

A Fiefdom on Long Island

An Investigation Into
the Culture and
Practices of the
New York Asylum
Office



Brooklyn Law School
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SAFE HARBOR CLINIC

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Executive Summary

The New York Asylum Office is one of 11 asylum offices around the country. **Year after year, the New York Asylum Office grants asylum at one of the lowest, if not the lowest rates in the country, significantly lower than asylum offices in Texas and Florida.** According to FOIA and other publicly available data, in FY 2020, the New York Asylum Office granted just 5% of applicants, referring most other asylum seekers to removal proceedings in immigration court. In FY 2021 and 2022, the grant rate inched up to between 6% and 7%, still lower than any other asylum office in the country. The Safe Harbor Clinic at Brooklyn Law School wanted to understand why this is the case: Why does the New York Asylum Office consistently grant asylum at the lowest rate in the country?

Findings

- **The New York Asylum Office rejects asylum seekers with valid asylum claims just to save time.**

We have found that asylum officers and asylum seekers at the New York Asylum Office are trapped in a dysfunctional cycle: according to our interviews, many **New York Asylum Officers grant asylum at shockingly low rates because granting an asylum seeker's case takes more time than rejecting that case and referring the asylum seeker to immigration court.** This is true even **when the asylum seeker has a legitimate legal claim for asylum.**

- **Former New York Asylum Officers reported that they were required to work at a punishing and unrealistic pace and faced losing their jobs or other retaliation if they could not keep up.**

According to former New York Asylum Officers, leadership at the New York Asylum Office pressures asylum officers to work as quickly as possible and assesses asylum officer performance, in part, by the pace at which they complete asylum adjudications. This focus on speed has created **a culture of fear that permeates the New York Asylum Office.** Former New York Asylum Officers reported that they worked under the constant threat of losing their jobs, or facing other retaliation from upper management, if they could not sustain a pace that they described as unrealistic and punishing.

However, this pressure to move quickly does not necessarily extend to prompt scheduling of interviews for asylum seekers or speedy resolutions in their cases. On the contrary, asylum seekers can wait years for an asylum interview at the New York Asylum Office, and then weeks, months, or years longer for a decision about their fate.

- **Immigration attorneys alleged that during asylum interviews New York Asylum Officers zero in on inconsistencies that are not material to an asylum seeker's claim, grasping for any excuse to refer the case to immigration court.**

According to several former New York Asylum Officers, the strategic, and often **fastest, way to get to a referral is to “cred people out.”** To “cred” someone “out” is asylum officer shorthand for denying an application based on credibility, meaning that the asylum officer did not believe the applicant was telling the truth. Multiple former asylum officers and immigration attorneys said that if asylum officers could establish three material inconsistencies, they were able to refer the case. It is relatively easy to find credibility issues when interviewing applicants with a history of trauma. An applicant need only misremember a date or the time of day when they experienced some horrific event, and an asylum officer can deem the applicant not credible. Several attorneys disputed that asylum officers look for only *material* inconsistencies. These attorneys described asylum officers who zeroed in on inconsistencies that were not material to the applicant's claim, **grasping for any excuse to refer the case.**

- **Former New York Asylum Officers claimed that they were punished if they took the time to advocate for asylum grants.**

Some former New York Asylum Officers said that they were miserable at work as they struggled with the guilt of rejecting asylum seekers with valid claims due to time pressure. Other former asylum officers said they refused to comply. These officers took the time to argue for grants. Several former asylum officers claimed that these officers were either pushed out by management during a one-year probationary period, or they were demoralized by the constant uphill struggle. Many quit or sought a transfer to another asylum office. As a result, the New York Asylum Office suffers from a “toxic” work culture, high turnover, and a lack of institutional knowledge and mentorship to guide inexperienced asylum officers.

- **This dysfunction harms asylum seekers.**

The New York Asylum Office is failing in its mission to grant asylum to legitimate asylum seekers. **In short, former New York Asylum Officers said that office leadership pressures asylum officers to move at an unrealistic pace. This pressure from leadership results in asylum officers rejecting legally sound asylum claims, simply because granting a case takes more time.** In the end, this dysfunction hurts asylum seekers who, often unknowingly, walk into this dynamic, **hoping for a fair opportunity to state their case at an asylum interview that can carry life or death stakes.** Instead, New York Asylum Officers refer the overwhelming majority to immigration court simply because it is easier and faster to refer than to grant.

A referral has dramatic implications for an asylum seeker's life. It means they are placed in removal proceedings in immigration court and are at risk of deportation. It is not a quick process; asylum seekers wait years to appear before an immigration judge. It extends a legal limbo during which they have no formal immigration status and delays their opportunity to eventually apply for a green card and citizenship. More immediately, it prevents asylum seekers from reuniting with family members abroad; they cannot start a petition for reunification with their family members until they have been granted asylum. Waiting for their day in court means extra years of prolonged uncertainty and fear for their families.

- **The government directorate charged with overseeing the New York Asylum Office is aware of the dysfunction at the office but has turned a blind eye to it.**

The dysfunction afflicting the New York Asylum Office is no secret, but a lack of oversight allows the issues to persist. According to a former senior Asylum Division employee, RAIO, the directorate responsible for overseeing the New York Asylum Office, is aware of the situation. RAIO officials, according to this former senior employee, are frustrated by the dysfunction at the New York Asylum Office. Still, they implicitly endorse the Bethpage "fiefdom."

Introduction

From the outside, it looks like any other office building: a nondescript, beige structure in the village of Bethpage, New York. There are no signs telling of what goes on inside 1065 Stewart Avenue, Suite 200. But former employees, some who worked here for more than a decade, describe an office permeated by fear and mistrust. A place governed by unspoken, yet draconian rules. Some former employees claim that management encouraged them to collect damaging information about one another. One former employee suspected that the bosses were surreptitiously recording their private conversations. Other former employees described a kind of hushed panic when the office director walked the halls, from a collective fear that someone was about to be fired. “You were always being watched,” said one former employee.¹ Another described drowning in a “miserable soup” with her co-workers.² Yet another former employee said that she arrived for work around 7 AM most days, but before she could steel herself to enter the office, she sat in her car and cried.³

“You were always being watched.”

-Former New York Asylum Officer

¹ Interview with a former New York Asylum Officer.

² Interview with a former New York Asylum Officer.

³ Interview with a former New York Asylum Officer.

This is not a portrait of cutthroat corporate America. It is not an exposé of the internal dynamics at a surveillance agency. This is the New York Asylum Office, a government office created to grant legitimate cases of asylum and to fairly administer asylum law. But many people familiar with the New York Asylum Office say that the office is failing in its mission. New York Asylum Office leaders publicly extol the virtues of fairness and justice in the immigration system.⁴ But behind closed doors, former asylum officers, asylum seekers, and attorneys describe a culture of fear perpetuated by management that has endangered the mission, values, and overall purpose of the asylum system in New York.

For the past year, the Safe Harbor Clinic has been investigating the New York Asylum Office to understand why the office consistently grants asylum at one of the lowest rates in the country: around 5-7% percent for the past several years.⁵ This grant rate means that the New York Asylum Office routinely turns away more asylum seekers than other asylum offices across the country, including in Texas and Florida.⁶ We wanted to understand why this is happening in New York.

⁴ U.S. Att’y’s Off. S.D.N.Y., Lawyer Pleads Guilty In Manhattan Federal Court To Participating In Massive Immigration Fraud Scheme (Apr. 12, 2013), <https://www.justice.gov/usao-sdny/pr/lawyer-pleads-guilty-manhattan-federal-court-participating-massive-immigration-fraud>. According to New York Asylum Office Director Patricia Menges, “Asylum is a humanitarian protection that represents the best of American values.”

⁵ Human Rights First, USCIS Records Reveal Systemic Disparities in Asylum Decisions (May 18, 2022), <https://humanrightsfirst.org/library/uscis-records-reveal-systemic-disparities-in-asylum-decisions/> (“Between FY 2017 and 2020, the New York Asylum Office’s average grant rate was six times lower than the San Francisco asylum office — double the grant rate discrepancy compared to FY 2010 to 2014. Some asylum offices recorded shockingly low asylum grant rates. The New York Asylum Office grant rate dropped to 5 percent in FY 2020.”); In FY 2022, the New York Asylum Office’s grant rate was 6.6%, as calculated by number of grants divided by number of cases completed. U.S. Cit. & Imm. Serv., Form I-589, Application for Asylum and for Withholding of Removal, By Case Completion Outcome, Office, Month, Fiscal Year 2022 Q1- Q4, https://www.uscis.gov/sites/default/files/document/data/Asylum_Division_Quarterly_Statistics_Report_FY22_Q1_V4.pdf, https://www.uscis.gov/sites/default/files/document/data/AsylumDivisionQuarterlyStats_FY22Q2_I_589_Completion_Outcome.csv, https://www.uscis.gov/sites/default/files/document/data/AsylumDivisionQuarterlyStatsFY22Q3_I589_Completion_Outcome.csv, https://www.uscis.gov/sites/default/files/document/data/AsylumDivisionQuarterlyStatsFY22Q4_I589_Stats_revised_I589_Completion_Outcome.csv.

