
LOS FRESNOS (PORT ISABEL SPC), TEXAS	2,539	3,327	31%
MEMPHIS, TENNESSEE	2,415	3,121	29%
MIAMI, FLORIDA	23,074	22,462	-3%
NEW ORLEANS, LOUISIANA	1,306	1,684	29%
NEW YORK CITY, NEW YORK	20,180	20,936	4%
NEWARK, NEW JERSEY	8,099	7,445	-8%
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	3,702	4,834	31%
ORLANDO, FLORIDA	6,214	6,573	6%
PHILADELPHIA, PENNSYLVANIA	4,029	3,072	-24%
PHOENIX, ARIZONA	4,161	3,880	-7%
PORTLAND, OREGON	1,548	1,563	1%
SALT LAKE CITY, UTAH	553	1,365	147%
SAN ANTONIO, TEXAS	40,141	24,819	-38%
SAN DIEGO, CALIFORNIA	5,231	5,268	1%
SAN FRANCISCO, CALIFORNIA	11,145	11,245	1%
SAN PEDRO SPC, CALIFORNIA	5,047	4,476	-11%
SEATTLE, WASHINGTON	7,432	10,091	36%
TUCSON, ARIZONA	2,915	2,125	-27%
ULSTER - NEW YORK STATE DOC, NEW YORK	1,322	785	-41%
VARICK SPC, NEW YORK	3,460	2,275	-34%
YORK, PENNSYLVANIA	2,671	3,365	26%
<b>TOTAL</b>	<b>369,760</b>	<b>348,216</b>	<b>-6%</b>

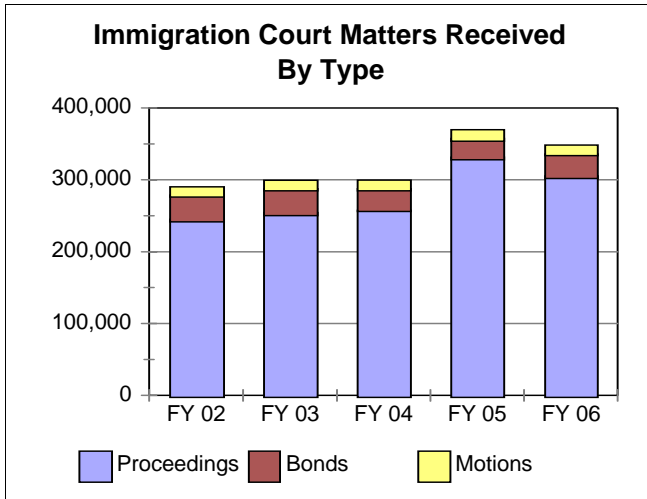
 Courts with decreases in receipts equal to or more than 25%
  Courts with increases in receipts equal to or more than 25%

**Table 2 - Total Immigration Court Matters Completed by Court for FY 2005 and FY 2006**

Immigration Court	FY 2005	FY 2006	Rate of Change
ARLINGTON, VIRGINIA	6,962	8,709	25%
ATLANTA, GEORGIA	6,126	9,327	52%
BALTIMORE, MARYLAND	5,336	6,448	21%
BATAVIA SPC, NEW YORK	1,115	1,385	24%
BLOOMINGTON (ST. PAUL), MINNESOTA	2,763	3,232	17%
BOSTON, MASSACHUSETTS	8,643	9,858	14%
BRADENTON, FLORIDA	3,164	2,549	-19%
BUFFALO, NEW YORK	2,318	2,441	5%
CHICAGO, ILLINOIS	12,733	14,349	13%
DALLAS, TEXAS	6,359	7,515	18%
DENVER, COLORADO	5,307	6,865	29%
DETROIT, MICHIGAN	4,167	4,130	-1%
EAST MESA, CALIFORNIA	7,757	7,456	-4%
EL CENTRO SPC, CALIFORNIA	4,496	4,053	-10%
EL PASO SPC, TEXAS	4,503	5,579	24%
EL PASO, TEXAS	4,565	5,005	10%
ELIZABETH SPC, NEW JERSEY	2,047	1,970	-4%
ELOY, ARIZONA	14,815	15,017	1%
FISHKILL - NEW YORK STATE DOC, NEW YORK	835	530	-37%
FLORENCE SPC, ARIZONA	8,318	5,413	-35%
GUAYNABO (SAN JUAN), PUERTO RICO	2,639	2,910	10%
HARLINGEN, TEXAS	34,347	31,761	-8%
HARTFORD, CONNECTICUT	3,218	3,213	-0%
HONOLULU, HAWAII	718	753	5%
HOUSTON SPC, TEXAS	4,131	4,478	8%
HOUSTON, TEXAS	10,516	13,717	30%
IMPERIAL, CALIFORNIA	1,903	1,872	-2%
KROME NORTH SPC, FLORIDA	3,319	3,256	-2%
LANCASTER, CALIFORNIA	7,145	8,706	22%
LAS VEGAS, NEVADA	3,596	3,013	-16%
LOS ANGELES, CALIFORNIA	21,822	19,051	-13%
LOS FRESNOS (PORT ISABEL SPC), TEXAS	2,550	3,086	21%
MEMPHIS, TENNESSEE	2,484	3,267	32%
MIAMI, FLORIDA	20,208	24,604	22%
NEW ORLEANS, LOUISIANA	1,125	1,399	24%
NEW YORK CITY, NEW YORK	18,630	21,166	14%
NEWARK, NEW JERSEY	7,331	7,592	4%
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	3,770	4,754	26%
ORLANDO, FLORIDA	4,864	5,060	4%
PHILADELPHIA, PENNSYLVANIA	4,097	4,324	6%
PHOENIX, ARIZONA	5,282	4,058	-23%
PORTLAND, OREGON	1,519	1,344	-12%
SALT LAKE CITY, UTAH	564	1,228	118%
SAN ANTONIO, TEXAS	34,972	30,679	-12%
SAN DIEGO, CALIFORNIA	5,174	5,170	-0%
SAN FRANCISCO, CALIFORNIA	12,255	11,706	-4%
SAN PEDRO SPC, CALIFORNIA	4,937	4,482	-9%
SEATTLE, WASHINGTON	7,060	9,124	29%
TUCSON, ARIZONA	2,852	1,905	-33%
ULSTER - NEW YORK STATE DOC, NEW YORK	1,364	805	-41%
VARICK SPC, NEW YORK	3,563	2,243	-37%
YORK, PENNSYLVANIA	2,585	3,294	27%
TOTAL	352,869	365,851	4%

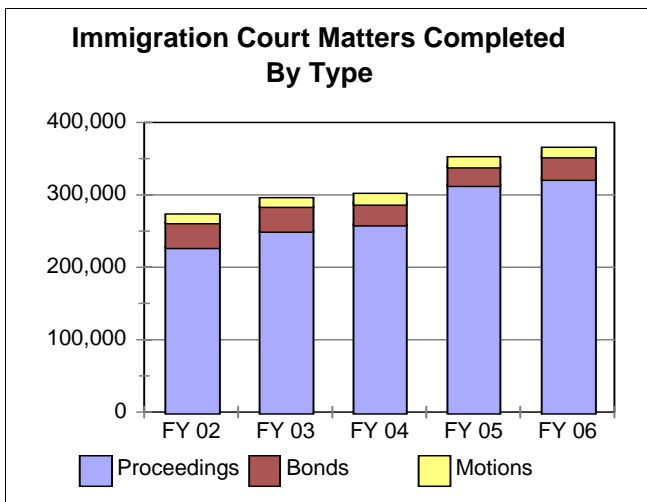
 Courts with decreases in completions equal to or more than 25%  Courts with increases in completions equal to or more than 25%

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 02	245,159	33,322	11,919	290,400
FY 03	254,367	33,106	11,724	299,197
FY 04	257,587	29,884	12,004	299,475
FY 05	331,179	26,329	12,252	369,760
FY 06	305,515	30,427	12,274	348,216

Figure 2



	Proceedings	Bonds	Motions	Total
FY 02	228,422	33,411	11,954	273,787
FY 03	250,823	33,274	12,023	296,120
FY 04	259,863	29,997	12,189	302,049
FY 05	314,617	26,123	12,129	352,869
FY 06	323,845	29,824	12,182	365,851

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. These proceedings also cover Visa Waiver Program beneficiaries and individuals ordered removed from the United States on security grounds.

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. Certain aliens may apply for suspension of deportation or cancellation of removal under section 203 of the Nicaraguan Adjustment and Central American Relief Act (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 2002 and FY 2006. Receipts of deportation and exclusion cases have declined since FY 2002 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	FY2002	FY 2003	FY 2004	FY 2005	FY 2006
Deportation	7,534	5,935	4,542	4,219	3,639
Exclusion	1,277	751	502	413	387
Removal	233,631	244,910	249,498	324,538	299,748
Credible Fear	85	42	41	114	412
Reasonable Fear*	85	103	92	55	98
Claimed Status	85	91	50	77	71
Asylum Only	2,238	2,297	2,627	1,547	961
Rescission	39	23	28	25	31
Continued Detention Review	0	5	8	3	9
NACARA	59	91	36	4	27
Withholding Only	118	117	160	184	132
Unknown	8	2	3	0	0
<b>Total</b>	<b>245,159</b>	<b>254,367</b>	<b>257,587</b>	<b>331,179</b>	<b>305,515</b>

\*Prior to FY 2003 Reasonable Fear was reported under Credible Fear.

Table 4 shows all types of proceedings completed by the Immigration Courts for the period FY 2002 to FY 2006. 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 16 percent of the proceedings completed in FY 2006.

**Table 4 - Immigration Court Proceedings Completed by Case Type**

Type of Proceeding	FY2002	FY 2003	FY 2004	FY 2005	FY 2006
Deportation	8,643	8,963	6,268	4,694	4,142
Exclusion	1,088	1,236	836	581	462
Removal	215,998	238,067	249,922	306,786	317,032
Credible Fear	84	42	37	114	411
Reasonable Fear*	87	101	92	57	94
Claimed Status	84	88	54	75	64
Asylum Only	2,228	2,049	2,405	2,062	1,458
Rescission	33	47	27	27	29
Continued Detention Review	0	3	10	3	6
NACARA	60	99	70	29	18
Withholding Only	116	125	138	187	129
Unknown	1	3	4	2	0
<b>Total</b>	<b>228,422</b>	<b>250,823</b>	<b>259,863</b>	<b>314,617</b>	<b>323,845</b>

\*Prior to FY 2003 this was reported under Credible Fear.

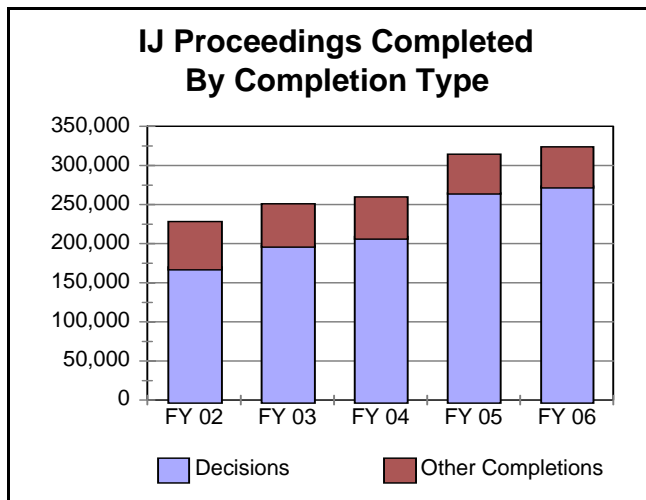


## Immigration Courts: Proceedings Completed by Disposition

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 FY 2002 to FY 2006 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 2002 and FY 2005, the number of cases counted as “other” completions have decreased each year. There was a slight increase (1 percent) from FY 2005 to FY 2006. In FY 2002, “other” completions accounted for approximately 25 percent of total completions and in FY 2006 they accounted for only 16 percent of total completions.



	Decisions	Other Completions	Total
FY 02	170,222	58,200	228,422
FY 03	197,941	52,882	250,823
FY 04	209,274	50,589	259,863
FY 05	264,792	49,825	314,617
FY 06	273,615	50,230	323,845

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 or where the alien has established eligibility for naturalization, the judge terminates the case.<sup>1</sup> If 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.

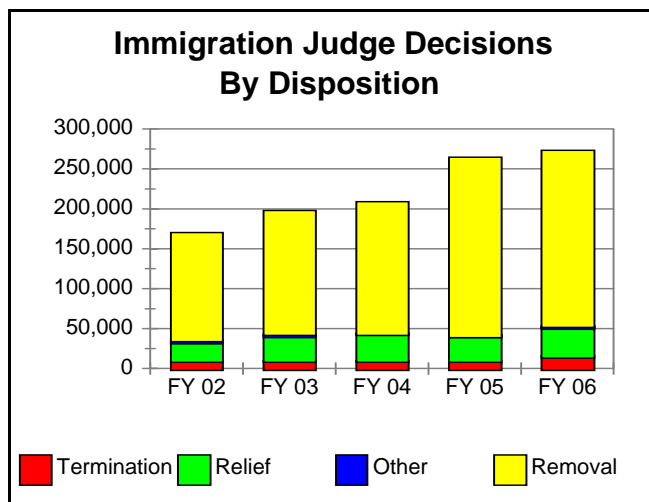


Figure 5

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 02	9,334	5.5	24,599	14.5	135,232	79.4	1,057	0.6	170,222	100.0
FY 03	9,961	5.0	31,287	15.8	155,145	78.4	1,548	0.8	197,941	100.0
FY 04	9,949	4.8	33,437	16.0	164,451	78.6	1,437	0.7	209,274	100.0
FY 05	9,383	3.5	31,683	12.0	222,382	84.0	1,344	0.5	264,792	100.0
FY 06	15,985	5.8	36,374	13.3	220,057	80.4	1,199	0.4	273,615	100.0

<sup>1</sup> Termination decisions increased by close to 70% between FY 2005 and FY 2006. This increase may be due in part to recent regulatory and ICE policy changes with regard to 8 CFR §§ 245, 1001.1 and 1245 prescribing authority to USCIS to adjudicate applications for adjustment of status from arriving aliens and the use of prosecutorial discretion for individuals with viable forms of relief available to them through USCIS affirmative processing. See Interim Rule, *Eligibility of Arriving Aliens in Removal Proceedings To Apply for Adjustment of Status and Jurisdiction To Adjudicate Applications for Adjustment of Status* at 71 FR 27585, 27592 (Friday, May 12, 2006).

