



U.S. Immigration and Customs Enforcement

Report to Congress

Detained Asylum Seekers Fiscal Year 1999

Required by Section 903 of the Haitian Refugee
Immigration Fairness Act (PL 105-277)

Prepared by:

Department of Homeland Security
Management Directorate
Office of Immigration Statistics

and

U.S. Immigration and Customs Enforcement
Office of Detention and Removal

I. Legislative Authority

Section 903 of the Haitian Refugee Immigration Fairness Act (incorporated in PL 105-277) requires the Attorney General to regularly collect data with respect to asylum seekers in detention. The Act specified several areas requiring statistical compilations and one area requiring a non-quantitative response. The Department of Homeland Security has assumed responsibility for compiling the statistics required by Sec. 903. This report includes the asylum seekers who initially made a claim for asylum in FY 1999. The report includes both principal applicants and any dependents. This report includes actions on the cases through April 7, 2003.

II. Background

There are three major routes which an alien could use to request asylum. Most aliens make their claim by filing at an Asylum Office (formerly a part of the Immigration and Naturalization Service, the Asylum Offices are now part of the Bureau of Citizenship and Immigration Services (BCIS), DHS). These aliens are sometimes referred to as “affirmative asylum seekers”. Some aliens arrive at a port of entry without documents or with fraudulent documents and are at risk of expedited removal. These aliens may make a claim to asylum and they will be referred to an Asylum Officer if the Inspector believes they may have a credible fear of persecution. The Asylum Officer determines if a credible fear of persecution exists. If so, the alien is referred to the Executive Office for Immigration Review (EOIR) for adjudication of the claim. Aliens with a negative finding from the Asylum Officer may also appeal to EOIR. These aliens are sometimes referred to as “credible fear cases”. The third asylum route includes aliens in removal proceedings who make their claim to asylum during the proceeding before EOIR. These aliens are sometimes referred to as “defensive asylum seekers”.

The detention experiences of these three groups and the ultimate outcomes of the cases differ significantly. In general, only a very small number of the “affirmative” filers are ever detained. Almost all of the “credible fear” claimants and many of the “defensive” filers are detained at some point. A much higher proportion of “affirmative” filers are ultimately granted asylum than either “credible fear” or “defensive” cases.

The statistics in this report were compiled from several different databases. The list of “affirmative” filers is contained in the Refugee Asylum Parole System (RAPS) maintained by BCIS. The list of “credible fear” cases is contained in the Asylum Pre-screening System (APSS) maintained by BCIS. The list of “defensive” filers is contained in the ANSIR system maintained by EOIR. Information from each of these data bases was matched to information contained in the Deportable Alien Control System (DACS) which is maintained by the Office of Detention and Removal in the Bureau of Immigration and Customs Enforcement. DACS has the relevant information on detention and any removal actions. In addition each of the asylum databases was matched with the EOIR systems to determine the outcome of an asylum claim.

As in any record matching exercise, there is the possibility that records were not correctly matched across the systems. None of the systems contain biometric data. The only common key across the systems was the alien identification number (A-number).

Readers should use caution in interpreting statistics on length of stay in detention; in particular, comparisons across different years of cohorts may be misleading. Since the statistics were compiled using detention data as of early April 2003, cohorts in years closer to 2003 will have had less of an opportunity to have individuals with longer stays in detention than cohorts in earlier years.

III. Summary of findings

Section 903 contained 10 requests, of which 9 were statistical. The complete detail for these requests is attached as a series of statistical tables. There are three versions of each table corresponding to the three main types of asylum filings; tables designated “a” include “affirmative” filers; “b” includes “credible fear” cases; “c” includes “defensive” filers.

The statistical report includes a statistical table for each numbered subparagraph of Sec. 903 except (1) and (6) which do not require a detailed table. The statistical detail for subparagraphs (3) and (4) is grouped in a single table.

A short summary of the main findings for FY 1999 is included here.

(1) The number of detainees

- (a) 376 of the 38,739 affirmative asylum seekers were detained
- (b) 6,289 of the 6,491 credible fear asylum seekers were detained
- (c) 10,402 of the 12,750 defensive asylum seekers were detained

(2) An identification of the countries of origin of the detainees

- (a) The top three countries for affirmative asylum seekers who were detained are Mexico, Somalia, and Guatemala
- (b) The top three countries for credible fear asylum seekers who were detained are The People’s Republic of China, Haiti, and Sri Lanka
- (c) The top three countries for defensive asylum seekers who were detained are The People’s Republic of China, Cuba, and Haiti