⁶ In Fiscal Year 2022, the NY Asylum Office’s grant rate was 6.6%, as calculated by number of cases granted divided by number of cases completed. By comparison, the Miami, Florida Asylum Office granted asylum at a rate of 12.9% in FY 2022. The Houston, Texas Asylum Office granted asylum at a rate of 17.1%. U.S. Cit. & Imm. Serv., Form I-589, Application for Asylum and for Withholding of Removal, By Case Completion Outcome, Office, Month, Fiscal Year 2022 Q1- Q4, https://www.uscis.gov/sites/default/files/document/data/Asylum_Division_Quarterly_Statistics_Report_FY22_Q1_V4.pdf, https://www.uscis.gov/sites/default/files/document/data/AsylumDivisionQuarterlyStats_FY22Q2_I_589_Completion_Outcome.csv, https://www.uscis.gov/sites/default/files/document/data/AsylumDivisionQuarterlyStatsFY22Q3_I589_Completion_Outcome.csv, https://www.uscis.gov/sites/default/files/document/data/AsylumDivisionQuarterlyStatsFY22Q4_I589_Stats_revised_I589_Completion_Outcome.csv.

Findings

We have found that asylum officers and asylum seekers at the New York Asylum Office are trapped in a dysfunctional cycle: according to our interviews, many New York Asylum Officers grant asylum at shockingly low rates because granting an asylum seeker’s case takes more time than rejecting that case and sending the asylum seeker to immigration court. This is true even when the asylum seeker has a legitimate legal claim for asylum. Leadership at the New York Asylum Office pressures asylum officers to work as quickly as possible and assesses asylum officer performance, in part, by the pace at which they complete asylum adjudications. This focus on speed has created a culture of fear that permeates the New York Asylum Office. Former New York Asylum Officers claimed that they worked under the constant threat of losing their jobs, or facing other retaliation from upper management, if they could not sustain a pace that they described as unrealistic and punishing. However, this pressure to move quickly does not necessarily extend to prompt scheduling of interviews for asylum seekers or speedy resolutions in their cases. On the contrary, asylum seekers can wait years for an asylum interview at the New York Asylum Office, and then weeks, months, or years longer for a decision about their fate. In short, former New York Asylum Officers alleged that office leadership pressures asylum officers to move at an unrealistic pace. This pressure from leadership results in asylum officers rejecting legally sound asylum claims, simply because granting a case takes more time.

Some former New York Asylum Officers said that they were miserable at work as they struggled with the guilt of rejecting asylum seekers with valid claims due to time pressure. Other former asylum officers said they refused to comply. These officers took the time to argue for grants. Several former asylum officers claimed that these officers were either pushed out by management during a one-year probationary period, or they were demoralized by the constant uphill struggle. Many quit or sought a transfer to another asylum office. As a result, the New York Asylum Office suffers from a “toxic” work culture, high turnover, and a lack of institutional knowledge and mentorship to guide inexperienced asylum officers.⁷

In the end, this dysfunction hurts asylum seekers who, often unknowingly, walk into this dynamic, hoping for a fair opportunity to state their case at an asylum interview that can carry life or death stakes. The grant rate at the New York Asylum Office is a byproduct of this broken system.

⁷ The culture at the New York Asylum Office was called “toxic” by a former New York Asylum Officer.

Methodology

This report will walk through the experience at the New York Asylum Office from the perspective of asylum seekers and their attorneys, and from the perspective of asylum officers.⁸ This group includes:

- **11** former asylum officers, including former senior officials in the Asylum Division. Eight of these former officers worked at the New York Asylum Office for between one year and more than a decade.
- **One** former immigration judge.
- **22** immigration attorneys, some of whom have represented hundreds of clients before the New York Asylum Office over decades, while others have interacted with the office a handful of times.⁹
- **7** asylum seekers. Some of these asylum seekers attended their interviews at the New York office alone, while others had attorneys present.



Our findings are also based on Freedom of Information Act (FOIA) data, supplemented by publicly available data from United States Citizenship and Immigration Services (USCIS).¹⁰ In November of 2022, we filed a FOIA request with USCIS for attrition rates at all asylum offices, transfer rates between offices, and promotion and advancement policies for individual asylum offices. As of the date of this writing, we have not yet received the requested data.¹¹

⁸ All names have been changed. Immigration attorneys we interviewed fear reprisal from the New York Asylum Office for themselves and their clients. Former asylum division employees also expressed fear of reprisal. They did not want New York Asylum Office leadership to know that they contributed to this report.

⁹ Many of these attorneys have experience with the New York Asylum Office through multiple presidential administrations and their ensuing policies, as well as pre-and-post Covid, during which many asylum offices had to alter their practices and procedures.

¹⁰ Human Rights First, USCIS Records Reveal Systemic Disparities in Asylum Decisions (May 18, 2022), <https://humanrightsfirst.org/library/uscis-records-reveal-systemic-disparities-in-asylum-decisions/>; U.S. Cit. & Imm. Serv., I-589 Affirmative Asylum Summary Overview FY2022 Q1, at Appendix V (Oct 1, 2021 - Dec 31,

2021), https://www.uscis.gov/sites/default/files/document/data/Asylum_Division_Quarterly_Statistics_Report_FY22_Q1_V4.pdf. In the last quarter of 2021, the New York office granted asylum at a roughly 5% rate, lower than all its counterparts around the country. *Id.*

¹¹ We have asked the director of the New York Asylum Office to comment on the office's grant rate as well as this report's other findings. As of the date of this writing, we have not received a response. We have also reached out to leadership at Refugee, Asylum, and International Operations Directorate (RAIO), the agency that oversees the Asylum Division, to ask about this report's findings. We did receive a response acknowledging our request and requesting more information. As of the date of this writing, we have not yet scheduled a time to connect about our findings.

Background:

What is asylum and who are asylum seekers?

There are 11 asylum offices around the country, each with its own director.¹³ These offices sit within the Asylum Division, and report to the Asylum Division Director, currently John Lafferty.¹⁴ The Asylum Division is in Washington D.C. and referred to by employees as “headquarters” or “H.Q.” The entire Asylum Division is overseen by a larger directorate called Refugee, Asylum and International Operations (RAIO). RAIO sits within USCIS, an agency of the Department of Homeland Security.¹⁵

The asylum offices exist so that asylum seekers can apply for protection inside the United States. Asylum seekers are people who claim to have suffered persecution, like torture or death threats, in their home countries, or fear they will be targeted in the future, due to their race, religion, nationality or other defining characteristics, like their political opinion.¹⁶ The Asylum Division’s mission is to grant asylum to legitimate asylum seekers so that they can remain safely in the United States rather than be forced to return to their home country where their lives may be at risk.¹⁷



[Asylum seekers] are being processed as numbers instead of as people who are doing their very best to try and follow the U.S. legal system and state their claim for protection in our country.

— New York Immigration Attorney¹²

¹² Interview with a New York immigration attorney.

¹³ U.S. Cit. & Imm. Serv., Asylum Office Jurisdictions (July 2022), https://www.uscis.gov/sites/default/files/document/charts/Asylum-Jurisdictions_July2022.pdf.

¹⁴ U.S. Cit. & Imm. Serv., Asylum Quarterly Engagement and Listening Session, Script and Talking Points, at 2 (Dec. 13, 2022), https://www.uscis.gov/sites/default/files/document/foia/Asylum_Quarterly_Engagement-FY23_Quarter_1_Script_and_Talking_Points.pdf. (“We are so happy to welcome back our newly returned Asylum Division chief, John Lafferty. He began his role November 6, 2022. John has a long history with RAIO generally and the Asylum Division specifically, and we are excited to have him lead our team.”).

¹⁵ U.S. Cit. & Imm. Serv., Organizational Chart (Mar. 30, 2023), <https://www.uscis.gov/sites/default/files/document/charts/USCIS-Org-Chart.pdf>; U.S. Dep’t of Homeland Sec., Operational and Support Components (Sept. 25, 2023), <https://www.dhs.gov/operational-and-support-components>.

¹⁶ U.S. Cit. & Imm. Serv., Asylum, <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum>.

¹⁷ U.S. Cit. & Imm. Serv., Asylum Division Officer Training Course, Corps Values and Goals (May 9, 2013), https://www.uscis.gov/sites/default/files/document/lesson-plans/Corps_Values_and_Goals_Asylum_Lesson_Plan.pdf (“The mission of the Asylum Program is to offer protection to refugees in accordance with the laws of the United States and international obligations, while upholding the integrity of the program and national security of the United States.”).

There are different ways to apply for asylum: “affirmatively” or “defensively.” Most “affirmative” asylum seekers are those who arrive in the United States with some legal status, like a tourist visa. These asylum seekers interview at asylum offices where officers render a decision on their cases. “Defensive” asylum seekers apply for asylum as a defense to removal from the country. They do not interview at an asylum office, but rather are in formal removal proceedings before an immigration court.¹⁸ This report is focused solely on affirmative asylum seekers and their experience at the New York Asylum Office.