Between FY 2002 and FY 2005, the percentage of aliens ordered removed increased from 79 percent to 84 percent, in FY 2006 the percentage decreased to 80 percent.

## 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.

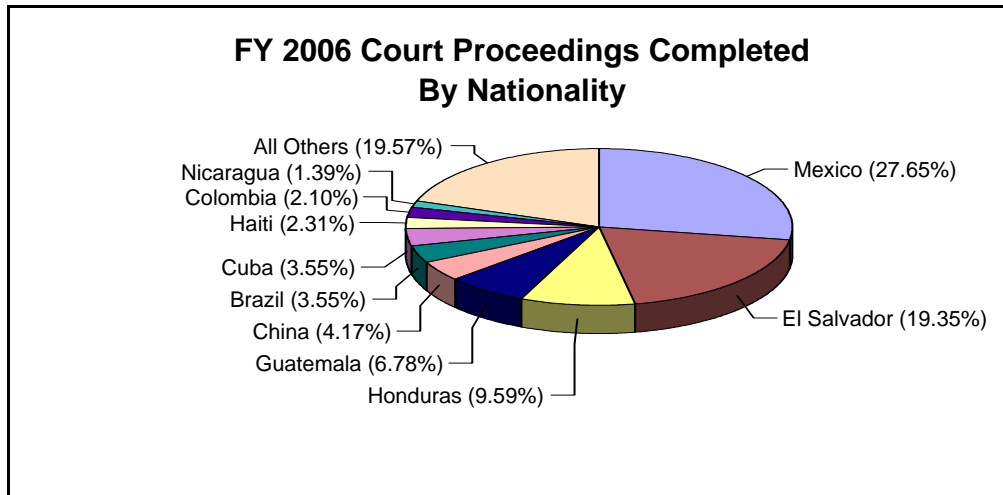


Figure 6

FY 2006 Court Proceedings Completed by Nationality		
Nationality	Cases	% of Total
Mexico	89,540	27.65%
El Salvador	62,650	19.35%
Honduras	31,064	9.59%
Guatemala	21,969	6.78%
China	13,500	4.17%
Brazil	11,505	3.55%
Cuba	11,483	3.55%
Haiti	7,479	2.31%
Colombia	6,790	2.10%
Nicaragua	4,491	1.39%
All Others	63,374	19.57%
<b>Total</b>	<b>323,845</b>	<b>100.00%</b>

In FY 2006, the top 10 nationalities accounted for approximately 80 percent of all proceedings completed as shown in Figure 6. A total of 215 nationalities were represented in the FY 2006 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 2002 through FY 2006. For the five-year period, nine of the top ten nationalities remained the same: Mexico, El Salvador, Guatemala, Honduras, Haiti, Cuba, China, Colombia, and Brazil.

**Table 5 - Court Proceedings Completed by Nationality  
Top 25 Nationalities: FY 2002 - FY 2006**

Rank	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1	Mexico	Mexico	Mexico	Mexico	Mexico
2	El Salvador	El Salvador	Honduras	El Salvador	El Salvador
3	Honduras	Honduras	El Salvador	Honduras	Honduras
4	China	China	Guatemala	Brazil	Guatemala
5	Guatemala	Guatemala	China	Guatemala	China
6	Colombia	Colombia	Brazil	China	Brazil
7	Brazil	Brazil	Colombia	Colombia	Cuba
8	Haiti	Haiti	Haiti	Cuba	Haiti
9	Dominican Republic	Dominican Republic	Cuba	Haiti	Colombia
10	Cuba	Cuba	Dominican Republic	Dominican Republic	Nicaragua
11	India	India	India	Nicaragua	Dominican Republic
12	Ecuador	Pakistan	Indonesia	India	India
13	Albania	Albania	Pakistan	Indonesia	Indonesia
14	Jamaica	Indonesia	Jamaica	Pakistan	Pakistan
15	Pakistan	Jamaica	Albania	Ecuador	Jamaica
16	Nicaragua	Philippines	Nicaragua	Jamaica	Ecuador
17	Peru	Nicaragua	Ecuador	Albania	Venezuela
18	Philippines	Ecuador	Philippines	Philippines	Peru
19	Armenia	Peru	Peru	Peru	Philippines
20	Indonesia	Armenia	Russia	Venezuela	Albania
21	Russia	Russia	Egypt	Nigeria	Nigeria
22	Nigeria	Egypt	Armenia	Russia	Costa Rica
23	Egypt	Nigeria	Nigeria	Canada	Russia
24	Iran	Iran	Iran	Armenia	Egypt
25	Canada	Canada	Canada	Egypt	Canada

## Immigration Courts: Proceedings Completed by Language

Figure 7 below shows a breakdown of FY 2002 Immigration Court proceedings completed by language. Of 211 languages spoken in court proceedings during FY 2002, 83 percent were in the following five languages: Spanish, English, Mandarin, Foo Chow, and Creole.

Figure 8 below shows comparable data for FY 2006. Although four of the top five languages were the same, there was more diversity in languages in FY 2006. A total of 252 different languages were spoken in court proceedings in the Immigration Courts during FY 2006. The top five languages accounted for 90 percent of the proceedings completed in FY 2006.

FY 2006 highlights include:

- Spanish language cases were 70 percent of the total caseload, an increase of 9 percent since FY 2002.
- In the “Other” category, Foo Chow, Russian, and Arabic represented the three most frequently spoken languages.
- The number of different languages used in court proceedings has increased by 19 percent over FY 2002.

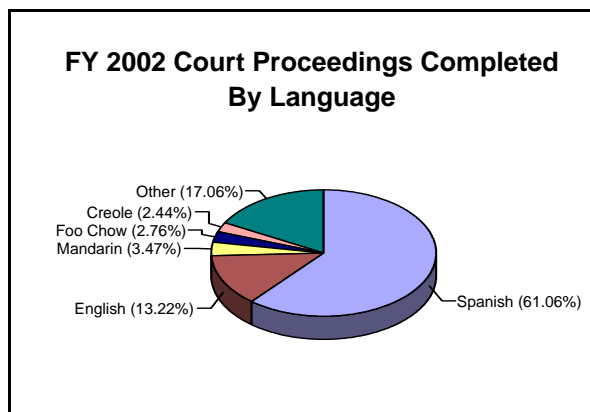


Figure 7

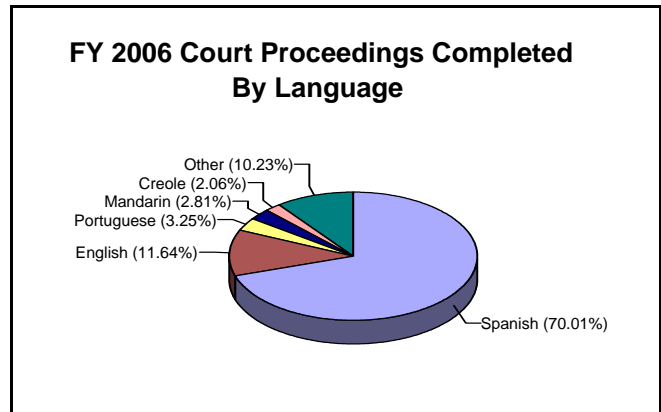


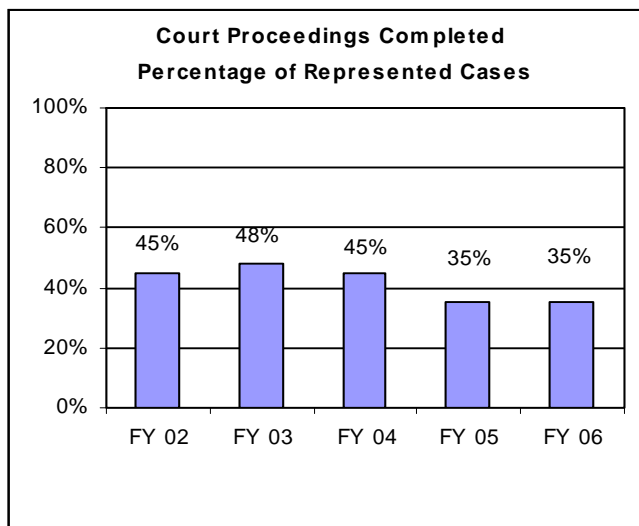
Figure 8

## 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 2002 – FY 2006 were represented. The percentage of represented aliens for FY 2002 to FY 2006 ranged from 35 percent to 48 percent. However, the significant drop in representation rate in FY 2005 and FY 2006 is directly related to the increased failures to appear over this same period. The representation rate for FY 2005 and FY 2006 would be 48 percent if failure to appear completions were removed from the data.



	Represented	Unrepresented	Total
FY 02	102,934	125,488	228,422
FY 03	120,122	130,701	250,823
FY 04	117,681	142,182	259,863
FY 05	110,018	204,599	314,617
FY 06	113,140	210,705	323,845

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, on the following page, compares Immigration Judge decisions and administrative closures with failures to appear. Of the Immigration Judge decisions rendered in FY 2006, 39 percent involved aliens who had failed to appear. Failure to appear rates were fairly consistent each year from FY 2002 to FY 2004. In FY 2005 the rates nearly doubled and remained at this level in FY 2006. The large increase in the failure to appear rate had a direct effect on the total completions for the fiscal year.

In FY 2005, 106,841 aliens failed to appear compared to the previous high in FY 2004 of 54,263, this represents a 97 percent increase. It should also be noted that 52 percent (55,893) of the failure to appear completions in FY 2005 occurred in Harlingen and San Antonio, Texas, compared to 41 percent (45,268) in FY 2006.

The immigration court workload is dependent on actions taken by the Department of Homeland Security (DHS). The DHS' long standing policy known as "catch and release" was designed to release non-Mexican aliens apprehended at entry on their own recognizance. This policy resulted from DHS' and the now defunct INS' insufficient capacity to detain all aliens apprehended at entry. In recent years, due to this policy, the failure to appear rate has increased dramatically at the immigration courts. This has caused a subsequent increase in *in absentia* removal orders being issued by the immigration judges. In August 2006, DHS abolished this policy.



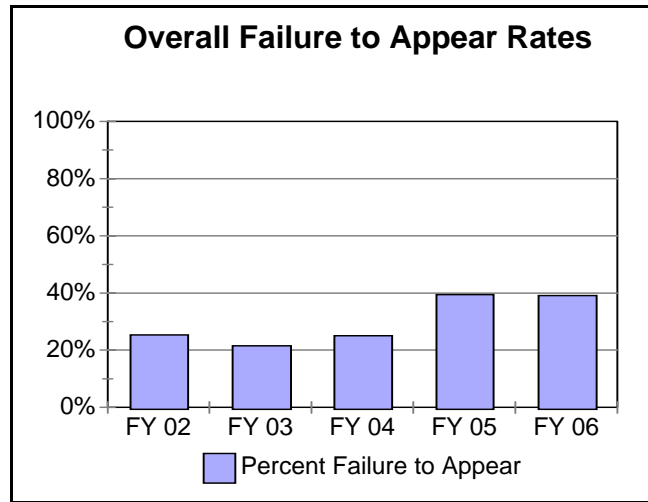


Figure 10

Overall Failure to Appear Rates					
	Failures to Appear			IJ Decisions & Admin. Closures	Failure to Appear Rate
	In Absentia Orders	Administrative Closures	Total Failures to Appear		
FY 02	37,316	7,803	45,119	178,025	25%
FY 03	36,948	7,298	44,246	205,239	22%
FY 04	47,407	6,856	54,263	216,130	25%
FY 05	100,994	5,847	106,841	270,639	39%
FY 06	102,834	6,879	109,713	280,494	39%

The following figures show EOIR data on failures to appear by detention status: non-detained aliens and aliens released on bond or recognizance. Failures to appear for detained cases occur 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. The failure to appear rate for this population has increased each year from FY 2002 to FY 2005. From FY 2005 to FY 2006 the rate stayed the same, which is consistent with the overall rate depicted in Figure 10.

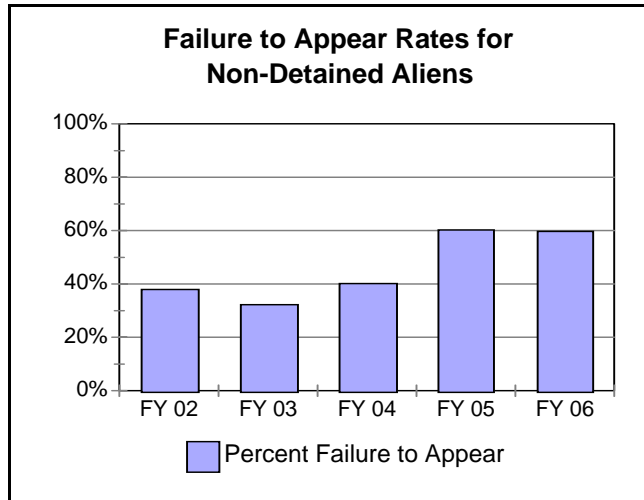


Figure 11

	Failures to Appear		IJ Decisions & Admin Closures
	Number	% of Total	
FY 02	28,043	38%	73,919
FY 03	29,526	32%	91,511
FY 04	43,655	40%	108,727
FY 05	97,858	60%	162,276
FY 06	100,551	60%	168,285

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 for these cases has decreased annually from FY 2002 to FY 2006. During the same period the failure to appear rates for non-detained aliens has increased.