(3) The percentage of each gender within the total number of detainees

- (a) Females are 16.2 percent of the affirmative asylum seekers who were detained
- (b) Females are 34 percent of the credible fear asylum seekers who were detained
- (c) Females are 23.8 percent of the defensive asylum seekers who were detained

(4) The number of detainees listed by each year of age of the detainees

- (a) The median age for affirmative asylum seekers who were detained is 28
- (b) The median age for credible fear asylum seekers who were detained is 26

(c) The median age for defensive asylum seekers who were detained is 27

(5) *The location of each detainee by detention facility*

- (a) California is the leading state for detention of affirmative asylum seekers
- (b) California is the leading state for detention of credible fear asylum seekers
- (c) California is the leading state for detention of defensive asylum seekers

(6) *With respect to each facility where detainees are held, whether the facility is also used to detain criminals and whether any of the detainees are held in the same cells as criminals*

In November 2000, the Bureau of Immigration and Customs Enforcement (ICE) announced 36 National Detention Standards (NDS) applicable to facilities used to hold ICE detainees for more than 72 hours. These facilities include ICE-owned Service Processing Centers, Contract Detention Facilities, and state or local government facilities used by ICE through Intergovernmental Service Agreements (IGSAs). During 2001, ICE provided training covering the NDS to employees in the Detention and Removal (DRO) Branch nation-wide. In January 2002, ICE implemented the Detention Management Control Program (DMCP). The DMCP was intended to ensure that facilities used by ICE to house detainees were safe, secure and humane. The DMCP is designed to measure facility compliance with the NDS.

ICE NDS address the requirements for the designation and classification of detainees. Policy states that facilities shall develop and implement a system for classifying detainees in accordance with ICE policy, rules and guidelines. The classification system created through ICE standards ensures that each detained alien is placed in the appropriate category and physically separated from detainees in other categories.

ICE standards require that all detainees be classified before being admitted into the general population of a facility. Staff is to use the most reliable, objective information from the detainee's A-file or work folder during the classification process. "Objective" information refers to facts, e.g., current offense, past offenses, escapes, institutional disciplinary history, violent episodes/incidents, etc.

The classification system was designed to assign detainees to the least restrictive housing unit consistent with facility safety and security. By grouping detainees with comparable records together and isolating those at one classification level from all others, the system reduces non-criminal and nonviolent detainees' exposure to physical and psychological dangers. Detainees are to be assigned housing, offered recreational activities, assigned work and provided food service according to their classification level.

Service Processing Centers, most Contract Detention Facilities and state and local jails house both criminals and non-criminal aliens.

ICE has contracted for three facilities intended primarily for the detention of asylum seekers. These facilities hold only non-criminal detainees. These are Broward Transitional Center, Pompano Beach, FL; CDF Elizabeth, Elizabeth, NJ; and

Wackenhut/Queens, Queens, NY. In addition, ICE has an intergovernmental agreement with Berks County, PA for family shelter for asylum seekers.

ICE no longer has the responsibility for the care and custody of unaccompanied minors. That function was transferred to the Office of Refugees and Resettlement, Department of Health and Human Services.

(7) The number and frequency of the transfers of detainees between detention facilities

- (a) 60 percent of affirmative asylum seekers who were detained were held in only one facility
- (b) 71.5 percent of credible fear asylum seekers who were detained were held in only one facility
- (c) 63 percent of defensive asylum seekers who were detained were held in only one facility

(8) The average length of detention and the number of detainees by category of the length of detention

- (a) As of April 2003, the average length of stay for affirmative asylum seekers who had been detained and then released was 84.6 days; 67 percent of the affirmative asylum seekers who were detained had 90 or fewer days in detention
- (b) As of April 2003, the average length of stay for credible fear asylum seekers who had been detained and then released was 79.9 days; 79 percent of the credible fear asylum seekers who were detained had 90 or fewer days in detention
- (c) As of April 2003, the average length of stay for defensive asylum seekers who had been detained and then released was 145.1 days; 58 percent of the defensive asylum seekers who were detained had 90 or fewer days in detention

(9) The rate of release from detention of detainees for each district of the Immigration and Naturalization Service

- (a) (b) (c) See detailed statistics attached

(10) A description of the disposition of cases

- (a) 3.7 percent of affirmative asylum seekers who were detained were granted asylum as of April 2003; 52.7 percent of all affirmative asylum seekers in FY 1999 were granted asylum as of April 2003
- (b) 17.1 percent of credible fear asylum seekers who were detained were granted asylum as of April 2003; 16.9 percent of all credible fear asylum seekers in FY 1999 were granted asylum as of April 2003
- (c) 15.6 percent of defensive asylum seekers who were detained were granted asylum as of April 2003; 16.2 percent of all defensive asylum seekers in FY 1999 were granted asylum as of April 2003