Asylum officers typically either grant asylum cases or they refer those cases to immigration court. Therefore, an asylum officer’s decision to reject an asylum seeker’s case is not called a “denial,” but rather a “referral.”¹⁹ A referral means that an immigration judge will review the asylum seeker’s case “de novo.” The immigration judge is not bound by the asylum officer’s decision and will review the case completely anew.

A referral has a dramatic impact on an asylum seeker’s life. Upon referral by the asylum office, the asylum seeker is in danger of removal from the country. Also, it can take years for an immigration judge to hear an asylum seeker’s case, meaning that people may remain separated from their spouses and children as they wait for a resolution to their asylum claim.²⁰

At the New York Asylum Office, asylum seekers spoke of referrals that they found bewildering. They and their lawyers explained that they prepared diligently for their cases, making every effort to abide by the law, building a meticulous legal case for asylum, waiting years for their asylum interview. But once the day arrived, some asylum officers were aggressive and combative. They seemed to deliberately try to confuse asylum seekers, focusing on minor, immaterial details to establish that the asylum seeker was not credible. Some asylum officers asked inappropriate and needlessly re-traumatizing questions. Then, these asylum seekers were referred to immigration court with little explanation from the New York Asylum Office as to why their case was not granted.

¹⁸ U.S. Cit. & Imm. Serv., Obtaining Asylum in the United States (last updated Sept. 13, 2023), <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/obtaining-asylum-in-the-united-states>

¹⁹ U.S. Cit. & Imm. Serv., Types of Affirmative Asylum Decisions, <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/types-of-affirmative-asylum-decisions> (“If we are unable to approve your asylum application and you are in the United States illegally, we will forward (or refer) your asylum case to an immigration court . . . A referral is not a denial of your asylum application. Instead, we refer your case for further review by an immigration court.”). The Asylum Office also has jurisdiction over asylum claims for unaccompanied children who are in removal proceedings. U.S. Cit. & Imm. Serv., Asylum Procedures for Minor Children, <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/asylum-procedures-for-minor-children>.

²⁰ TRAC IMMIGRATION, Average Time Pending Cases Have Been Waiting in Immigration Courts as of Jan 2023, https://trac.syr.edu/phptools/immigration/court_backlog/apprep_backlog_avgdays.php (As of January 2023, the average number of a days that a case has been pending in immigration court is 762 days, or more than two years.); see also TRAC IMMIGRATION, A Mounting Asylum Backlog and Growing Wait Times, <https://trac.syr.edu/immigration/reports/672/>.



I. A Fiefdom on Long Island

“ They're like **fiefdoms** . . . for each asylum office . . . **the director of each asylum office plays an outsized role.**

— New York Immigration Attorney²¹

“ Every office is the **product of their director.**

— Former Senior Official in the Asylum Division²²

Daniela waited several years for her interview at the New York Asylum Office before she got her chance in the fall of 2018. She was nervous, yet ready, to talk about fleeing Venezuela after receiving death threats and beatings due to her political opinions. But when Daniela received the news that she had an asylum interview, she also learned that the New York Asylum Office is in Bethpage, Long Island and virtually inaccessible by public transportation. Daniela, like many asylum seekers in New York City, did not own a car. But to get from her home to the Bethpage Office using public transportation, Daniela's journey to her asylum interview would take nearly three hours, if everything went perfectly. She did not want to risk being late to her early morning interview. So, Daniela used her savings to pay for cab fare, which can cost around \$100 from where she lives. Ultimately, that first interview did not go forward because Daniela's interpreter did not arrive on time. Asylum seekers are required to provide their own interpreters. This means that Daniela had to pay for a cab ride home that day, and then did it all over again for her actual interview.

Daniela's story is not unique. In 2015, the New York Asylum Office moved from Queens, New York to Bethpage. By all accounts, the Queens office was overcrowded, rundown and needed to be relocated. However, the decision to move the New York Asylum Office to a town that is virtually inaccessible by public transportation has engendered deep frustration among attorneys, asylum seekers, and former asylum officers. One former New York Asylum Officer described waking at 4 AM each day to arrive to work on time. The long commute was one of many reasons he wanted to leave his job.²³

According to a former senior employee, who worked at the Asylum Division when the New York office moved to Bethpage, it was widely known at D.C. headquarters that the Bethpage location would be inconvenient and potentially inaccessible for many people. Yet, this official claimed that leadership at the New York Asylum Office was uninterested in helping ease the commute, even for their employees. This former Asylum Division employee said that New York Office leadership rejected the idea of organizing shuttles to the office, or "working with staff to make sure everyone could make it" there. This former official said that they believe the office location is one of many reasons why the New York Asylum Office struggles to retain employees. Ultimately, this person said, the move to Bethpage spotlights a lack of oversight of the New York Asylum Office: "Headquarters should not have let [the director] move the office to Bethpage."²⁴

The move to Bethpage has also sparked a pervasive rumor among former asylum division employees and attorneys: "Amongst ourselves we said that the office moved to Bethpage because the director lived close by," said this former senior Asylum Division employee.²⁵ Several former asylum officers shared this belief and attorneys

²¹ Interview with a New York immigration attorney.

²² Interview with a former Asylum Division official.

²³ Interview with a former New York Asylum Officer.

²⁴ Interview with a former Asylum Division official.

²⁵ Interview with a former Asylum Division official.

repeated it as well. We cannot confirm that the office moved to Bethpage because the location was more convenient for the director. But the pervasiveness of this belief is indicative of the outsized role of the office director. Many who interact with the New York Asylum Office believe that the director runs the office with impunity.



II. An Intentional First Impression

“ *We knew that security guards were our first impression.*

— Former Senior Asylum Division Official²⁶

When asylum seekers and attorneys arrive at the New York Asylum Office, the first employees they encounter are security guards. According to more than a dozen attorneys and asylum seekers, New York Asylum Office security guards regularly intimidate, berate, and belittle asylum seekers and attorneys. One attorney described arriving at the New York Asylum Office with her client who needed crutches to walk due to the brutal torture he endured in his home country:

“We tried to explain to the security officers that he needed his crutches to cross through the metal detector, and that he just cannot walk without his crutches. He is crippled in one of his legs. The security guards did not care. They did not make an exception for him. They wouldn’t let him pass and then just scan his body. And so, as he was going through the metal detectors, he fell.”²⁷

Not only are security officers “scolding everyone,” alleged one attorney, but “no one speaks any other languages . . . it’s just very, very tense.”²⁸ According to this attorney, when he visited the office, no one spoke Spanish or any other common language spoken by asylum seekers in New York, such as Chinese. This means that many asylum seekers’ first contact with the New York Asylum Office consists of a person yelling at them in a language they may not understand. “They talk to people by yelling at them,” described one longtime immigration attorney, “survivors of torture who are going in for an asylum interview, the first experience at the office, they [have] someone in uniform shouting at them.”²⁹

New York immigration attorneys recently raised this issue with the New York Asylum Office, explaining that security guards are unnecessarily harsh. In response, New York Asylum Office leadership said that security guards at all asylum offices are third party contractors, and that office leadership does not train them.³⁰

A former senior official at another asylum office disputed the assertion that office leadership does not influence security guard behavior. “We knew that security guards were our first impression . . . [they] are so important.”³¹ This former official explained that security guards are an integral part of office culture: the New York Asylum Office operates with a mentality of “let’s scare people into telling us the truth, versus let’s make people feel safe so they tell us the truth.”³² This mentality “permeates to all staff, including security guards, and it’s intentional. This is just management 101 and a deliberate choice. Office culture is a deliberate choice.”³³

²⁶ Interview with a former Asylum Division official.

²⁷ Interview with a New York immigration attorney.

²⁸ Interview with a New York immigration attorney.

²⁹ Interview with a New York immigration attorney.

³⁰ This exchange occurred on Oct. 11, 2022, at a liaison meeting between the leadership of the New York Asylum Office, Newark Asylum Office and advocates, attorneys and other stakeholders.

³¹ Interview with a former Asylum Division official.

³² Interview with a former Asylum Division official.

³³ Interview with a former Asylum Division official.



III. The Wait and the Hurry

When an asylum seeker is granted an interview at the New York Asylum Office, chances are they have already waited months or years.³⁴ On the day of their interview, the waiting continues. If they are lucky, they are called for their interview within forty-five minutes to an hour of arriving at the New York Asylum Office. But it is common to wait hours. Multiple attorneys reported waiting as long as six hours with their clients before the interview began. One attorney reported waiting the entire day only to be told to return another time. The long wait can make you “dazed,” one attorney described, leading the asylum seeker, waiting hours in a nondescript government office, to be lulled into a sort of fugue state of static anxiety.³⁵ By the time their turn arrives, the asylum seeker is already emotionally exhausted and drained, right before what might be the most important interview of their life.

One asylum seeker, Gustavo, was not called until 5:00 p.m. for his 10:30 a.m. appointment. The wait time only compounded his anxiety: “I was already anxious and stressed out because of the long time I had to wait . . . I wish that the wait time was a lot shorter.”