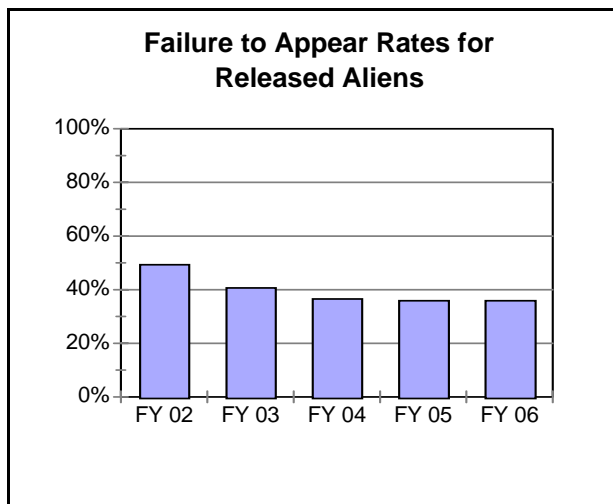


Figure 12

	Failures to Appear		IJ Decisions & Admin Closures
	Number	% of Total	
FY 02	15,794	49%	32,077
FY 03	13,439	41%	33,068
FY 04	9,426	37%	25,790
FY 05	7,883	36%	21,966
FY 06	7,894	36%	21,992

## 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.

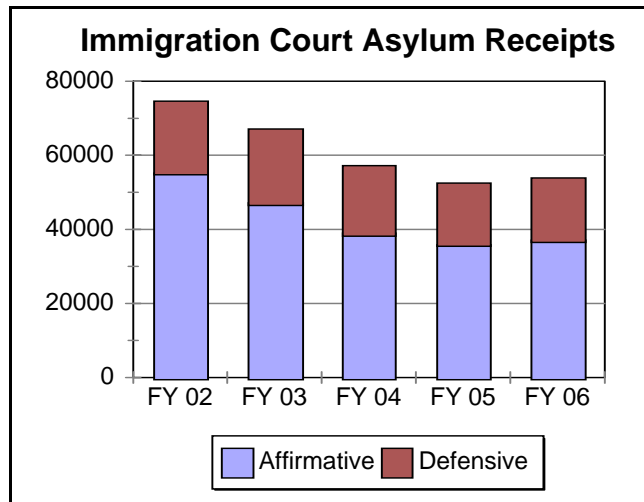


Figure 13

Immigration Court Asylum Receipts				
	Affirmative	Defensive	Unknown	Total
FY 02	55,138	19,516	58	74,712
FY 03	47,159	19,964	116	67,239
FY 04	38,996	18,232	124	57,352
FY 05	35,880	16,619	162	52,661
FY 06	37,104	16,780	548	54,432

As shown in Figure 14 below, asylum receipts declined by 30 percent from FY 2002 to FY 2005. From FY 2005 to FY 2006 receipts have increased slightly.

Asylum completions increased by 23 percent from FY 2002 to FY 2003. From FY 2003 to FY 2006 completions have declined by 15 percent.

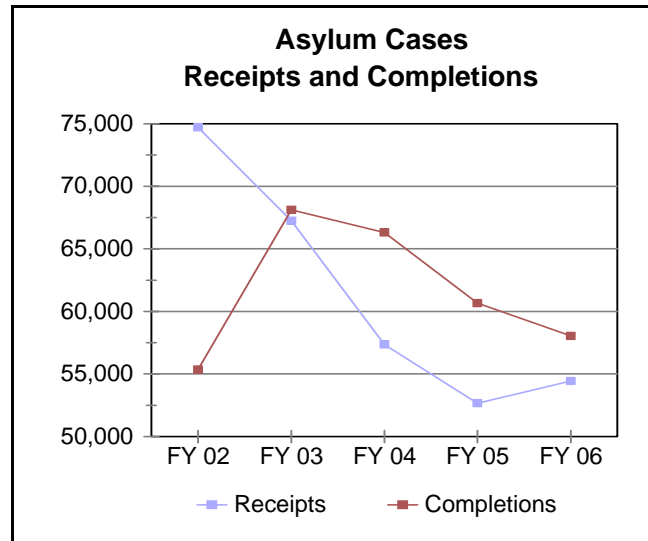


Figure 14

Asylum Receipts and Completions		
	Receipts	Completions
FY 02	74,712	55,355
FY 03	67,239	68,125
FY 04	57,352	66,313
FY 05	52,661	60,654
FY 06	54,432	58,040

Table 6, shown on page I3, provides information on FY 2006 asylum receipts and completions by Immigration Court. In FY 2006, the Los Angeles, CA; Miami, FL; New York, NY; and San Francisco, CA Immigration Courts received 54 percent of asylum filings. In FY 2006, half of the Immigration Courts had more receipts than completions. However, all four of the largest courts completed more cases than they received and overall completions outnumbered receipts by over 3,600 cases.

**Table 6 - Asylum Receipts and Completions by Court for FY 2006**

Immigration Court	Receipts	Completions
ARLINGTON, VIRGINIA	2,163	1,690
ATLANTA, GEORGIA	1,295	1,216
BALTIMORE, MARYLAND	1,304	1,735
BATAVIA SPC, NEW YORK	72	65
BLOOMINGTON (ST. PAUL), MINNESOTA	424	580
BOSTON, MASSACHUSETTS	1,377	1,347
BRADENTON, FLORIDA	60	283
BUFFALO, NEW YORK	91	136
CHICAGO, ILLINOIS	1,882	2,037
DALLAS, TEXAS	644	581
DENVER, COLORADO	454	554
DETROIT, MICHIGAN	377	740
EAST MESA, CALIFORNIA	95	79
EL CENTRO SPC, CALIFORNIA	103	107
EL PASO SPC, TEXAS	112	110
EL PASO, TEXAS	79	71
ELIZABETH SPC, NEW JERSEY	289	293
ELOY, ARIZONA	145	143
FISHKILL - NEW YORK STATE DOC, NEW YORK	74	69
FLORENCE SPC, ARIZONA	126	119
GUAYNABO (SAN JUAN), PUERTO RICO	1,133	480
HARLINGEN, TEXAS	122	172
HARTFORD, CONNECTICUT	235	249
HONOLULU, HAWAII	206	177
HOUSTON SPC, TEXAS	71	68
HOUSTON, TEXAS	1,234	1,010
IMPERIAL, CALIFORNIA	31	28
KROME NORTH SPC, FLORIDA	513	486
LANCASTER, CALIFORNIA	185	216
LAS VEGAS, NEVADA	483	411
LOS ANGELES, CALIFORNIA	6,993	8,301
LOS FRESNOS (PORT ISABEL SPC), TEXAS	98	79
MEMPHIS, TENNESSEE	651	709
MIAMI, FLORIDA	8,142	9,499
NEW ORLEANS, LOUISIANA	71	73
NEW YORK CITY, NEW YORK	10,475	10,527
NEWARK, NEW JERSEY	1,402	1,581
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	203	229
ORLANDO, FLORIDA	2,194	2,219
PHILADELPHIA, PENNSYLVANIA	808	1,641
PHOENIX, ARIZONA	374	506
PORTLAND, OREGON	310	203
SALT LAKE CITY, UTAH	144	156
SAN ANTONIO, TEXAS	388	318
SAN DIEGO, CALIFORNIA	490	570
SAN FRANCISCO, CALIFORNIA	4,029	4,557
SAN PEDRO SPC, CALIFORNIA	212	199
SEATTLE, WASHINGTON	1,553	956
TUCSON, ARIZONA	136	67
ULSTER - NEW YORK STATE DOC, NEW YORK	63	57
VARICK SPC, NEW YORK	141	184
YORK, PENNSYLVANIA	176	157
<b>TOTAL</b>	<b>54,432</b>	<b>58,040</b>

## Immigration Courts: Asylum Grants by Nationality

This section provides information on asylum grants by nationality. Figure 15 displays the top ten nationalities granted asylum in FY 2006. In FY 2006, the top 10 nationalities accounted for 60 percent of all asylum grants. A total of 148 nationalities were represented among cases granted asylum in FY 2006. Table 7 provides information for comparative purposes on the top nationalities granted asylum for the period FY 2002 to FY 2006. Seven nationalities were represented among the top ten nationalities granted asylum each year during the five-year period: China, Colombia, Albania, India, Haiti, Armenia, and Indonesia. For more complete information on asylum data by nationality see: <http://www.usdoj.gov/eoir/eoia/FY06AsyStats.pdf>.

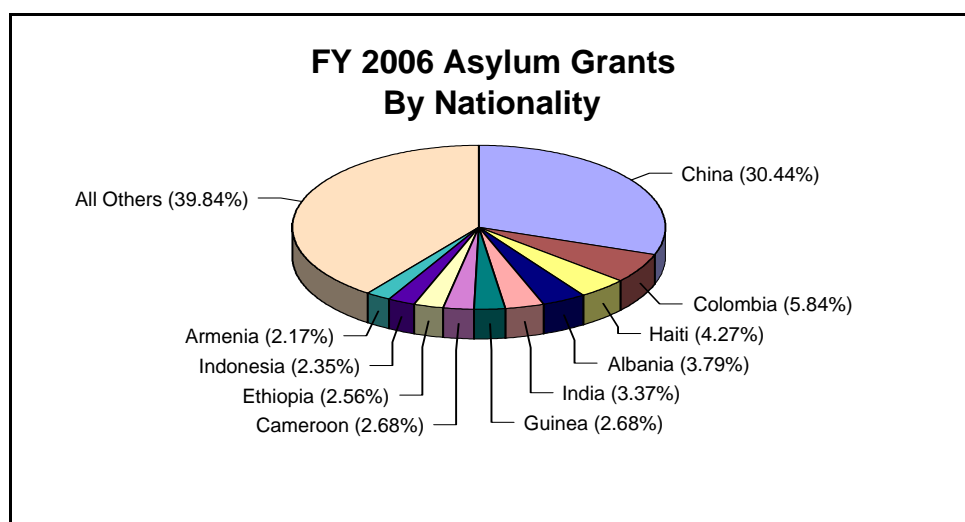


Figure 15

FY 2006 Asylum Grants by Nationality		
Nationality	Cases	% of Total
China	4,061	30.44%
Colombia	779	5.84%
Haiti	570	4.27%
Albania	506	3.79%
India	450	3.37%
Guinea	358	2.68%
Cameroon	358	2.68%
Ethiopia	342	2.56%
Indonesia	314	2.35%
Armenia	289	2.17%
All Others	5,316	39.84%
<b>Total</b>	<b>13,343</b>	<b>100.00%</b>

**Table 7 - Asylum Grants by Nationality  
Top 25 Nationalities: FY 2002 - FY 2006**

Rank	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1	China	China	China	China	China
2	Colombia	Colombia	Colombia	Colombia	Colombia
3	Albania	Albania	Albania	Haiti	Haiti
4	India	India	Haiti	Albania	Albania
5	Haiti	Haiti	India	Indonesia	India
6	Armenia	Armenia	Indonesia	India	Guinea
7	Russia	Russia	Russia	Armenia	Cameroon
8	Indonesia	Indonesia	Armenia	Ethiopia	Ethiopia
9	Iraq	Egypt	Cameroon	Cameroon	Indonesia
10	Somalia	Ethiopia	Egypt	Guinea	Armenia
11	Ethiopia	Pakistan	Ethiopia	Russia	Venezuela
12	Egypt	Iran	Guinea	Egypt	Egypt
13	Iran	Iraq	Mauritania	Mauritania	Mauritania
14	Pakistan	Cameroon	Iran	Yugoslavia	Russia
15	Yugoslavia	Mauritania	Yugoslavia	Soviet Union	Iraq
16	Liberia	Yugoslavia	Guatemala	Burma (Myanmar)	Soviet Union
17	Sri Lanka	Guatemala	Pakistan	Venezuela	Pakistan
18	Congo	Guinea	Bangladesh	Iran	Nepal
19	Burma (Myanmar)	Somalia	Burma (Myanmar)	Pakistan	Burma (Myanmar)
20	Mauritania	Liberia	Congo	Guatemala	Guatemala
21	Cameroon	Congo	Sierra Leone	Bangladesh	Ivory Coast (Cote D'Ivoire)
22	Guatemala	Burma (Myanmar)	Iraq	Ivory Coast (Cote D'Ivoire)	Yugoslavia
23	Sierra Leone	Peru	Peru	Togo	Togo
24	Bangladesh	Sierra Leone	Fiji	Uzbekistan	Iran
25	Ukraine	Bangladesh	Nepal	Iraq	Somalia



## **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. An alien who was eligible for a grant of asylum based on coercive population control methods received a grant conditioned on an administrative determination by the Department of Homeland Security that a number was available. Effective May 11, 2005, under the Real ID Act, the annual cap was lifted on asylum grants based on coercive population control methods.

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 of aliens granted asylum increased from FY 2002 to FY 2003 but the grant rate remained 37 percent. From FY 2002 to FY 2005 the grant rate stayed fairly consistent. The grant rate showed a significant increase from FY 2005 to FY 2006. If the grant rate were calculated as a percentage of all 58,040 asylum completions (as opposed to only the claims decided on the merits), it would be significantly lower, e.g., 23 percent for FY 2006 as opposed to 45 percent.

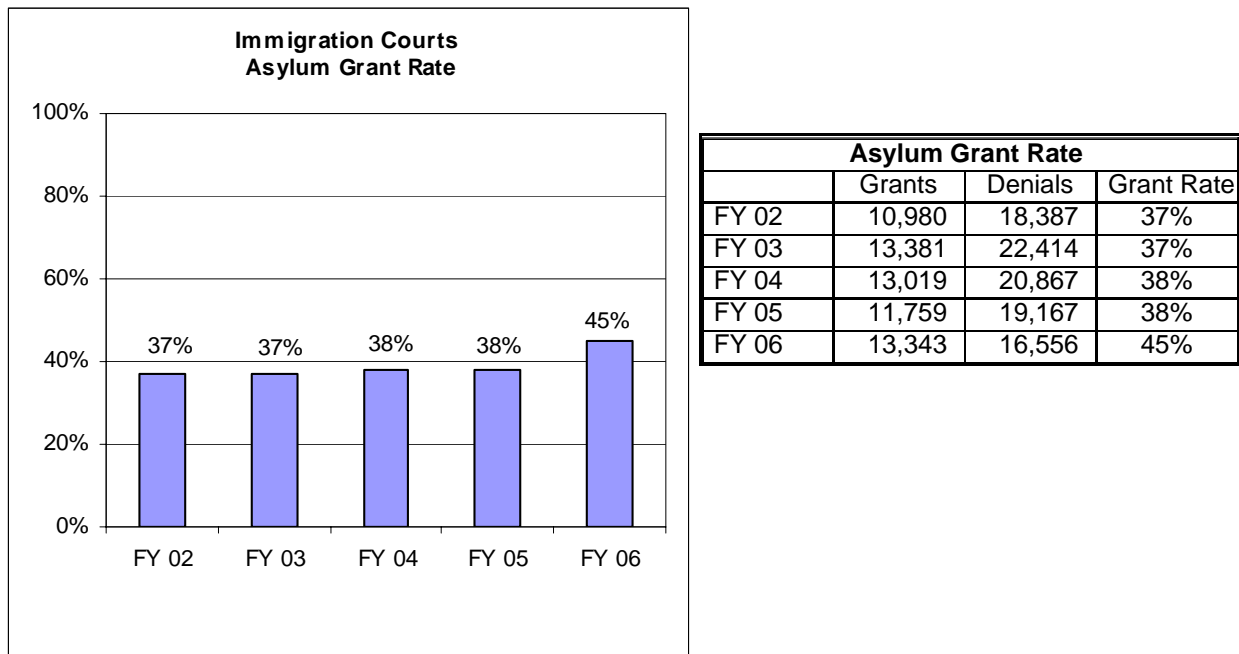
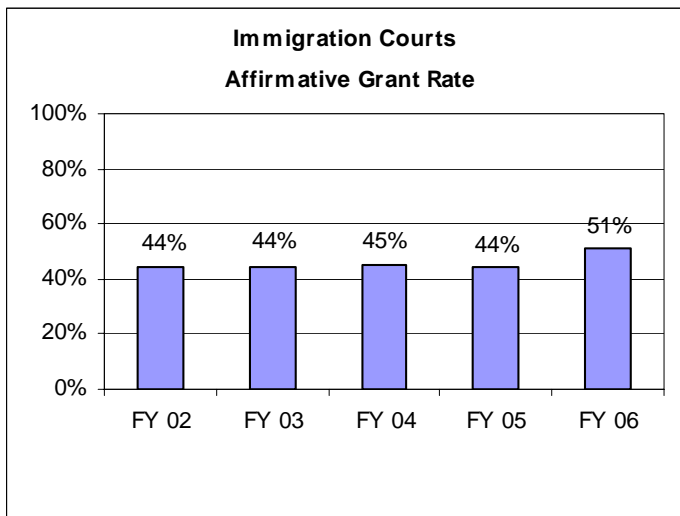


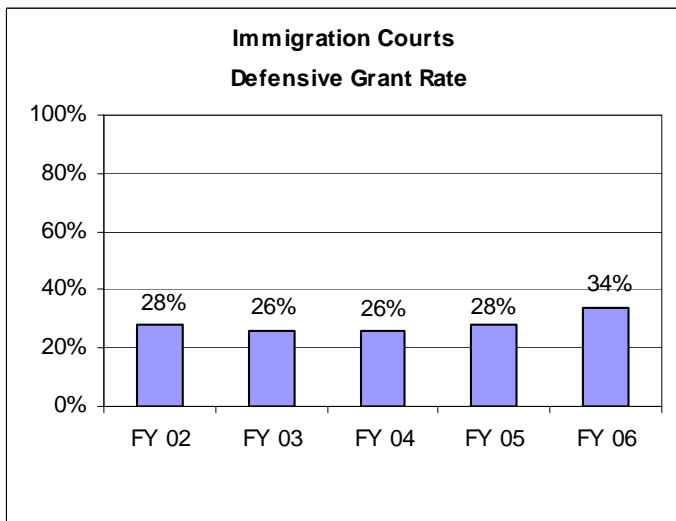
Figure 16

There is some difference in the grant rates depending on whether the asylum application was filed affirmatively or defensively. From FY 2002 to FY 2006, 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, (187 grants and 161 denials) data was incomplete, and it was unclear whether the claim was affirmative or defensive.



	Grants	Denials	Grant Rate
FY 02	7,665	9,903	44%
FY 03	9,915	12,792	44%
FY 04	9,848	12,098	45%
FY 05	8,711	11,210	44%
FY 06	9,516	9,052	51%

Figure 17



	Grants	Denials	Grant Rate
FY 02	3,293	8,464	28%
FY 03	3,406	9,610	26%
FY 04	3,134	8,731	26%
FY 05	3,015	7,919	28%
FY 06	3,792	7,451	34%

Figure 18

Figure 19 illustrates graphically all asylum case completions. The number of denials increased from FY 2002 to FY 2003, but have decreased since FY 2003. The number of asylum grants increased from FY 2002 to FY 2003 then declined from FY 2003 to FY 2005. There was a slight increase in grants from FY 2005 to FY 2006. In FY 2006, the number of asylum grants was 22 percent higher than the number of grants in FY 2002.

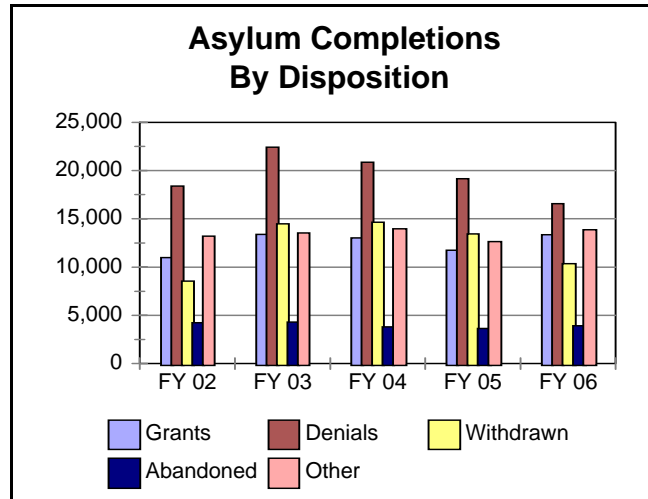


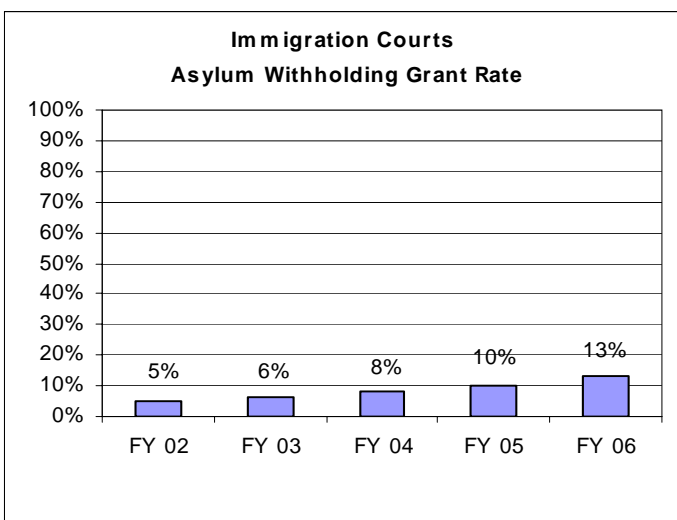
Figure 19

Asylum Completions by Disposition						
	Grants	Denials	Withdrawn	Abandoned	Other	Total
FY 02	10,980	18,387	8,546	4,241	13,201	55,355
FY 03	13,381	22,414	14,484	4,308	13,538	68,125
FY 04	13,019	20,867	14,664	3,804	13,959	66,313
FY 05	11,759	19,167	13,436	3,649	12,643	60,654
FY 06	13,343	16,556	10,351	3,924	13,866	58,040

An applicant for asylum also is an applicant for withholding or removal under section 241(b)(3) of the Immigration and Nationality Act. Whereas asylum is a discretionary form of relief, withholding of removal is a mandatory form of relief that the Immigration Judge must grant if the applicant is found to have a clear probability of persecution in his or her country of origin, based on, race, religion, nationality, membership in a particular social group, or political opinion, provided no mandatory bars apply. This form of protection fulfills United States' treaty obligations as signatory to the 1967 United Nations Protocol Relating to the Status of Refugees (1967 Protocol). The 1951 United Nations Convention Relating to the Status of Refugees (Refugee Convention) and the 1967 Protocol require contracting states to ensure that no refugee be returned to a country where his or her life would be threatened due to one of the five protected grounds for refugee status.

Asylum seekers can only apply for withholding of removal in an immigration court. A determination regarding this form of protection is made only if the applicant is denied asylum. Applicants granted this form of relief may not be returned to the country of feared persecution. However, they may be sent to a third country provided that country will allow their entry.

Figure 19-A below depicts the Asylum Withholding Grant Rate. Cases that had grants for both Asylum and Withholding were omitted for withholding because they have previously been counted as an asylum grant.



	Grants	Denials	Grant Rate
FY 02	902	18,818	5%
FY 03	1,357	22,937	6%
FY 04	1,768	21,313	8%
FY 05	2,105	19,501	10%
FY 06	2,561	16,792	13%

Figure 19-A

Table 8, on the following page, provides information on the FY 2006 asylum grant rate for each individual Immigration Court.

**Table 8 - FY 2006 Asylum Grant Rate by Immigration Court**

Immigration Court	Denials	Grants	Grant Rate
ARLINGTON, VIRGINIA	439	552	56%
ATLANTA, GEORGIA	224	44	16%
BALTIMORE, MARYLAND	616	619	50%
BATAVIA SPC, NEW YORK	38	2	5%
BLOOMINGTON (ST. PAUL), MINNESOTA	227	107	32%
BOSTON, MASSACHUSETTS	467	328	41%
BRADENTON COUNTY JAIL, FLORIDA	122	35	22%
BUFFALO, NEW YORK	45	17	27%
CHICAGO, ILLINOIS	388	415	52%
DALLAS, TEXAS	139	60	30%
DENVER, COLORADO	195	155	44%
DETROIT, MICHIGAN	404	110	21%
EAST MESA, CALIFORNIA	30	32	52%
EL CENTRO SPC, CALIFORNIA	44	17	28%
EL PASO SPC, TEXAS	46	23	33%
EL PASO, TEXAS	21	8	28%
ELIZABETH SPC, NEW JERSEY	112	63	36%
ELOY, ARIZONA	102	1	1%
FISHKILL - NEW YORK STATE DOC, NEW YORK	3	0	0%
FLORENCE SPC, ARIZONA	71	13	15%
GUAYNABO (SAN JUAN), PUERTO RICO	29	4	12%
HARLINGEN, TEXAS	8	43	84%
HARTFORD, CONNECTICUT	103	53	34%
HONOLULU, HAWAII	24	83	78%
HOUSTON SPC, TEXAS	36	3	8%
HOUSTON, TEXAS	333	73	18%
IMPERIAL, CALIFORNIA	10	8	44%
KROME NORTH SPC, FLORIDA	279	69	20%
LANCASTER, CALIFORNIA	109	44	29%
LAS VEGAS, NEVADA	78	60	43%
LOS ANGELES, CALIFORNIA	1,516	1,110	42%
LOS FRESNOS (PORT ISABEL SPC), TEXAS	19	7	27%
MEMPHIS, TENNESSEE	193	152	44%
MIAMI, FLORIDA	4,190	858	17%
NEW ORLEANS, LOUISIANA	24	23	49%
NEW YORK CITY, NEW YORK	2,152	5,269	71%
NEWARK, NEW JERSEY	508	336	40%
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	66	22	25%
ORLANDO, FLORIDA	520	545	51%
PHILADELPHIA, PENNSYLVANIA	580	182	24%
PHOENIX, ARIZONA	89	194	69%
PORTLAND, OREGON	57	25	30%
SALT LAKE CITY, UTAH	40	34	46%
SAN ANTONIO, TEXAS	97	47	33%
SAN DIEGO, CALIFORNIA	164	193	54%
SAN FRANCISCO, CALIFORNIA	997	985	50%
SAN PEDRO SPC, CALIFORNIA	66	44	40%
SEATTLE, WASHINGTON	357	182	34%
TUCSON, ARIZONA	1	54	98%
ULSTER - NEW YORK STATE DOC, NEW YORK	17	0	0%
VARICK SPC, NEW YORK	85	24	22%
YORK, PENNSYLVANIA	76	16	17%
<b>TOTAL</b>	<b>16,556</b>	<b>13,343</b>	<b>45%</b>

## 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 have decreased each year from FY 2002 to FY 2006. From FY 2002 to FY 2005 both expedited asylum receipts and total asylum receipts consistently decreased.

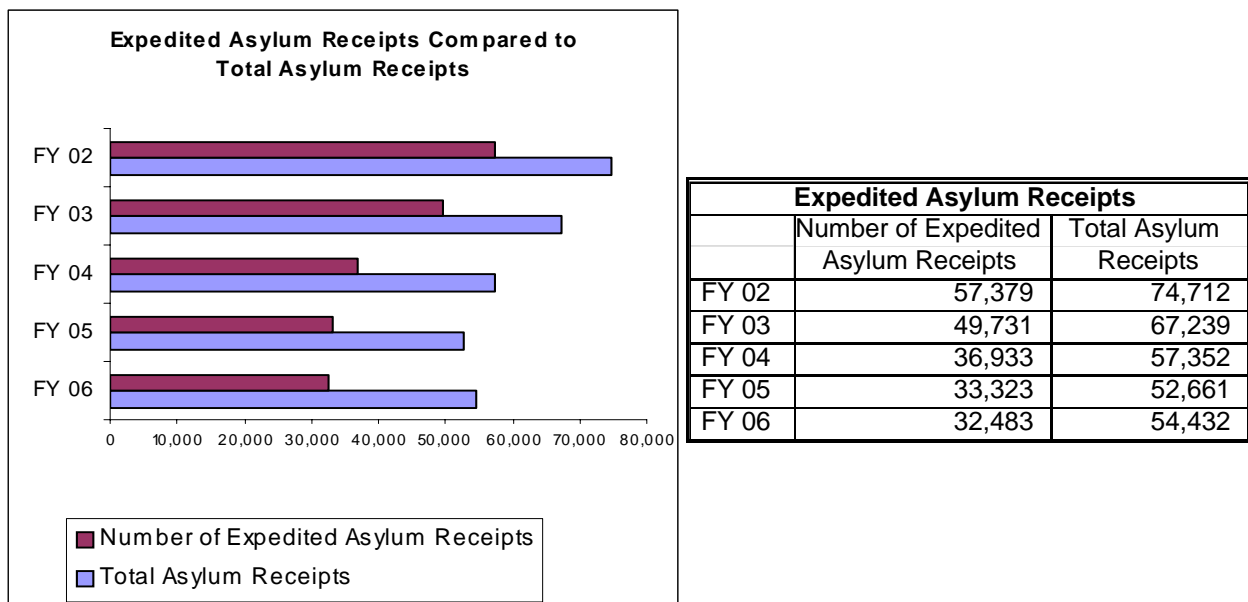


Figure 20

Depicted in Figure 21 below are the number of receipts and completions for expedited asylum cases between FY 2002 and FY 2006.