When their turn arrives, the asylum seeker is escorted into another part of the office, along with their attorney if they have representation. One attorney who has represented hundreds of clients before the New York Asylum Office, described this part of the experience as “like getting booked into a police precinct.”³⁶ The attorney explained, “There’s almost a militaristic approach to it at Bethpage. The officer calls your name . . . then they tell you to line up against the wall while they make copies of your identity documents.”³⁷ Some asylum officers are brusque and unfriendly, barking out directions, claimed this attorney.

Finally, when asylum seekers sit down for their interviews, some New York Asylum Officers can be rushed and harried. One attorney, Lydia, described an extremely harrowing client interview. Her client waited seven years for his interview at the New York Asylum Office. When the client’s name was called, Lydia took a moment to ensure she had her papers, and the asylum officer snapped that she was in a rush. Over the next four hours of interviewing, the officer repeated that she was in a rush ten more times. Hours into the interview, the applicant asked if they could pause so that he could use the restroom. The asylum officer refused to pause the interview, despite repeated requests. Finally, the applicant wet his pants and began to cry. Lydia insisted they stop, and the officer conceded that they could “take five.”

³⁴ Asylum seekers have reported waiting over 6 years for an interview. See Cora Wright, Asylum Office Delays Continue to Cause Harm, HUMAN RIGHTS FIRST (Oct. 3, 2022), <https://humanrightsfirst.org/library/barriers-and-backlog-asylum-office-delays-continue-to-cause-harm/>; see also Alexandra Martinez, PRISM, Asylum-Seekers Have Been Waiting Years for an Interview Because of a Trump-Era Processing System (Mar. 31, 2022), <https://prismreports.org/2022/03/31/asylum-seekers-last-in-first-out/> (for affirmative asylum seekers “who applied in 2015, 2016, or 2017 . . . the delay has lasted seven years.”).

Interview with a New York immigration attorney.

³⁵ Interview with a New York immigration attorney.

³⁶ Interview with a New York Immigration Attorney

³⁷ Interview with a New York immigration Attorney. .

Ultimately, Lydia's client was referred to immigration court. Lydia filed a formal complaint with the New York Asylum Office about the way her client was treated. The New York Asylum Office responded to the complaint and stated it would cancel the client's referral to immigration court. As of the writing of this report, Lydia's client is still in immigration court proceedings and waiting to see if the asylum office will re-interview him.

According to several attorneys, it is rare to receive a response from the New York Asylum Office after a complaint. One attorney said that filing complaints is "a waste of time . . . [i]f the asylum office wants to get rid of an officer, they will use the complaints as a means to do it. And if they don't, then you could write a complaint every single day and nothing is going to happen."³⁸

Not every asylum officer at the New York office is rude or unkind, but it is clear that the intense time pressure on New York Asylum Officers exacerbates an already stressful and high stakes situation for everyone.

³⁸ Interview with a New York immigration attorney.



IV. Putting the Attorney in Their Place

“ They look at us like some sort of *impediment to their job*.

— New York Immigration Attorney³⁹

Many attorneys said that the Bethpage office is hostile both to their clients and to them. When attorneys accompany their clients into the interview room, asylum officers often order them to sit behind their clients and inform them that they are not allowed to participate in the interview. “They sit attorneys in a corner and tell you you’re not allowed to speak, essentially,” said one longtime attorney.⁴⁰ They “disdain” attorneys, said another longtime New York immigration attorney, they “look at us as like . . . some sort of like impediment to their job.”⁴¹ This attorney described New York Asylum Officers who “roll their eyes” at her and “scolded” her to be quiet.

Another attorney, Doug, with decades of experience representing clients at various asylum offices, recalled one interview during which the asylum officer was speaking too quickly and asking long, compound questions. The interpreter could not keep up, so Doug asked the officer to slow down. The officer’s response was immediately combative. It was as though “she had watched too many episodes of Homeland and she thought that she was Claire Danes.” The officer told Doug that he was not allowed to speak. Doug described the experience as being put in his place. Doug persisted, though, trying to clarify that he was interjecting merely to help the interpreter. The officer became increasingly belligerent, threatening to call security to throw Doug out, declaring, “This is my interview!” Eventually, Doug requested a supervisor to intervene, and the interview was rescheduled. The asylum seeker was in “floods of tears... completely hysterical... she said she’d never seen someone so abusive.”⁴²

Attorneys described having to decide whether to advocate for their client and risk angering the asylum officer who has ultimate control over their client’s case or remain silent and allow the officer to carry on with an abusive or even inaccurate line of questioning. One longtime attorney described this agonizing choice: “What’s my duty to my client? . . . Like, do I try to stop this from happening because it’s inflicting harm on my client? . . . But then, if I stop it, does that inflict more harm? Because the officer is going to punish me or my client for [interfering] and then won’t grant the case? . . . So it [is] an impossible decision in that moment.”⁴³ Another attorney claimed simply, “They shut you down as an advocate.”⁴⁴

³⁹ Interview with a New York immigration attorney.

⁴⁰ Interview with a New York immigration attorney.

⁴¹ Interview with a New York immigration attorney.

⁴² Interview with a New York immigration attorney.

⁴³ Interview with a New York immigration attorney.

⁴⁴ Interview with a New York immigration attorney.



V. The Non-Adversarial Mandate and Following the Script

It is not supposed to be this way. Asylum interviews are designed to be non-adversarial to alleviate some of the stress that asylum seekers experience recounting the most horrible moments of their lives. An asylum seeker, Gustavo, who waited more than six hours for his interview to begin, said that he fell apart once his interview was over. “It was so stressful that as soon I got into the elevator, I just started bawling like a kid... I was just crying like a little kid.”⁴⁵

The non-adversarial nature of the interviews is deliberate, to mitigate some of this stress. At an asylum interview, there are no opposing attorneys or cross examinations like there are in immigration court. Asylum officers are trained in how to question survivors of torture and other trauma. USCIS training materials for asylum officers address the meaning of the non-adversarial mandate: “[I]t is inappropriate for [Asylum Officers] to interrogate or argue with any interviewee. [An Asylum Officer is] a neutral decision-maker, not an advocate for either side.”⁴⁶ The non-adversarial nature of the interview is supposed to “encompass not only the manner of questioning . . . but also the tone and atmosphere in which [the officer] must conduct interviews.”⁴⁷ At Bethpage, this training is often not reflected in asylum officers’ questions or their demeanor and tone.

Nearly every attorney we spoke with described at least one aggressive, highly adversarial interview at the New York Asylum Office and many attorneys described several such experiences. Attorneys claim that asylum officers can be unnecessarily “aggressive,” even when the asylum seeker had a very well documented case.⁴⁸ According to a longtime attorney, the interviews are often “full of hostility, aggression and disbelief . . . there is a disconnect between what they believe they are doing and what they’re actually doing.”⁴⁹

One attorney told us about an asylum officer who was “just screaming at the client because he wanted a yes or no answer and the client didn’t have a yes or no answer. Sometimes you don’t have a yes or no. Clients feel like they need to explain themselves because this is their only opportunity. And the officer just kept saying that’s not what I want to know! No! That’s not what I want to know!”⁵⁰

Other attorneys described asylum officers who asked mechanical questions in a way that confused asylum seekers and did not allow them to explain their circumstances, almost like the asylum officers were following a script: “It’s like they’ve got their script and any time [they] feel like it goes off script or your client doesn’t express something in the

⁴⁵ Interview with asylum seeker.

⁴⁶ U.S. Cit. & Imm. Serv., Interviewing—Introduction to the Non-Adversarial Interview, Training Module, at 15 (Dec. 20, 2019), https://www.uscis.gov/sites/default/files/document/foia/Interviewing_-_Intro_to_the_NonAdversarial_Interview_LP_RAIO.pdf.

⁴⁷ *Id.*

⁴⁸ Interview with a New York immigration attorney.

⁴⁹ Interview with a New York immigration attorney.

⁵⁰ Interview with a former Asylum Division official.

way that they expect ... they get frustrated.”⁵¹ One attorney described an asylum officer who repeatedly asked a client to recount the date of her father’s murder, a murder she witnessed, even though she told the asylum officer that she had a difficult time remembering exact dates, and even though she had her father’s death certificate as part of her file.⁵² Another attorney described an asylum officer who “either incompetently or intentionally misquote[d]” his client “jumping from point A to point L to point C and just completely disorienting them”:

*“For example, like [the asylum officer] would say. . . when were you born? And her next question would be like, So you said you were born in 1980. And the client would be like, No, I said I was born in 1979. I just said that one second ago, the asylum officer would be like, excuse me . . . she would like put up her hand and say . . . I’m not done and you can answer when I’m done. And then I would say . . . I think she’s just correcting your misunderstanding. [The asylum officer] . . . misquoted her several times in the first 5 minutes of the interview, to the point where she seemed to try to be pigeonholing her into wrong answers. It seemed very intentional, if not just completely incompetent.”*⁵³

Several attorneys described bizarre interviews during which the asylum officer repeatedly asked the same question verbatim and then refused to accept the asylum seeker's answer:

*“Like literally the same question,” one attorney explained, “They don't change the wording of it or explain why they're asking the question, which gets to conducting the interview in an adversarial way . . . The client answers in the same way, and they're like, ‘But you're not giving me an answer.’”*⁵⁴

An asylum seeker, Daniela agreed, explaining that in her interview the asylum officer “asked questions that repeated many times in different forms. [My attorney] had prepared me for this and I tried to answer as best I could. It did feel like the officer had the intention to confuse me.”⁵⁵

According to several attorneys, some asylum officers ask needlessly retraumatizing questions despite the specific mandate to conduct trauma-informed interviews. Multiple attorneys described needlessly retraumatizing questioning of sexual abuse survivors, asking them to recount their abuse in detail.

One attorney, Jessie, described representing a client who is a survivor of decades of sexual abuse. The client had been hospitalized after a previous encounter with the immigration system because talking about her traumatic past caused psychosis. Jessie contacted the Bethpage office in advance and was assured the asylum officer assigned to the case would be particularly sensitive to a survivor of sexual abuse. On the day of the

⁵¹ Interview with a former Asylum Division official.

⁵² Interview with a former Asylum Division official.

⁵³ Interview with a former Asylum Division official.

⁵⁴ Interview with a former Asylum Division official.

⁵⁵ Interview with an asylum seeker.

interview, the asylum officer was the exact opposite. Jessie described the officer as “like a scary robot who had no sensitivity whatsoever.” Even though the client’s affidavit was extremely detailed, the asylum officer spent four hours asking her for specific details about the sexual abuse she endured, forcing the client to vividly recount what had happened to her.⁵⁶

Another attorney recounted her shock at an asylum officer who questioned a five-year-old child about sexual abuse. This attorney represented two siblings, an 18-year-old and a five-year-old. The officer doubted whether the sexual abuse occurred and tried to ask the five-year-old about what happened. The officer was “trying to stay general,” according to this attorney, but the fact that they questioned such a young child at all was outrageous, much less about sexual abuse. “They would never do this in immigration court,” said this attorney.⁵⁷

⁵⁶ Interview with a New York immigration attorney.

⁵⁷ Interview with a New York immigration attorney.



VI. Behind the Scenes

“ You keep marching until you **fall down**.

— Former New York Asylum Officer⁵⁸

The experience is nearly uniformly challenging and frightening for asylum seekers. Behind the scenes, asylum officers also struggle in a work environment that several former employees described as “toxic.”

Based on our interviews with former asylum officers, a typical week at the New York Asylum Office involves four days—Monday through Thursday—to interview applicants. Fridays are usually reserved for writing up decisions and for scheduling reinterviews, if necessary. Typically, an asylum officer will interview two or three applicants a day. One day a week is often reserved for what are called cancellation cases, and asylum officers are expected to interview four to six applicants on these days.⁵⁹ Several former New York Asylum Officers said that interview days were filled with unpredictability, panic, and intense pressure to move through interviews as quickly as possible. These former officers described two main reasons for the atmosphere of intense pressure that set them up to fail.

First, New York Asylum Officers are not assigned their cases until they arrive for work in the morning. This means that they are often left scrambling to familiarize themselves with hundreds of pages of testimony and evidence, while filling out necessary paperwork, and completing security checks. One former New York Asylum Officer alleged that they were allowed about 20 minutes to review the files for each interview: “It was completely absurd, and everyone knew that.”⁶⁰ This former officer said that, although they were allotted 20 minutes, in reality, officers who wanted to do a thorough job took considerably more time to prepare for an interview, which meant they fell behind, and felt rushed to catch up. “If you’re going to do a thorough job and give every applicant a fair opportunity to present their case and . . . to elicit complete testimony about their harm and fear of future harm, it oftentimes took a lot of time.”⁶¹

Former New York Asylum Officers, as well as attorneys, said they believe New York is unique in assigning cases in this way.⁶² Some people said they believe New York schedules in this way because office leadership does not want to risk downtime for an asylum officer if an applicant does not show up for their interview. This manner of assigning cases is one of the reasons that attorneys and asylum seekers can spend hours waiting in the waiting room at the New York Asylum Office. One attorney described it thus: “[the Bethpage office] would rather have lawyers and applicants waiting in the waiting room for like 6 hours at a stretch rather than risk that the asylum officer might have down time between interviews for 15 or 20 minutes.”⁶³

⁵⁸ Interview with a former New York Asylum Officer.

⁵⁹ A cancellation case is an asylum application filed because the applicant is trying to get to immigration court to apply for cancellation of removal, a form of immigration relief that only immigration judges can grant. Though all parties understand it is an extra and onerous step to go through the asylum office first, there is no other pathway for these applicants to get before an immigration judge.

Unfortunately, many legitimate asylum seekers who filed for asylum after the one-year filing deadline, but who meet a legal exception to the deadline, can end up in this pool of applicants.

⁶⁰ Interview with a former New York Asylum Officer.

⁶¹ Interview with a former New York Asylum Officer.

⁶² Other asylum offices, such as Newark, assign cases in advance so that officers have time to familiarize themselves with each case before their interviews. Interview with Former Newark Asylum Officer. San Francisco outsources security checks so that officers can focus on interviews. Interview with Former San Francisco Asylum Officer.

⁶³ Interview with a New York immigration attorney.

Secondly, once interviews begin, office leadership pressures officers to complete them as quickly as possible. One former New York Asylum Officer reported that in the early years of the New York Asylum Office, “the director used to pace the halls and if the interviews went over 45 minutes she would get pissed.”⁶⁴ As the years passed, that type of overt pressure diminished. But it was replaced by a more insidious, often unspoken urgency. Several asylum officers said they felt in constant fear of being fired because they were not getting through enough cases. The threat was palpable: officers witnessed their coworkers “walked out” and terminated for not keeping up the pace.⁶⁵ One told us, “I regularly got in trouble for my interviews being too long.”⁶⁶ These two factors combined mean that many New York Asylum Officers begin each workday already feeling behind and unprepared.

Former Bethpage officers said that they believed management did not care about the impact of this grind on employees’ health. A long-time former asylum officer described the job as like being a soldier: “You keep marching until you fall down.”⁶⁷ Multiple former officers described working through their lunch breaks, “inhaling a sandwich,” or skipping lunch entirely.⁶⁸ One described developing a twitch.⁶⁹ Another had multiple surgeries for carpal tunnel.⁷⁰ One officer was so overburdened that she took sick days strategically in order to catch up on her workload.⁷¹

⁶⁴ Interview with a former New York Asylum Officer.

⁶⁵ Interview with a former New York Asylum Officer.

⁶⁶ Interview with a former New York Asylum Officer.

⁶⁷ Interview with a former New York Asylum Officer.

⁶⁸ Interviews with former New York Asylum Officers.

⁶⁹ Interview with a former New York Asylum Officer.

⁷⁰ Interview with a former New York Asylum Officer.

⁷¹ Interview with a former New York Asylum Officer.



VII. “I have never experienced something so dark.”

— Former New York Asylum Officer⁷²

In addition to the intense time pressure, several former New York Asylum Officers described a bizarre office culture where employees suspected that they were being surveilled by office leadership. Multiple former asylum officers said they believed office leadership encouraged employees to gather information about one another as a way of keeping employees in line. According to these former officers, employees who did gather and share information carried favor with office leadership. One former asylum officer alleged that employees were encouraged to inform on one another for minor infractions, like taking a slightly longer lunch break, and for more potentially serious infractions, like challenging leadership's policies and rules.⁷³

One former asylum officer, Aaron, described a feeling of mistrust that permeated the office. "They didn't trust their staff; they were watching all the officers. It felt like working for a spy office."⁷⁴ Several former officers said that, despite the pressures of their demanding and stressful jobs, they would never dream of sharing hardships about their workday with their colleagues in a common lunchroom or break area. "You were always being watched," said Helen, a former New York Asylum Officer:

"I had someone gather a lot of info from me and another officer and they then went to the supervisor, and it was used to their advantage . . . I have never experienced something so dark where people gather information from you to manipulate a system against you."⁷⁵

As a result of this environment, some former New York Asylum Officers explained that the New York Asylum Office was fraught with distrust and there was little collegiality or support at the office. This dynamic created a dysfunctional cycle. Asylum officers did not feel they could go to one another for advice about a particularly complicated case, or to talk about the time pressure they felt if they were falling behind in interviews. Several former officers claimed that this office culture is what drove them to quit, which meant a loss of institutional knowledge, and fewer officers who had the confidence to offer guidance or advocate for a grant. This atmosphere of fear meant that less experienced asylum officers were more likely to refer a case if they were uncertain about the law, rather than seek guidance about what to do. Several former New York Asylum Officers described having initially sought out the job because they wanted to help people, but they found that impossible to do at the New York Asylum Office.

⁷² Interview with a former New York Asylum Officer

⁷³ Interview with a former New York Asylum Officer.

⁷⁴ Interview with a former New York Asylum Officer.

⁷⁵ Interview with a former New York Asylum Officer.