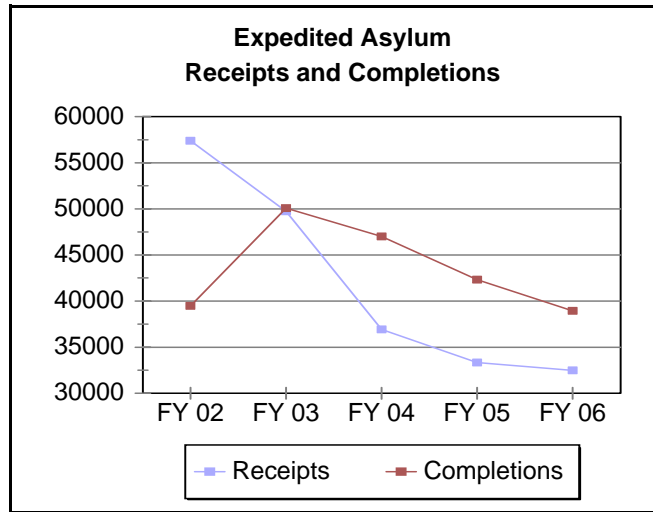


Figure 21

Expedited Asylum Receipts and Completions FY 2002 - 2006		
	Receipts	Completions
FY 02	57,379	39,473
FY 03	49,731	50,077
FY 04	36,933	47,008
FY 05	33,323	42,321
FY 06	32,483	38,944



## 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 9 below, the Immigration Courts adjudicated 31,364 CAT applications during FY 2006. Of those, 578 CAT cases were granted, the majority of which were granted withholding.

The grant rate for CAT cases was approximately 4 percent in FY 2006. This percentage is calculated based only on grants and denials, and does not consider abandoned applications, withdrawn applications, or other case closures.

**Table 9 - FY 2006 Convention Against Torture Cases by Disposition**

Granted			Denied	Other	Withdrawn	Abandoned	Total
Withholding	Deferral	Total					
405	173	578	15,905	7,265	6,796	820	31,364

Table 10 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 59 percent of the total FY 2006 CAT cases.

**Table 10 - FY 2006 Convention Against Torture Completions by Court**

Immigration Court	Completions
ARLINGTON, VIRGINIA	692
ATLANTA, GEORGIA	337
BALTIMORE, MARYLAND	855
BATAVIA SPC, NEW YORK	51
BLOOMINGTON (ST. PAUL), MINNESOTA	482
BOSTON, MASSACHUSETTS	710
BRADENTON COUNTY JAIL, FLORIDA	132
BUFFALO, NEW YORK	99
CHICAGO, ILLINOIS	478
DALLAS, TEXAS	177
DENVER, COLORADO	259
DETROIT, MICHIGAN	812
EAST MESA, CALIFORNIA	72
EL CENTRO SPC, CALIFORNIA	71
EL PASO SPC, TEXAS	45
EL PASO, TEXAS	18
ELIZABETH SPC, NEW JERSEY	290
ELOY, ARIZONA	116
FISHKILL - NEW YORK STATE DOC, NEW YORK	68
FLORENCE SPC, ARIZONA	84
GUAYNABO (SAN JUAN), PUERTO RICO	234
HARLINGEN, TEXAS	15
HARTFORD, CONNECTICUT	134
HONOLULU, HAWAII	94
HOUSTON SPC, TEXAS	54
HOUSTON, TEXAS	223
IMPERIAL, CALIFORNIA	18
KROME NORTH SPC, FLORIDA	337
LANCASTER, CALIFORNIA	185
LAS VEGAS, NEVADA	144
LOS ANGELES, CALIFORNIA	4,576
LOS FRESNOS (PORT ISABEL SPC), TEXAS	41
MEMPHIS, TENNESSEE	407
MIAMI, FLORIDA	6,207
NEW ORLEANS, LOUISIANA	41
NEW YORK CITY, NEW YORK	5,641
NEWARK, NEW JERSEY	992
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	181
ORLANDO, FLORIDA	1,213
PHILADELPHIA, PENNSYLVANIA	1,076
PHOENIX, ARIZONA	124
PORTLAND, OREGON	77
SALT LAKE CITY, UTAH	37
SAN ANTONIO, TEXAS	101
SAN DIEGO, CALIFORNIA	270
SAN FRANCISCO, CALIFORNIA	2,068
SAN PEDRO SPC, CALIFORNIA	208
SEATTLE, WASHINGTON	468
TUCSON, ARIZONA	1
ULSTER - NEW YORK STATE DOC, NEW YORK	48
VARICK SPC, NEW YORK	165
YORK, PENNSYLVANIA	136
<b>TOTAL</b>	<b>31,364</b>

## 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.

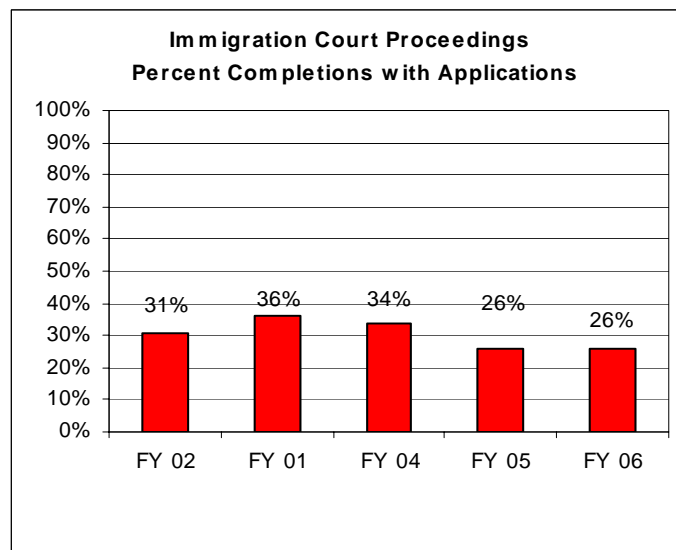


Figure 22

Table 11 on

Court Completions (Proceedings) with Applications for Relief					
	With Applications	Percent with Applications	Without Applications	Percent Without Applications	Total
FY 02	71,726	31%	156,696	69%	228,422
FY 03	89,588	36%	161,235	64%	250,823
FY 04	89,406	34%	170,457	66%	259,863
FY 05	83,191	26%	231,426	74%	314,617
FY 06	84,280	26%	239,565	74%	323,845

page N2 shows the number and percentage of proceedings completed with applications for relief at each Immigration Court in FY 2006. 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 60 percent or more of the completions involved applications for relief are shown in blue.

**Table 11 - FY 2006 Immigration Court Completions (Proceedings) With Applications for Relief**

Immigration Court	Total Completions	# of Completions With Applications	Percent With Applications
ARLINGTON, VIRGINIA	8,091	2,755	34%
ATLANTA, GEORGIA	8,787	1,408	16%
BALTIMORE, MARYLAND	5,628	2,305	41%
BATAVIA SPC, NEW YORK	782	88	11%
BLOOMINGTON (ST. PAUL), MINNESOTA	2,833	815	29%
BOSTON, MASSACHUSETTS	8,460	1,941	23%
BRADENTON COUNTY JAIL, FLORIDA	2,170	615	28%
BUFFALO, NEW YORK	2,273	329	14%
CHICAGO, ILLINOIS	12,339	2,978	24%
DALLAS, TEXAS	6,987	1,190	17%
DENVER, COLORADO	5,140	964	19%
DETROIT, MICHIGAN	3,412	1,251	37%
EAST MESA, CALIFORNIA	6,161	269	4%
EL CENTRO SPC, CALIFORNIA	3,351	364	11%
EL PASO SPC, TEXAS	4,916	236	5%
EL PASO, TEXAS	4,822	266	6%
ELIZABETH SPC, NEW JERSEY	1,388	344	25%
ELOY, ARIZONA	12,174	566	5%
FISHKILL - NEW YORK STATE DOC, NEW YORK	516	84	16%
FLORENCE SPC, ARIZONA	4,302	203	5%
GUAYNABO (SAN JUAN), PUERTO RICO	2,220	629	28%
HARLINGEN, TEXAS	31,321	480	2%
HARTFORD, CONNECTICUT	2,710	513	19%
HONOLULU, HAWAII	562	227	40%
HOUSTON SPC, TEXAS	3,319	156	5%
HOUSTON, TEXAS	13,365	1,821	14%
IMPERIAL, CALIFORNIA	1,848	266	14%
KROME NORTH SPC, FLORIDA	2,236	553	25%
LANCASTER, CALIFORNIA	7,086	463	7%
LAS VEGAS, NEVADA	2,737	722	26%
LOS ANGELES, CALIFORNIA	17,274	10,783	62%
LOS FRESNOS (PORT ISABEL SPC), TEXAS	2,002	134	7%
MEMPHIS, TENNESSEE	3,017	898	30%
MIAMI, FLORIDA	22,988	15,053	65%
NEW ORLEANS, LOUISIANA	1,359	126	9%
NEW YORK CITY, NEW YORK	19,627	12,101	62%
NEWARK, NEW JERSEY	6,409	2,223	35%
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	3,395	414	12%
ORLANDO, FLORIDA	4,798	2,504	52%
PHILADELPHIA, PENNSYLVANIA	4,155	2,001	48%
PHOENIX, ARIZONA	3,830	972	25%
PORTLAND, OREGON	1,261	358	28%
SALT LAKE CITY, UTAH	1,179	264	22%
SAN ANTONIO, TEXAS	27,848	713	3%
SAN DIEGO, CALIFORNIA	4,940	2,000	40%
SAN FRANCISCO, CALIFORNIA	10,671	6,054	57%
SAN PEDRO SPC, CALIFORNIA	2,910	384	13%
SEATTLE, WASHINGTON	8,135	1,603	20%
TUCSON, ARIZONA	1,884	122	6%
ULSTER - NEW YORK STATE DOC, NEW YORK	786	108	14%
VARICK SPC, NEW YORK	1,263	365	29%
YORK, PENNSYLVANIA	2,178	299	14%
<b>TOTAL</b>	<b>323,845</b>	<b>84,280</b>	<b>26%</b>



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. Although the number of detained completions has increased each year since FY 2002, the percent of detained completions decreased from 34 percent to 29 percent.

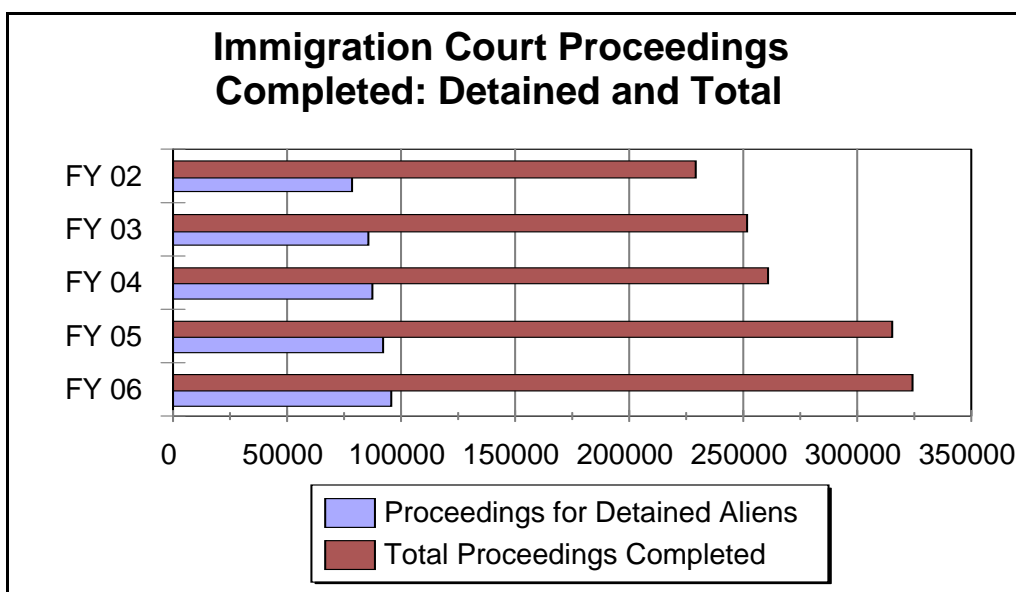


Figure 23

Immigration Court (Proceedings) Completions			
	Proceedings Completed for Detained Aliens (Including IHP)		
	Proceedings for Detained Aliens	Total Proceedings Completed	Percent Detained
FY 02	77,122	228,422	34%
FY 03	85,200	250,823	34%
FY 04	86,594	259,863	33%
FY 05	91,033	314,617	29%
FY 06	95,096	323,845	29%

Table 12 on the following page provides information, by Immigration Court, on FY 2006 detained completions. The Immigration Courts in Chicago, IL; East Mesa, CA; El Paso SPC, TX; Eloy, AZ; Lancaster, CA; and Seattle, WA each completed more than 4,000 proceedings in detained cases in FY 2006. Overall, Immigration Courts located in three border States – Texas, California, and Arizona – accounted for 60 percent of the detained completions in FY 2006. Courts in those three states are highlighted in blue in Table 13.