VIII. It Takes Less Time to Refer Than to Grant

“ *It is a lot easier to **refer** a case than it is to **grant** one.*

— Former New York Asylum Officer⁷⁶

Granting an asylum case takes more time because the asylum officer must demonstrate that the case meets all the elements of asylum. Asylum is granted when an applicant demonstrates that they have been persecuted—or fear future persecution—on account of their race, religion, nationality, political opinion, or particular social group. However, an applicant must also apply for asylum within a year of their arrival in the United States and prove that they are not barred by any other disqualifying factors. A grant requires meeting all these conditions. Referrals, by contrast, only need to establish one element of asylum that is not met. One former asylum officer explained, “If you wanted to grant, you needed to gather more information . . . you would have to go through all of the elements of asylum.”⁷⁷ Another officer said: “It’s definitely easier to refer. There’s less work that you have to do . . . if you’re going to refer, you really only need to go through... the element that knocks it out.”⁷⁸

Another former asylum officer told us that grants resulted in longer interviews and more research that fell on the asylum officer to complete, especially if the details of the case or the country the asylum seeker was fleeing were very specific. “You have to do so much for the grant and there’s really not enough time.” “It’s never the other way around,” explained this same asylum officer, “You never have to make a case for a referral beyond the minimum . . . but there’s so much pressure for going way above and beyond the legal standard to establish a grant.”⁷⁹

Multiple former officers said that the pressure to refer stemmed more from this time pressure than a mandate not to grant cases. One former asylum officer said, “I definitely felt pressure to refer rather than to grant. But I think the real significant pressure [is that] they cared less about whether it’s a referral or a grant than how quickly you get it done.”⁸⁰

Former asylum officers said that when they took the time to advocate for a grant, the case was often sent back by their supervising officer. Some former asylum officers alleged that they or their colleagues were punished or given negative performance reviews for taking the time to grant cases. Supervisors would “return” the case to the asylum officer to ask for more explanation for the grant.⁸¹ If the supervisor was not satisfied with the rationale for a grant, they sometimes made the asylum officer re-interview the applicant for more information. Anything that took extra time had adverse repercussions for the asylum officer. “It was a ‘punishment’ to have your cases sent back,” one former officer said. “If you fall behind in submitting your assessments, you have to have more check ins with your supervisor... that’s part of the punishment.”⁸² Time spent re-interviewing or trying to convince their supervisor to grant meant that officers had less time to write up their cases.

⁷⁶ Interview with a former New York Asylum Officer.

⁷⁷ Interview with a former New York Asylum Officer.

⁷⁸ Interview with a former New York Asylum Officer.

⁷⁹ Interview with a former New York Asylum Officer.

⁸⁰ Interview with a former New York Asylum Officer.

⁸¹ Interview with a former New York Asylum Officer.

⁸² Interview with a former New York Asylum Officer.

Former officers told us that once they fell behind in their caseload, it was impossible to catch up. Some asylum officers said that they pushed back and attempted to grant despite the time pressure. But some of these officers claimed they often did badly on performance reviews. The reviews did not explicitly focus on grants or referral rates, but the negative feedback was usually based on failure to keep up the pace.

One former New York Asylum Officer told us about a time when she strongly believed that an asylum seeker's case legally merited a grant. Her supervisor disagreed, so this former officer tried to escalate the case up the chain of command. She believes she was punished as a result. "After that I got nine cases returned to me. I had never had cases returned to me. But because I disagreed about this case, I felt like I was being punished. I was evaluated around that time and there was a lot of bogus stuff in the evaluation and this came right after a decision where I wanted to grant someone."⁸³

Several attorneys said that this intense time pressure results in some New York Asylum Officers applying the law unevenly and, at times, inaccurately. They may understand the law, or they may not, according to several attorneys. One attorney with decades of experience with the New York Asylum Office described an exchange with an asylum officer and supervisor during which the officer repeatedly asked an asylum seeker for proof that they were in DACA status. DACA stands for Deferred Action for Childhood Arrivals. The program allows some noncitizens who were brought to the U.S. as children to stay in the country legally. Those with DACA status receive work permits. The asylum seeker repeatedly presented the officer with their work permit, which indicated it had been granted under the DACA category, a clearly legal form of proof that the asylum seeker had DACA status. The asylum officer and their supervisor simply did not seem to understand that the work permit was all the proof legally necessary. They seemed completely unfamiliar with this aspect of DACA. This attorney explained that the lack of knowledge by some officers is exacerbated by the fact that some officers refuse to admit that they are unfamiliar with a legal concept. "They're resistant to having us explain the law to them and even to reading the memo we've submitted." Even when asylum officers are not hostile to an applicant, this attorney explained, "it [is] a real struggle . . . to get the basic case across,"⁸⁴ because some New York Asylum Officers are so unprepared.

One former New York Asylum Officer agreed with this sentiment, adding that some asylum officers are not trained lawyers and therefore, they face a steep learning curve when deciding asylum claims. This former New York Officer admitted that he was "in over his head legally" and that he was surprised that the New York office hired him because he had no legal training.⁸⁵ All asylum officers receive six weeks of training, but several of them told us that the

⁸³ Interview with a former New York Asylum Officer.

⁸⁴ Interview with a New York immigration attorney.

⁸⁴ Interview with a former New York Asylum Officer.

⁸⁵ Interview with a former New York Asylum Officer.

training did not prepare them to hear and decide cases at the pace demanded by New York Office leadership. Another former New York Asylum Officer told us, “Many asylum officers are not applying the right legal standard.”⁸⁶

New York Asylum Office leadership is aware of this problem. One attorney described writing to the office director to inform her that an asylum officer was clearly unfamiliar with asylum law, “you need to know that your officers do not know the law and if they know it, that [they] do not know how to apply it,” this attorney wrote.⁸⁷ The response this attorney received was terse and generic and informed the attorney that, since her client was referred to immigration court, the New York office no longer had jurisdiction over the case. This asylum seeker had waited seven years for their interview, only to be met by an asylum officer who did not understand asylum law.

⁸⁶ Interview with a former New York Asylum Officer.

⁸⁷ Interview with a New York immigration attorney.



IX. “Creding Out”: Three is the Magic Number

Eventually, according to several former New York Asylum Officers, officers learn that the strategic, and often fastest, way to get to a referral is to “cred people out.” To “cred” someone “out” is asylum officer shorthand for denying an application based on credibility, meaning that the asylum officer did not believe the applicant was telling the truth. Several former asylum officers said that at the New York Office, they were told that to refer based on credibility, they had to find three material inconsistencies in an applicant’s testimony. Asylum officers are trained in how to assess whether an asylum seeker is credible, and credibility determinations are a big part of the asylum officer’s job. For example, asylum officers must provide an asylum seeker with the opportunity to address inconsistencies and must assess the reasonableness of the applicant’s explanation.⁸⁸ But even within the stated protocols around credibility findings, asylum officers have enormous discretion in establishing a material inconsistency.

“There’s a whole game of establishing that someone is not credible . . . basically, you have to get them to contradict themselves on the record,” said one former New York Asylum Officer.⁸⁹ Three is the magic number. Multiple former asylum officers and immigration attorneys said that if asylum officers could establish three material inconsistencies, they were able to refer the case. It is relatively easy to find credibility issues when interviewing applicants with a history of trauma. An applicant need only misremember a date or the time of day when they experienced some horrific event, and an asylum officer can deem the applicant not credible.

Several attorneys disputed that asylum officers look for only *material* inconsistencies. These attorneys described asylum officers who zeroed in on inconsistencies that were not material to the applicant’s claim, grasping for any excuse to refer the case. One attorney described a case where his client had received a piece of certified mail in her home country from a militant group threatening her. She included the letter in her asylum application. During her interview at the New York Asylum Office, the asylum officer demanded that she recite the certification number on the mail she received from memory:

“My client was so confused. She’s like, I don’t know. It was eight years ago. Had you interviewed me eight years ago when I applied for asylum, I still wouldn’t know that answer. . . It was outrageous. In what world would an American know that? I don’t even know someone else’s phone number, let alone a USPS registration number. The asylum officer at multiple points said, why? Why is it that . . . you cannot tell me the number that I’m asking you for?”⁹⁰

Some New York Asylum Officers “narrow in” on immaterial details and are “100% trying to trip up the applicant . . . in a manner that is unethical,” said another attorney.⁹¹ Yet another attorney said that a New York Asylum Officer accused their client of

⁸⁸ See U.S. Cit. & Imm. Serv., Credibility Training Module (June 20, 2016), <https://www.aila.org/infonet/uscis-guidance-to-raio-officers-on-credibility>;

⁸⁹ Interview with a former New York Asylum Officer.

⁹⁰ Interview with a New York immigration attorney.

⁹¹ Interview with a New York immigration attorney.

inconsistency because the client said that an event occurred on the night of December 31st, where a supporting affidavit said that the event occurred on the morning of January 1st. “It was like New Year’s Eve, New Year’s Day . . . a matter of a couple of hours.” But the asylum officer pressed the client about whether the event really happened at all. “If this date is important, you would remember exactly when it happened,” the asylum officer said to the asylum seeker.⁹² “They are really looking for a reason not to approve,” said another attorney.⁹³

For asylum officers burdened by the pressure of productivity, the possibility to cred a case out was tempting. “If you’re under pressure for not meeting your numbers, you wanted credibility issues because they are the fastest cases to write up,” one former officer said.⁹⁴ Another admitted that they “sort of started leaning into credibility, mostly because it was faster to write decisions.”⁹⁵

⁹² Interview with a New York immigration attorney.

⁹³ Interview with a New York immigration attorney.

⁹⁴ Interview with a former New York Asylum Officer.

⁹⁵ Interview with a former New York Asylum Officer.



X. The Referral

To add insult to injury, when applicants are referred, they often do not even know why. Referrals routinely consist of just a sentence or two, informing the applicant that their testimony had “material inconsistencies.” This practice is not unique to the New York Asylum Office. Asylum offices across the country issue referrals in this way. But this practice can leave asylum seekers agonizing about why an asylum officer did not believe them. One asylum seeker at the New York Asylum Office, Bahir, told us about smiling at his asylum officer at the end of the interview, and later wondering if that was the reason he was referred to immigration court. Bahir was haunted by the possibility that perhaps that smile left the asylum officer with the impression that he was not truly in danger at home.

A referral has dramatic implications for an asylum seeker’s life. It means they are placed in removal proceedings in immigration court and are at risk of deportation. It is not a quick process; just as asylum seekers can wait years to interview at the asylum office, they can then wait years more to appear before an immigration judge. For asylum seekers, it extends a legal limbo during which they have no formal immigration status and delays their opportunity to eventually apply for a green card and citizenship. More immediately, it prevents asylum seekers from reuniting with family members abroad; they cannot start a petition for reunification with their family members until they have been granted asylum. Waiting for their day in court means extra years of prolonged uncertainty and fear for their families.

Many of these asylum seekers are later granted asylum in immigration court by an immigration judge, which means they had a valid case for asylum in the first place but were rejected at the New York office. This is a deeply unjust system for asylum seekers, and it has lasting impacts on asylum officers as well.



XI. The Moral Injury

“ *My enduring resentment about my entire experience at the asylum office is how cynical it made me about the system in its entirety . . . it really just undermined a lot of my faith in the rule of law . . . and in the legitimacy of American institutions.*

— Former New York Asylum Officer⁹⁶

Despite the best of intentions, some asylum officers described making decisions they could not morally rationalize. One former officer described a case she referred despite her misgivings, and, unable to shake the guilt, she made every effort to grant a similar case that came across her desk later. Her supervisor did not allow that grant. Another former officer spoke about picking their battles, and ultimately conceding to the pressure to refer. “I’m going to have to really, really, really fight with the supervisor to be able to have a hope of granting this and then they might not even let me do that. I don’t have time to fight with them. And so, a lot of times I just referred [cases] because it was easier.”⁹⁷

Another former New York Asylum Officer described watching her colleagues change during their time at the New York Asylum Office, even those who came from a humanitarian background started adopting the practices of the office as their own. This former officer said that she felt she had to leave the job before it changed her as well:

“I had to leave because the job was going to change me and I was not going to change the job. I did as much as I could behind the scenes. I realized I was just a cog in the machine. The mindset there could have seeped in and changed the way I view asylum and I didn’t want that . . . There were too many days that I was going to the car and crying at the end of the day.”⁹⁸

One former officer put a name to it: “the phenomenon of moral injury,” which occurs when someone takes part in a system that violates their own conscience or deeply held principles.⁹⁹ “Moral injury” is often ascribed to the effect soldiers suffer in wartime. Some asylum officers were aware of their role in the system, while others were subsumed into it. One former asylum officer spoke movingly about her attempt to maintain a moral compass during her time at the Bethpage office. “I try to treat people with... dignity and respect. During that time, I said to myself, I have to look at the big picture and maybe I won’t make it through one year. But I have to be able to sleep at night.”¹⁰⁰ She was fired just before her one-year anniversary at the job. Other officers alleged that they were not fired for taking the time to grant valid asylum claims, but they were stunted in their job growth and penalized by never receiving a promotion.

Several former asylum officers described the vicarious trauma they experienced from constantly interviewing asylum seekers about the harm they faced or feared, which often included rape and death. Some officers told us this vicarious trauma took a toll on their mental and physical health. One former New York Asylum Officer said that she felt that New York Asylum Office leadership did not take the vicarious trauma experienced by

⁹⁶ Interview with a former New York Asylum Officer.

⁹⁷ Interview with a former New York Asylum Officer.

⁹⁸ Interview with a former New York Asylum Officer.

⁹⁹ Interview with a former Asylum Officer.

¹⁰⁰ Interview with a former New York Asylum Officer.

officers seriously, “Management didn’t take into consideration that we were exposed to so much vicarious trauma. I felt like my health was failing.”¹⁰¹ Another former New York Asylum Officer alleged that, when they were told of the vicarious trauma asylum officers were experiencing, New York Asylum Office leadership was unconcerned. “No one cared,” said this former officer.¹⁰²

¹⁰¹ Interview with a former New York Asylum Officer.

¹⁰² Interview with a former New York Asylum Officer.



XII. The Revolving Door

The natural consequence of these poor working conditions is that the New York Asylum Office is plagued by high turnover. Several former asylum officers we spoke with quit or were fired within one year, and others sought transfers to the Newark Asylum Office. These asylum officers uniformly cited upper management and office culture as the reasons why the New York office is such a punishing place to work. One former New York Asylum Officer described taking a new job with a \$40,000 pay cut because she was so miserable at her job. “It was a rare person who made a career at Bethpage,” said one former New York Asylum Officer.¹⁰³

Asylum officers, as federal employees, spend their first year of employment in a probationary period, during which they can be fired at any point.¹⁰⁴ Some former asylum officers told us that they were fired just before their one-year anniversary on the job, even as close as one or two days before. “Everyone was on pins and needles until you hit your one-year anniversary, and then, phew.”¹⁰⁵ Another former officer described the week approaching their one-year anniversary, thinking they were in the clear, and, instead, being fired and walked out of the office just two days before the one-year mark.¹⁰⁶ Some officers were fired for “security” issues, but suspected these reasons were manufactured to terminate employees who could not keep up the pace. The security violations included leaving their office computer open and logged in while they went to the bathroom, a common occurrence among asylum officers. The dismissal letters cited, “as a justification, [] things that everyone did.”¹⁰⁷

Many former asylum officers said that it is widely known that the Newark office is a far better place to work. “The worst kept secret ever,” according to one former New York Asylum Officer.¹⁰⁸ According to multiple former New York Asylum Officers, people wanted to transfer to Newark because the Newark Asylum Office Director fostered a more open and functional office culture: “It was just a far less oppressive work environment,” said one former New York officer, “and you got your cases in advance. It was just widely known that Jersey was a far better place to work.”¹⁰⁹ “People would try everything to get out of the office and go elsewhere, especially to Newark,” said another former officer.¹¹⁰

¹⁰³ Interview with a former New York Asylum Officer.

¹⁰⁴ See USAJOBS, Probationary Period, <https://intern.usajobs.gov/Help/working-in-government/fair-and-transparent/probationary-period/> (“If you’re a new employee or supervisor in the Federal Government, you may have to complete a one-year probationary period . . . During the ‘probationary period’ your employer will decide if you’re the right person for the job. If you’re not the right person for the job, the employer can fire you at any point during the probationary period.”).

¹⁰⁵ Interview with a former New York Asylum Officer.

¹⁰⁶ Interview with a former New York Asylum Officer.

¹⁰⁷ Interview with a former New York Asylum Officer.

¹⁰⁸ Interview with a former New York Asylum Officer.

¹⁰⁹ Interview with a former New York Asylum Officer.

¹¹⁰ Interview with a former New York Asylum Officer.

The high rate of turnover at the Bethpage office leads to self-perpetuating consequences. Employees are rarely on the job long enough to develop the confidence, understanding of the law, or institutional knowledge to challenge their office leadership or to advocate for legitimate grants when they believe the grants are deserved. Employees are so new that they don't have the confidence to write grants. One attorney who has represented dozens of clients at the Bethpage office said that in recent years, she has not seen the same employee twice, and that no one seems to last a year.



XIII. An Open Secret

“ *[The New York Asylum Office director] was incentivized to **just keep the cases moving, often at the expense of quality.** The success of the offices could be judged by number of cases.*

— Former New York Asylum Officer¹¹¹

The dysfunction afflicting the New York Asylum Office is no secret, but a lack of oversight allows the issues to persist. According to a former senior Asylum Division employee, RAIO, the directorate responsible for overseeing the New York Asylum Office is aware of the situation. RAIO officials, according to this former senior employee, are frustrated by the New York Asylum Office's struggle to retain employees. Still, RAIO implicitly endorses the Bethpage "fiefdom."

Rather than considering the impact rushed referrals have on asylum seekers or the system at large, RAIO appears to focus on productivity metrics such as workload and case completion. As a result, upper management at Bethpage is incentivized to get through cases faster at the expense of the people the system was built to serve. RAIO has turned a blind eye to how those productivity goals are being met, whether asylum officers are properly following asylum law – or, whether the New York Asylum Office is fulfilling its mission at all.