**Table 12 - FY 2006 Immigration Court Completions (Proceedings) for Detained Cases**

Immigration Court	Completions
ARLINGTON, VIRGINIA	1,641
ATLANTA, GEORGIA	1,836
BALTIMORE, MARYLAND	335
BATAVIA SPC, NEW YORK	614
BLOOMINGTON (ST. PAUL), MINNESOTA	1,388
BOSTON, MASSACHUSETTS	1,021
BRADENTON COUNTY JAIL, FLORIDA	646
BUFFALO, NEW YORK	67
CHICAGO, ILLINOIS	5,649
DALLAS, TEXAS	2,360
DENVER, COLORADO	2,485
DETROIT, MICHIGAN	978
EAST MESA, CALIFORNIA	5,843
EL CENTRO SPC, CALIFORNIA	3,158
EL PASO SPC, TEXAS	4,621
EL PASO, TEXAS	636
ELIZABETH SPC, NEW JERSEY	1,031
ELOY, ARIZONA	11,619
FISHKILL - NEW YORK STATE DOC, NEW YORK	516
FLORENCE SPC, ARIZONA	3,388
GUAYNABO (SAN JUAN), PUERTO RICO	580
HARLINGEN, TEXAS	1,537
HARTFORD, CONNECTICUT	460
HONOLULU, HAWAII	247
HOUSTON SPC, TEXAS	2,665
HOUSTON, TEXAS	646
IMPERIAL, CALIFORNIA	1,315
KROME NORTH SPC, FLORIDA	1,747
LANCASTER, CALIFORNIA	6,685
LAS VEGAS, NEVADA	1,177
LOS ANGELES, CALIFORNIA	152
LOS FRESNOS (PORT ISABEL SPC), TEXAS	1,698
MEMPHIS, TENNESSEE	517
MIAMI, FLORIDA	773
NEW ORLEANS, LOUISIANA	270
NEW YORK CITY, NEW YORK	65
NEWARK, NEW JERSEY	916
OAKDALE FEDERAL DETENTION CENTER, LOUISIANA	2,845
ORLANDO, FLORIDA	217
PHILADELPHIA, PENNSYLVANIA	303
PHOENIX, ARIZONA	900
PORTLAND, OREGON	428
SALT LAKE CITY, UTAH	507
SAN ANTONIO, TEXAS	2,040
SAN DIEGO, CALIFORNIA	1,706
SAN FRANCISCO, CALIFORNIA	2,150
SAN PEDRO SPC, CALIFORNIA	2,124
SEATTLE, WASHINGTON	5,238
TUCSON, ARIZONA	1,654
ULSTER - NEW YORK STATE DOC, NEW YORK	784
VARICK SPC, NEW YORK	970
YORK, PENNSYLVANIA	1,948
<b>TOTAL</b>	<b>95,096</b>



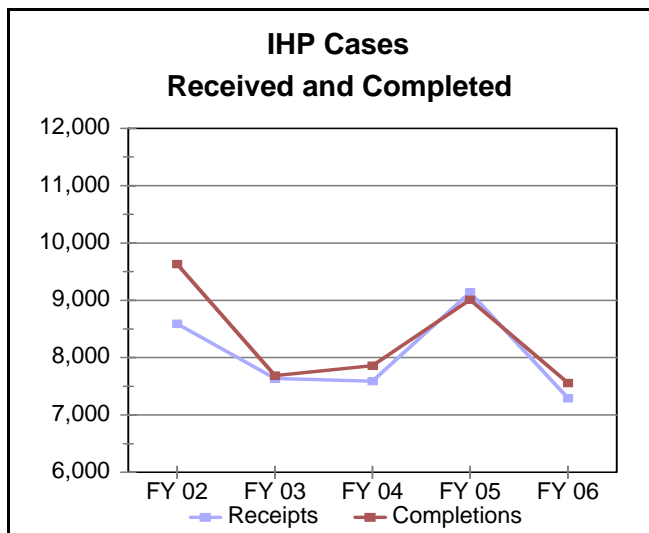
Immigration Courts in U.S./Mexico Border States

## 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 2006, DHS filed charging documents with the Immigration Courts for incarcerated aliens in 75 different institutions. Immigration Judges and court staff traveled to these institutions to conduct IHP hearings.

Figure 24 provides information on IHP receipts and completions for FY 2002 - FY 2006. IHP receipts declined by 15 percent from FY 2002 to FY 2006, including a 20 percent decrease from FY 2005 to FY 2006. IHP completions decreased by 22 percent from FY 2002 to FY 2006. Both receipts and completions peaked in FY 2005.



IHP Cases		
	Receipts	Completions
FY 02	8,589	9,632
FY 03	7,634	7,687
FY 04	7,592	7,858
FY 05	9,141	9,012
FY 06	7,295	7,559

Figure 24



Table 13 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 13**  
**IHP Completions by Disposition**

	FY 02	FY 03	FY 04	FY 05	FY 06
Total Decisions in IHP Cases	7,161	5,974	5,881	7,360	6,021
<i>Removal</i>	6,769	5,711	5,611	7,103	5,764
<i>Termination</i>	322	187	221	208	191
<i>Relief</i>	62	66	40	40	53
<i>Other</i>	8	10	9	9	13
Other Completions	2,471	1,713	1,977	1,652	1,538
Total Completions	9,632	7,687	7,858	9,012	7,559

## 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 14 shows the percentage of removal orders that are grants of voluntary departure.

**Table 14 - IJ Removal Decisions Compared to Voluntary Departure Decisions**

	Total Removal Decisions	Voluntary Departure Decisions	Percent Voluntary Departure Decisions
FY 02	135,232	20,169	15%
FY 03	155,145	28,250	18%
FY 04	164,451	27,413	17%
FY 05	222,382	24,820	11%
FY 06	220,057	22,214	10%

## **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 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 15 reflects grants of relief under the various provisions described above during the period FY 2002 - FY 2006.

**Table 15**  
**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 2002	566	1,793	7,000	513	420	405	1,144
FY 2003	663	2,139	8,324	346	438	566	2,346
FY 2004	395	2,307	9,417	231	527	257	3,579
FY 2005	237	2,536	9,422	157	436	182	3,095
FY 2006	233	2,978	11,385	140	528	119	3,144

**Table 15**  
**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 2002	566	1,793	7,000	513	420	405	1,144
FY 2003	663	2,139	8,324	346	438	566	2,346
FY 2004	395	2,307	9,417	231	527	257	3,579
FY 2005	237	2,536	9,422	157	436	182	3,095
FY 2006	233	2,978	11,385	140	528	119	3,144

## **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 BIA 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 have increased by 14 percent from FY 2002 to FY 2006. BIA Case completions have decreased by 12 percent from FY 2002 to FY 2006. Completions outnumbered receipts each year from FY 2002 to FY 2006. Both receipts and completions show a decrease from FY 2005 to FY 2006.

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. 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.

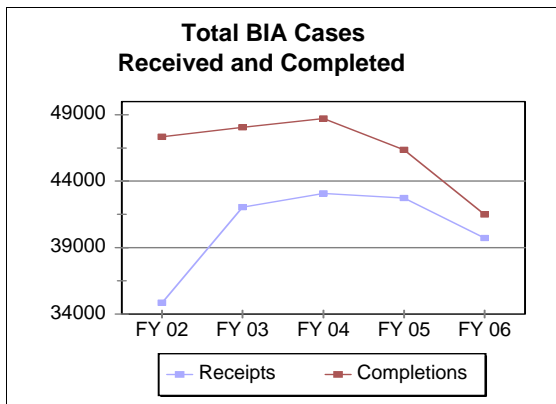


Figure 25

	Receipts	Completions
FY 02	34,834	47,326
FY 03	42,040	48,046
FY 04	43,066	48,705
FY 05	42,727	46,343
FY 06	39,707	41,479

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.

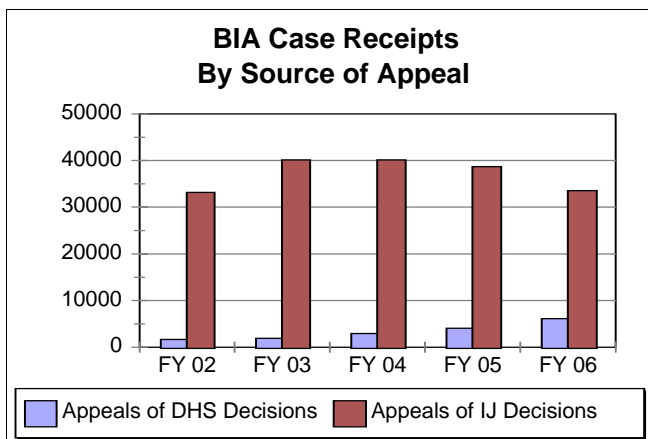


Figure 26

	Appeals of DHS Decisions	Appeals of IJ Decisions	Total Appeals
FY 02	1,658	33,176	34,834
FY 03	1,894	40,146	42,040
FY 04	2,930	40,136	43,066
FY 05	4,043	38,684	42,727
FY 06	6,121	33,586	39,707

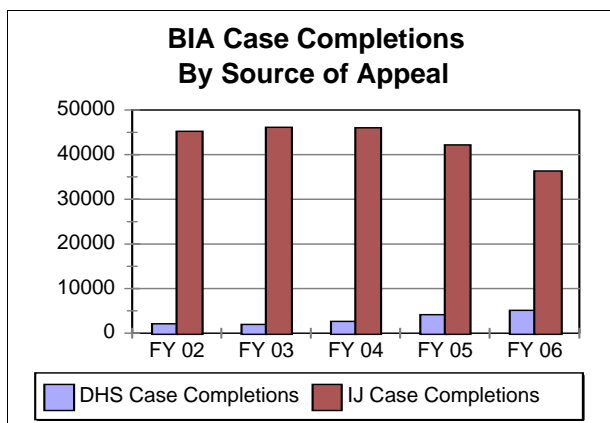


Figure 27

	DHS Case Completions	IJ Case Completions	Total Appeals
FY 02	2,095	45,231	47,326
FY 03	1,943	46,103	48,046
FY 04	2,653	46,052	48,705
FY 05	4,155	42,188	46,343
FY 06	5,129	36,350	41,479



## **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. The BIA has jurisdiction to review IJ decisions in continued detention review cases.

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

As shown in Table 16, there was a decrease in Appeals received from IJ decisions while there was an increase in appeals received from DHS decisions from FY 2005 to FY 2006 . The data in Table 17 also shows a decrease in Appeals completed from IJ decisions while there was an increase in appeals completed from DHS decisions for the same time period. For both receipts and completions there was a significant increase from FY 2002 to FY 2006 in appeals from DHS.

Table 16 provides a breakdown of the types of cases received by the BIA between FY 2002 and FY 2006.

**Table 16 - BIA Receipts by Type**

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
<b>Total Appeals from IJ Decisions</b>	<b>33,176</b>	<b>40,146</b>	<b>40,136</b>	<b>38,684</b>	<b>33,586</b>
Case Appeal	22,048	27,433	27,315	24,323	20,275
Appeal of IJ Motion to Reopen	2,094	2,179	2,073	1,864	1,540
Motion to Reopen-BIA	7,222	9,034	9,638	10,333	9,256
Bond Appeal	1,722	1,371	974	717	614
Interlocutory Appeal	88	127	133	149	100
Circuit Court Remand*	1	0	0	1,297	1,798
Special Circumstance	1	2	3	1	3
<b>Total Appeals from DHS Decisions</b>	<b>1,658</b>	<b>1,894</b>	<b>2,930</b>	<b>4,043</b>	<b>6,121</b>
Decisions on Visa Petitions	1,121	1,764	2,854	3,955	5,914
212 Waiver Decisions	31	19	52	63	75
Decisions on Fines and Penalties	504	111	24	25	132
Bond Decisions	2	0	0	0	0
<b>Grand Total</b>	<b>34,834</b>	<b>42,040</b>	<b>43,066</b>	<b>42,727</b>	<b>39,707</b>

\*Circuit Court Remands were added as an appeal type in FY 2005.

Table 17 provides a breakdown of the types of cases completed by the BIA between FY 2002 and FY 2006.

**Table 17 - BIA Completions by Type**

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
<b>Total Appeals from IJ Decisions</b>	<b>45,231</b>	<b>46,103</b>	<b>46,052</b>	<b>42,188</b>	<b>36,350</b>
Case Appeal	34,255	32,312	31,579	27,365	23,543
Appeal of IJ Motion to Reopen	3,470	2,195	2,828	2,099	1,964
Motion to Reopen-BIA	6,376	9,631	10,121	10,995	8,841
Bond Appeal	1,032	1,832	1,373	756	611
Interlocutory Appeal	97	133	148	134	104
Circuit Court Remand*	0	0	0	837	1,284
Special Circumstance	1	0	3	2	3
<b>Total Appeals from DHS</b>	<b>2,095</b>	<b>1,943</b>	<b>2,653</b>	<b>4,155</b>	<b>5,129</b>
Decisions on Visa Petitions	1,363	1,766	2,585	4,054	4,995
212 Waiver Decisions	52	23	37	72	68
Decisions on Fines and Penalties	676	154	31	29	66
Bond Decisions	4	0	0	0	0
<b>Grand Total</b>	<b>47,326</b>	<b>48,046</b>	<b>48,705</b>	<b>46,343</b>	<b>41,479</b>

\*Circuit Court Remands were added as an appeal type in FY 2005.

## Board of Immigration Appeals: Pending Caseload

Figure 28 below depicts the age of the BIA's pending caseload. The number of BIA pending cases have decreased from the end of FY 2005 to the end of FY 2006. At the end of FY 2005, there were 33,063 cases pending at the BIA. By the end of FY 2006, the number of pending cases had been reduced to 27,918 cases. The age of pending cases has also decreased. At the beginning of FY 2006, cases filed before FY 2005 accounted for 18 percent of the pending caseload. At the end of FY 2006 they accounted for less than 2 percent of the pending caseload. The cases filed in FY 2005 decreased from 82 percent of total pending at the beginning of FY 2006 to 20 percent of total pending at the end of FY 2006.

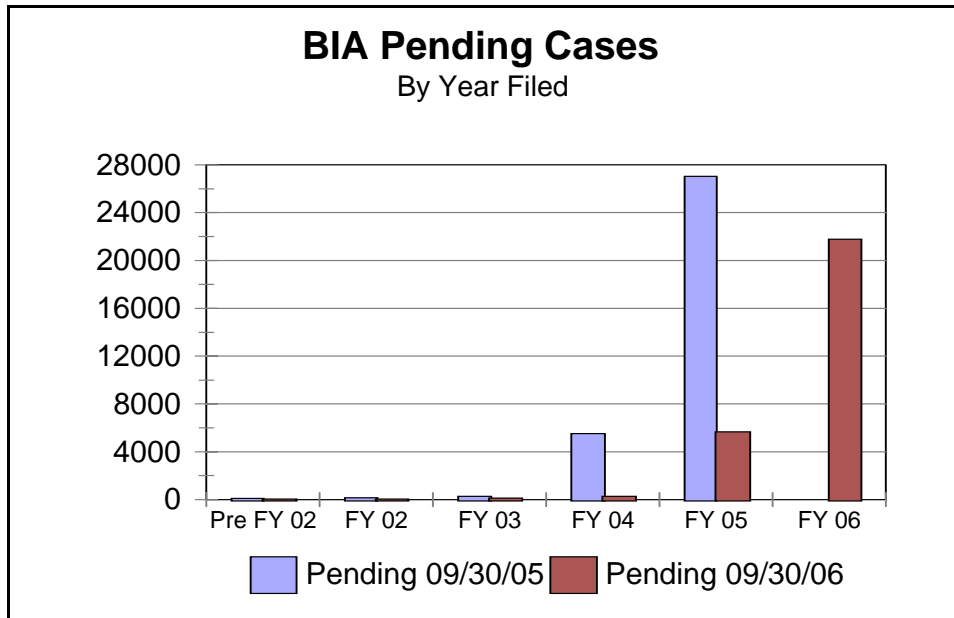


Figure 28

BIA Pending Cases		
Year Filed	Pending 09/30/05	Pending 09/30/06
Pre FY 02	100	41
FY 02	149	56
FY 03	268	123
FY 04	5,525	272
FY 05	27,021	5,662
FY 06		21,764
Total	33,063	27,918

## 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 2006, the top 10 nationalities accounted for 67 percent of all completions as shown in Figure 29. A total of 187 nationalities were represented in the FY 2006 completions. Data in Table 18 compares the predominant nationalities for completed Immigration Judge appeals in fiscal years 2002-2006. For the five-year period, seven nationalities ranked among the top ten each year: Mexico, El Salvador, Guatemala, Haiti, Colombia, 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.

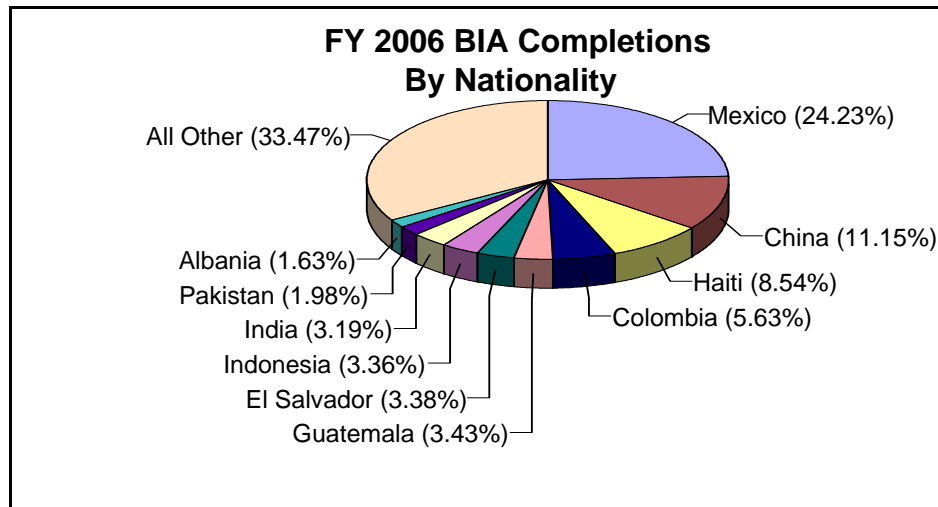


Figure 29

FY 2006 IJ Appeals Completed by Nationality		
Nationality	Cases	% of Total
Mexico	8,808	24.23%
China	4,052	11.15%
Haiti	3,106	8.54%
Colombia	2,046	5.63%
Guatemala	1,245	3.43%
El Salvador	1,228	3.38%
Indonesia	1,221	3.36%
India	1,161	3.19%
Pakistan	721	1.98%
Albania	594	1.63%
All Other	12,168	33.47%
<b>Total</b>	<b>36,350</b>	<b>100.00%</b>

**Table 18 - BIA - IJ Decision Appeals Completed by Nationality  
Top 25 Nationalities: FY 2002 - FY 2006**

Rank	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1	Mexico	China	Mexico	Mexico	Mexico
2	China	Mexico	China	China	China
3	Haiti	Haiti	Haiti	Haiti	Haiti
4	Guatemala	India	Colombia	Colombia	Colombia
5	India	Guatemala	India	India	Guatemala
6	El Salvador	Colombia	Guatemala	Guatemala	El Salvador
7	Jamaica	El Salvador	El Salvador	Indonesia	Indonesia
8	Dominican Republic	Albania	Albania	El Salvador	India
9	Colombia	Dominican Republic	Dominican Republic	Pakistan	Pakistan
10	Philippines	Jamaica	Indonesia	Dominican Republic	Albania
11	Peru	Nigeria	Jamaica	Albania	Dominican Republic
12	Nigeria	Ethiopia	Philippines	Jamaica	Jamaica
13	Mauritania	Peru	Pakistan	Philippines	Honduras
14	Pakistan	Pakistan	Ethiopia	Nigeria	Nigeria
15	Bangladesh	Philippines	Nigeria	Armenia	Philippines
16	Somalia	Bangladesh	Honduras	Honduras	Armenia
17	Honduras	Somalia	Armenia	Peru	Venezuela
18	Cuba	Mauritania	Peru	Bangladesh	Cameroon
19	Ethiopia	Russia	Yugoslavia	Ethiopia	Peru
20	Albania	Honduras	Cameroon	Cameroon	Bangladesh
21	Nicaragua	Armenia	Mauritania	Russia	Ethiopia
22	Yugoslavia	Yugoslavia	Iran	Iraq	Russia
23	Russia	Iran	Russia	Egypt	Guyana
24	Iran	Indonesia	Egypt	Guyana	Egypt
25	Ecuador	Ukraine	Guinea	Nicaragua	Mauritania

## 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 increased from FY 2002 to FY 2003. A gradual decrease occurred from FY 2003 to FY 2005. There was a slight increase in FY 2006 where 71 percent of appellate cases completed by the BIA involved a represented alien. Only appeals of IJ decisions are included in these data.

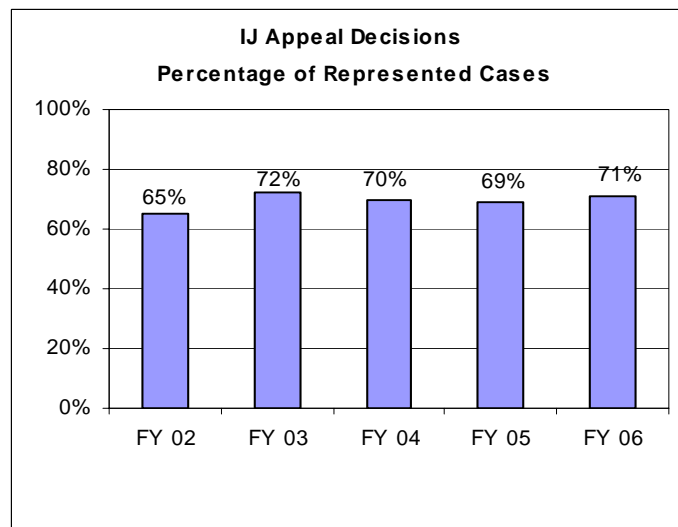


Figure 30

Represented Before the BIA			
	Represented	Unrepresented	Total
FY 02	29,493	15,738	45,231
FY 03	33,033	13,070	46,103
FY 04	32,040	14,012	46,052
FY 05	28,979	13,209	42,188
FY 06	25,885	10,465	36,350

## 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 2002 and FY 2006 along with the number of Immigration Judge case appeal decisions that involved detainees. The figures for detained appeal decisions also include IHP cases.

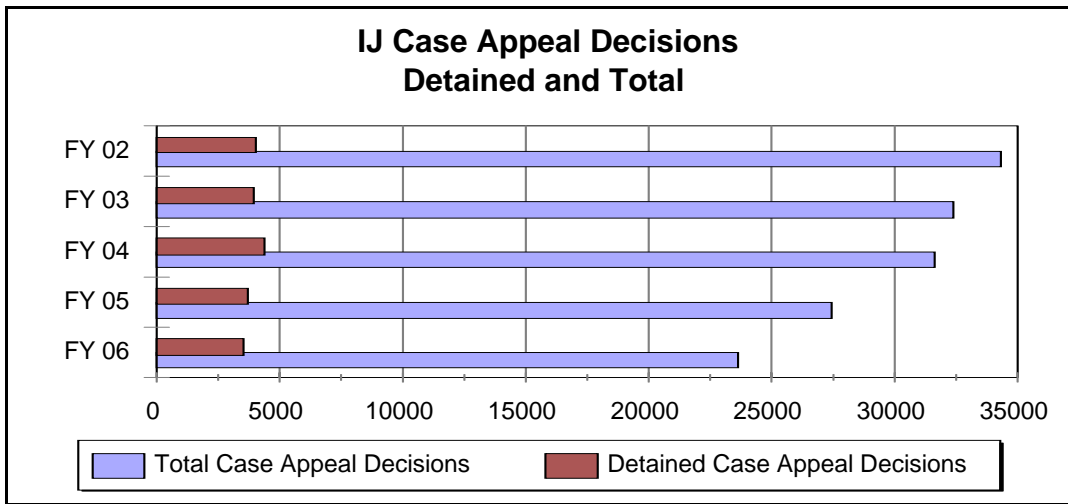


Figure 31

<b>Detained IJ Case Appeal Decisions (Including IHP)</b>			
	Detained Case Appeal Decisions (Including IHP)	Total IJ Case Appeal Decisions	Percent Detained
FY 02	3,961	34,255	12%
FY 03	3,844	32,312	12%
FY 04	4,317	31,579	14%
FY 05	3,572	27,365	13%
FY 06	3,434	23,543	15%

Table 19 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 2006, 18

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. From FY 2002 to FY 2006 the percentage of IHP completions has declined each year. This drop in the percentage of IHP completions is caused by a decrease in the number of IHP completions and the total detained completions staying fairly consistent.

**Table 19  
Breakdown of BIA Detained Completions**

	Total Detained Completions	IHP Completions	Percent IHP Completions
FY 2002	3,961	1,148	29%
FY 2003	3,844	1,046	27%
FY 2004	4,317	826	19%
FY 2005	3,572	662	19%
FY 2006	3,434	605	18%



## 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 2002 through 2006. 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.

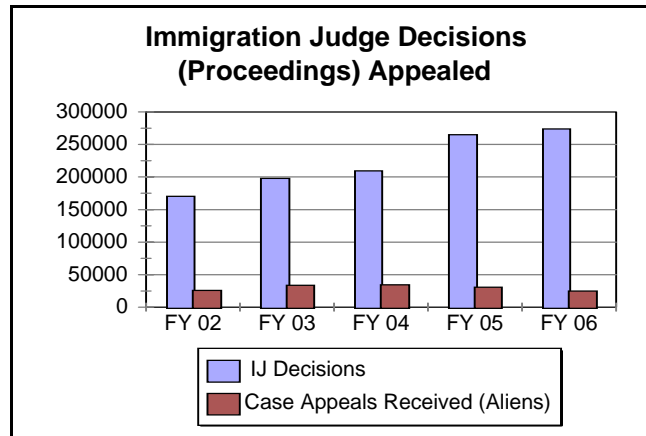


Figure 32

IJ Decisions (Proceedings) Appealed			
	IJ Decisions	Case Appeals Received (Aliens)	Percent Appealed
FY 02	170,222	25,544	15%
FY 03	197,941	33,654	17%
FY 04	209,274	34,164	16%
FY 05	264,792	30,469	12%
FY 06	273,615	24,527	9%

## 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 2002 and FY 2006. Completions may include cases received in a prior fiscal year.

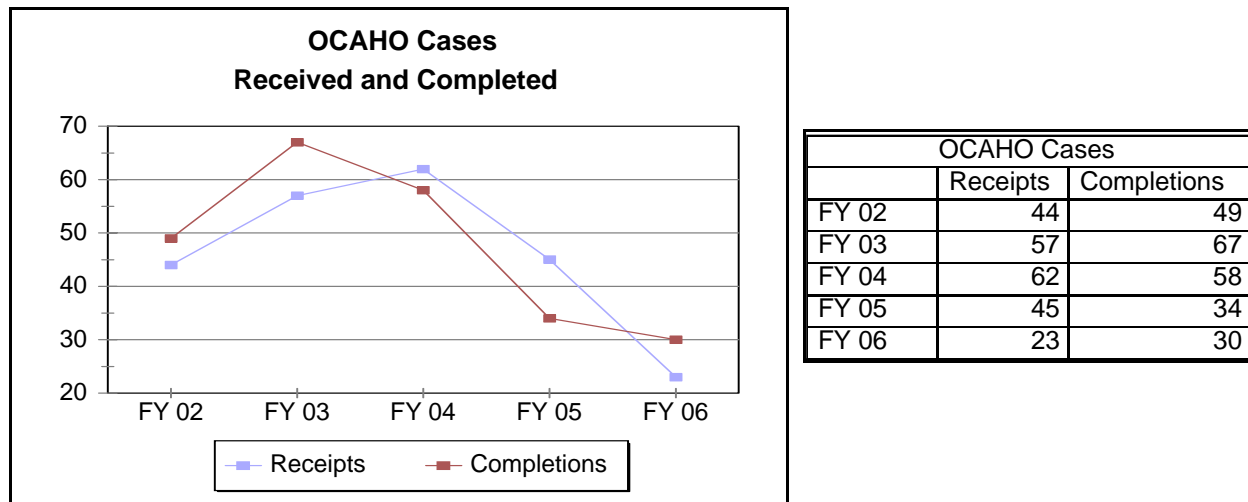


Figure 33

# GLOSSARY OF TERMS

## Disclaimer

This Glossary has been compiled as an addendum to the FY 2006 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 be a 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, or fails to provide any required information within the time frame allowed without good cause, the application is considered abandoned. In addition, if an applicant fails to timely file an application for relief, the Immigration Judge may deem that application waived.

### **Accredited Representative**

A non-attorney who is authorized to practice before the Immigration Courts, the Board of Immigration Appeals, and/or 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, and meet other qualifying criteria. See *Recognized 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. The status of an alien may be adjusted by the Attorney General, in his discretion, to that of a lawful permanent resident if a visa petition on behalf of the alien has been approved, an immigrant visa is immediately available at the time of the alien’s application for adjustment of status, and the alien is not otherwise inadmissible to the United States.

### **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. A case may not be administratively closed if opposed by either of the parties.

### **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, U.S. Citizenship and Immigration Services. *Contrast Defensive Asylum Application*.

### **Aggravated Felony**

As defined by section 101(a)(43) of the Immigration and Nationality Act, as amended, aggravated felony includes, but is not limited to, murder; rape or sexual abuse of a minor; drug trafficking; firearms or explosive materials 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; demands for ransom; child pornography; gambling; tax fraud; prostitution; 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.

### **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 Immigration Judge's decision.

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

In an appeal from a decision of a DHS U.S. Citizenship and Immigration Services' 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 District Director's decision.

### **Application for Relief**

Aliens may request a number of forms of relief or protection from removal such as asylum, withholding of removal, protection under the Convention Against Torture, adjustment of status, or cancellation of removal. Many forms of relief require the alien to fill out an appropriate application.

### **Asylum**

An alien may be eligible for asylum if he or she can show that he or she 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, and is unable or unwilling 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 days after the date the application is filed.

## **Asylum Grants**

An asylum grant allows the alien to remain in the United States and provides certain benefits and derivative asylum status for any spouse or child. An asylee can apply to the Department of Homeland Security for lawful permanent resident status under INA section 209(b) after he or she has been physically present in the United States for a period of one year after the date of the asylum grant.

## **Asylum-only Proceedings**

Certain aliens are not entitled to a removal hearing under section 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 section 240 of the INA requests asylum (and has not been granted asylum by the Department of Homeland Security (DHS), if eligible), DHS will file a Form I-863, Notice of Referral to an Immigration Judge, with the Immigration Court. The Immigration Judge may not consider forms of relief other than asylum, withholding of removal, and Convention Against Torture. 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. The Board of Immigration Appeals has jurisdiction over appeals from Immigration Judge decisions in asylum-only cases. See *Withholding-only Proceedings*.

## **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), U.S. Citizenship and Immigration Services' 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 the BIA, the Immigration Courts, and/or DHS.

### **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 (DHS) has set a bond amount as a condition for release from custody, or has determined not to release the alien on bond, 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, however, the INA provides that bond of at least \$1,500 is required before an alien may be released. In addition, the Immigration Judge can eliminate the bond; 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. The respondent and/or DHS may appeal the Immigration Judge's bond redetermination decision to the Board of Immigration Appeals.

## **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 section 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 section 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, a "case" involves one alien.

In an appeal before the Board of Immigration Appeals, a "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, a "case" involves a complainant and a respondent. In cases brought under Immigration and Nationality Act (INA) section 274A and section 274C, the complainant is the Department of Homeland Security, and the respondent is an employer.

In INA section 274B 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**

Immigration Judges, for good cause shown, may change venue (move the proceeding to another Immigration Court) only upon motion by one of the parties, after the charging document has been filed with the Immigration Court. 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 a well-founded fear of persecution or have suffered persecution on account of Coercive Population Control (CPC) policies can now qualify as refugees. Previously, up to a total of 1,000 refugee admissions and asylum grants were made each fiscal year to applicants who raised claims based on CPC. If applicants for asylum met the criteria for a CPC grant, they were given conditional asylum and were given a final grant of asylum when a number became available. Effective May 11, 2005, under the REAL ID Act, the annual cap was lifted on asylum grants based on CPC. 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, and transfers.

For matters before the Board of Immigration Appeals, a case is considered completed once the Board renders a final decision.

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.



### **Conditional Asylum Grants**

Section 207(a)(5) of the Immigration and Nationality Act, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, provided that for any fiscal year no more than 1,000 aliens could be admitted as refugees or granted asylum pursuant to a determination that the alien was or would be persecuted for resistance to coercive population control methods. An alien who was eligible for a grant of asylum based on coercive population control methods received a grant conditioned on an administrative determination by the Department of Homeland Security that a number was available. Effective May 11, 2005, under the REAL ID Act, the annual cap was lifted on asylum grants based on coercive population control methods. See *Coercive Population Control*.

### **Continuance**

The adjournment of a proceeding to a subsequent day or time.

### **Continued Detention Review**

A proceeding established in response to the 2001 Supreme Court's decision in *Zadvydas v. Davis*, in which the Immigration Judge decides whether or not the alien should remain in custody.

### **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 (Convention Against Torture or 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 *Deferral of Removal and Withholding-only Proceedings*.

### **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 torture, or an intention to apply for asylum, that alien will be referred to a Department of Homeland Security asylum officer for a credible fear determination. If the asylum officer determines that the alien has not established a credible fear of persecution or torture and a supervisory asylum officer 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. No appeal to the Board of Immigration Appeals may be taken from the Immigration Judge's decision finding no credible fear of persecution or torture. If the Immigration Judge determines that the alien has a credible fear of persecution or torture, the alien will be placed in removal proceedings to apply for asylum.

## **Custody Status**

Whether an alien is in actual custody (detained) 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. *Contrast Affirmative Asylum Application.*

### **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, DHS absorbed the functions of the former Immigration and Naturalization Service (INS), among other agencies. Three major components of DHS have functions which relate closely to the Executive Office for Immigration Review. U.S. Citizenship and Immigration Services (USCIS) processes all immigrant and non-immigrant benefits, incorporating the adjudication and naturalization functions of the former INS. U.S. Immigration and Customs Enforcement (ICE) 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 (CBP) absorbed the border patrol and inspections functions of the former INS. *See Immigration and Naturalization Service.*

### **Deportation Proceedings**

Prior to April 1, 1997, a deportation case usually arose when the Immigration and Naturalization Service (INS) (now Department of Homeland Security) 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 to be 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. *Contrast Exclusion and 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 custody of the Department of Homeland Security (DHS) or other entities. 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 Custody Status.*

### **Detention of an Alien**

The confinement of an alien by the Department of Homeland Security or other entities.

### **Disposition**

In immigration proceedings, the latest ruling on an alien's removability.

### **District Director (DD)**

Under the former Immigration and Naturalization Service (INS), the District Director (DD) 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 DDs 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

### **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) found the person to be inadmissible. 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 as a matter of law. Beginning April 1, 1997, deportation and exclusion proceedings were replaced by removal proceedings. *Contrast Deportation and 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). The Office of the Chief Administrative Hearing Officer (OCAHO) was added in 1987. EOIR is responsible for adjudicating immigration cases. Specifically, under delegated authority from the Attorney General, EOIR interprets and administers federal immigration laws by conducting immigration court proceedings, appellate reviews, and administrative hearings. EOIR consists of three components: the Office of the Chief Immigration Judge, which is responsible for managing the numerous immigration courts located throughout the United States where Immigration Judges adjudicate individual cases; the Board of Immigration Appeals, which primarily conducts appellate reviews of Immigration Judge decisions; and the Office of the Chief Administrative Hearing Officer, which adjudicates immigration-related employment cases. EOIR is committed to providing fair, expeditious, and uniform application of the nation's immigration laws in all cases.

### **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), U.S. Citizenship and Immigration Services, 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 an 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. See *In Absentia*.

### **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 a form of 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 (BIA) 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 BIA allows a proceeding to be reopened because of new facts or evidence in a case.

## 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. To date, IIRIRA made the most extensive and significant changes to the immigration laws of the United States since the 1952 enactment of the Immigration and Nationality Act.

### **Immigration and Nationality Act of 1952 (INA)**

The INA consolidated previous immigration laws into one coordinated statute. As amended, the INA 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 were in violation of the law, examined alien applicants seeking to become citizens, and enforced immigration-related employment verification and document fraud laws. *See Department of Homeland Security.*

### **Immigration Court**

Each Immigration Court is staffed with one or more Immigration Judges who conduct immigration hearings. An administrative control Immigration Court is one that creates and maintains Records of Proceedings for Immigration Courts within an assigned geographical area. Management functions of the Immigration Court are supervised by a Court Administrator.

### **Immigration Judge**

The term Immigration Judge means an attorney whom the Attorney General appoints as an administrative judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including exclusion, deportation, removal, asylum, bond redetermination, rescission, withholding, credible fear, reasonable fear, and claimed status review. Immigration Judges act as independent decision-makers in deciding the matters before them. Immigration Judge decisions are administratively final unless appealed or certified to the Board of Immigration Appeals, or if the period by which to file an appeal lapses.

### **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) also was 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.” An in absentia hearing occurs when an alien fails to appear for a hearing and the Immigration Judge conducts the hearing without the alien present and orders the alien removed from the United States. An Immigration Judge shall order removed in absentia any alien who, after written notice of the time and place of

proceedings and the consequences of failing to appear, fails to appear at his or her removal proceeding. The DHS must establish by clear, unequivocal, and convincing evidence that the written notice was provided and that the alien is removable. *See Failure to Appear.*

### **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.

### **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 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.

### **Interlocutory Appeals**

An interlocutory appeal is an appeal taken to the Board of Immigration Appeals from a preliminary ruling of an Immigration Judge before the Judge renders a final decision in the case. Common examples include rulings on the admissibility of evidence or requests to change venue.

## **L**

### **Lawful Permanent Resident (LPR)**

An alien who has been conferred permanent resident status.

## **M**

### **Matters**

Matters before the Immigration Courts and the Board of Immigration Appeals include all proceedings, bond redeterminations, and motions to reopen or reconsider.

### **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

### **Nationality**

For purposes of the EOIR Statistical Yearbook, nationality indicates the country that the alien is from.

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

Under section 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, section 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 is not in the custody of the Department of Homeland Security or the Institutional Hearing Program. *See 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. Jurisdiction vests and proceedings commence when an NTA is filed with an Immigration Court by DHS. Prior to the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the charging document was known as an Order to Show Cause.

### **Notice of Intent To Rescind**

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 in rescission proceedings. *See Rescission Proceedings.*

## O

### **Office of the Chief Administrative Hearing Officer (OCAHO)**

OCAHO 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 who provides overall program direction, articulates policies and procedures, establishes priorities and administers the hearing process presided over by Administrative Law Judges (ALJs). 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 (OCIJ)**

OCIJ provides overall program direction, articulates policies and procedures, and establishes priorities for Immigration Judges. In FY 2005, 214 Immigration Judges were located in 53 Immigration Courts throughout the Nation. The Chief Immigration Judge carries out these responsibilities with the assistance and support of two Deputy Chief Immigration Judges and eight Assistant Chief Immigration Judges. See *Immigration Judge*.

## **P**

### **Pro Bono**

A Latin phrase meaning “for the public good.” In a legal context, this phrase means 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 section 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 section 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. No appeal to the Board of Immigration Appeals may be taken from the Immigration Judge’s finding that an alien does not have a reasonable fear of persecution or torture. If an Immigration Judge determines that the alien has a reasonable fear of persecution or torture, the alien will be placed in withholding-only proceedings.

### **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.

**Recognized Organization**

A non-profit religious, charitable, social service, or similar organization formally recognized by the Board of Immigration Appeals as such under the provisions of 8 C.F.R. section 1292.2. See *Accredited Representative*.

**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 (BIA). 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.

**Released**

A released alien is an individual who was detained at some point during proceedings and subsequently was 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 relief may be sought, including asylum, withholding of removal, protection under the Convention Against Torture, cancellation of removal, or adjustment of status. Many forms of relief require the alien to fill out an appropriate application.

**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 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.

**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 Proceedings**

A less common type of proceeding is related to rescinding lawful permanent resident status. 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 resident (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. *See Notice of Intent to Rescind.*

**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 was a discretionary form of relief for certain aliens in deportation proceedings who had maintained continuous physical presence in the United States for seven years and had met the other statutory requirements for such relief. See former section 244 of the Immigration and Nationality Act of 1952, as amended. Application for this relief was made during the course of a hearing before an Immigration Judge. The status of an alien who was granted this relief was adjusted to that of an alien lawfully admitted for permanent residence. In 1997, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 replaced suspension of deportation with cancellation of removal. *See Cancellation of Removal, Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).*

## T

**Termination** A termination is a type of completion in which a case is closed by an Immigration Judge or the Board of Immigration Appeals without a final order of removal or deportation. A case is terminated when the respondent is found not removable as DHS charged.

## 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 *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 filed by individuals present in the United States are adjudicated by the Department of Homeland Security (DHS) and, once approved, may be revoked or revalidated by DHS under certain circumstances. (Visa petitions filed by individuals outside the United States are adjudicated by the Department of State.) In some instances, if a visa petition that was filed with DHS 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). 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 10-year bar against the alien applying for several forms of relief from removal.

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### **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.

### **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 section 241(b)(3) of the Immigration and Nationality Act, an alien may not be removed to a particular country if the alien can establish that his or her 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 asylum is deemed to include a request for withholding of removal under the applicable regulations.

### **Withholding-only Proceedings**

An alien in administrative removal proceedings under section 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 section 241(a)(5) of the INA are now able to apply for withholding of removal under section 241(b)(3) of the INA, as well as under Article 3 of the Convention Against Torture, after a screening process by a Department of Homeland Security asylum officer. In a withholding-only proceeding, an Immigration Judge may only consider the alien's application for withholding of removal under section 241(b)(3) of the INA and the Convention Against Torture pursuant to 8 C.F.R. section 1208.16. The Board of Immigration Appeals has jurisdiction over appeals from Immigration Judge decisions in withholding-only cases. *See Asylum-only Proceedings.*