¹¹¹ Interview with a former New York Asylum Officer.

¹¹² Interview with a former New York Asylum Officer.



XIV. A Fraud Unit "On Steroids"

“ USCIS is committed to finding and **stopping those who want to cheat the immigration system** and preserving it for those who qualify for immigration benefits.

— New York Asylum Office Director¹¹³

Asylum officers are tasked with rooting out fraudulent claims at every office across the country. However, former New York Asylum Officers explained they were under unique pressure to root out fraud because office leadership has become preoccupied with fraudulent asylum claims. One immigration attorney recounted a Bethpage Asylum Officer scrutinizing an asylum applicant with repeated accusations of, “Are you lying to me?” This officer exclaimed that he would not be “able to sleep” if the client was lying.¹¹⁴ This obsession with rooting out fraud is in part due to the office’s history with fraud.

In 2012, a high-profile asylum fraud investigation called “Operation Fiction Writer” attracted significant media attention. The investigation exposed fraudulent activity by a network of law firms who helped asylum seekers from China fabricate asylum claims.¹¹⁵ Peter, a former asylum officer, who began his position at the New York Asylum Office shortly after Operation Fiction Writer became public, said that when he asked a supervisor about the low grant rate, a senior asylum officer emailed him a news article about Operation Fiction Writer as an explanation.¹¹⁶

Fraud is a routine and expected part of the asylum adjudication process; other asylum offices have learned to deal with fraud without allowing it to derail the asylum interview itself. One longtime New York attorney, Mira, explained that: “At Bethpage there’s much more of a focus on fraud . . . The questions are a lot more about credibility and fraud than developing the claim. Other offices are actually interested in developing the claim. [This] can derail your interview.”¹¹⁷ A former New York Asylum Officer described the fraud unit in New York as “on steroids.”¹¹⁸

One former New York Asylum Officer alleged that the fraud unit at the New York Asylum Office would make broad and baseless generalizations about applicants. For example, this officer said that the fraud unit once informed him that they “suspected an applicant of being a gang member” based solely on where the person lived, where they were from, and their age. “I remember even asking them, like, do you have any other basis for your suspicions? And no, solely . . . where they resided and where they were from.”¹¹⁹

Bethpage’s preoccupation with fraud contributes to the culture of referral. Some New York Asylum Officers said that they became resigned to the idea that trying to root out fraud was too complicated and time consuming. Therefore, they would refer those cases to avoid trying to ascertain the veracity of an applicant’s case. As one former asylum officer explained, there is “sort of an attitude to say, let the courts figure it out if it’s all a lie.”¹²⁰

¹¹³ U.S. Att’y’s Off. S.D.N.Y., Attorneys and Managers of Fraudulent Asylum Scheme Charged in Manhattan Federal Court, <https://www.justice.gov/usao-sdny/pr/attorneys-and-managers-fraudulent-asylum-scheme-charged-manhattan-federal-court>.

¹¹⁴ Interview with a New York immigration attorney.

¹¹⁵ NPR, Planet Money, Thousands Could Be Deported As Government Targets Asylum Mills’ Clients,

<https://www.npr.org/sections/money/2018/09/28/652218318/thousands-could-be-deported-as-government-targets-asylum-mills-clients>.

¹¹⁶ Interview with a former New York Asylum Officer.

¹¹⁷ Interview with a New York immigration attorney.

¹¹⁸ Interview with a former New York Asylum Officer.

¹¹⁹ Interview with former New York Asylum Officer.

¹²⁰ Interview with a former New York Asylum Officer.



XV. "What's the point of any of this?"

“ *The whole point of the [asylum system] was to **reduce the amount of people going to immigration courts.** If people are just going to end up in immigration court anyway, **what's the point of any of this?***

— Former Senior Asylum Division Employee¹²¹

When an asylum office refers a case, that case does not disappear – it is transferred to the docket of an immigration judge who conducts a *de novo review*, meaning that the judge re-evaluates the case from scratch.¹²² Therefore, when an asylum office like New York, refers asylum seekers with legitimate asylum claims to immigration courts, that office is not only failing its mission, it is also shifting the burden to another government agency that is itself severely backlogged. Currently, immigration courts face a backlog of more than 2 million cases nationwide.¹²³

New York immigration judges have expressed frustration at hearing cases that were clearly legitimate and should have been granted by the New York Asylum Office. According to one attorney, a New York judge reacted angrily that the New York Asylum Office had referred a clear grant to her court. “‘You’re . . . kidding me?’ That literally is what [the judge] said when we were in court . . . ‘I have to waste time out of everyone’s life and hear this case?’ The judge granted the case in five minutes. We had judges many times say, why in the world am I getting these cases?”¹²⁴

In public liaison meetings between New York Asylum Office leadership and immigration attorneys and advocates, office leadership has rejected the feedback that Asylum Officers are referring legitimate asylum cases to immigration courts, even when those asylum seekers go on to receive a grant from an immigration judge. According to one longtime New York immigration attorney, Bethpage leadership has been “very defensive” to the criticism that they are burdening the courts with claims that should have been granted by their office.¹²⁵ However, nationally, 76% of affirmative asylum applicants who are referred by an asylum office to an immigration court are ultimately granted asylum by an immigration judge.¹²⁶ This statistic underscores the idea that the asylum seeker had a legitimate claim to begin with. Attorneys say that, if the New York Asylum Office properly adjudicated asylum claims, the burden on New York immigration courts would ease substantially.

¹²¹ Interview with former Asylum Division employee.

¹²² U.S. Cit. & Imm. Serv., Obtaining Asylum in the United States, <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/obtaining-asylum-in-the-united-states>.

¹²³ TRAC Immigration, Immigration Court Backlog Tool, https://trac.syr.edu/phptools/immigration/court_backlog/ (as of September 28, 2023, there are 2,097,244 cases pending before immigration courts across the country).

¹²⁴ Interview with a New York immigration attorney.

¹²⁵ Interview with a New York immigration attorney.

¹²⁶ TRAC Immigration, Speeding Up the Asylum Process Leads to Mixed Results (Nov. 29, 2022), <https://trac.syr.edu/reports/703/> (“Over three-quarters (76%) of cases USCIS asylum officers had rejected were granted asylum on rehearing by Immigration Judges.”).



XVI. Preference for Immigration Court

“ *I would have skipped this horrible experience at the asylum office, and just go **directly to court** because **the judge was more professional**, she listened to my answers, she seemed to understand.*

— Daniela, Asylum Seeker¹²⁷

“ *To be really honest, the asylum office is a much more difficult place than immigration court . . . **[New York] Asylum Officers do not know the law.***”

— New York Immigration Attorney¹²⁸

We were surprised to hear from multiple attorneys and asylum seekers that they preferred their experience in immigration court over their experience at the New York Asylum Office. This is surprising because the asylum office is supposed to be non-adversarial. There are no attorneys representing the government who challenge the asylum seeker's evidence. Whereas immigration court is adversarial and thus can be quite intimidating. In court, an asylum seeker sits in a witness box, before a judge, while a government attorney cross-examines the asylum seeker about the details of their claim. And yet, attorneys and asylum seekers we spoke with preferred the immigration court to the New York Asylum Office for several reasons. "There's no question . . . that immigration court [is] far more fair than most of the officers at Bethpage," said one attorney.¹²⁹

Firstly, as discussed above, these attorneys and asylum seekers say that despite the non-adversarial mandate, the New York Asylum Office can be quite adversarial and some asylum officers can demonstrate an alarming lack of knowledge about asylum law. "Immigration judges have a stronger understanding of the law. . . I get the impression that some asylum officers really don't understand it," said one attorney.¹³⁰

But several attorneys cited a lack of transparency at the New York Asylum Office as a central reason why they prefer immigration court. If an immigration judge is not going to grant a case, one attorney explained, the judge must provide their reasoning. Not so at the New York Asylum Office explained an attorney:

*"Things feel a lot more transparent in immigration court . . . with the asylum office, you have no idea like, did the asylum officer even understand the claim? Were they using the right legal standards? Did they understand the facts? You have no idea because all you get is like . . . less than a paragraph explanation for the referral."*¹³¹

The frustration with the lack of transparency was a common refrain among longtime immigration attorneys: "I would rather be in front of a bad judge than a good asylum officer half the time, because even [with] a bad judge . . . I can make a record and it's being recorded and I can appeal."¹³² Another attorney described a lack of transparency around all sorts of issues, whether about scheduling, or substantive issues with an asylum seeker's case: "They lack all accountability. There is never anywhere

¹²⁷ Interview with an asylum seeker.

¹²⁸ Interview with a New York immigration attorney.

¹²⁹ Interview with a New York immigration attorney.

¹³⁰ Interview with a New York immigration attorney.

¹³¹ Interview with a New York immigration attorney.

¹³² Interview with a New York immigration attorney.

near a satisfying response . . . whether that's [to] 'why is my client waiting seven years for an interview', to 'your officer does not know the law'. . . the responses are always 'Thank you for your correspondence.' . . . [there's] no indication that any real attention has been paid."¹³³

Another attorney said that while the office sometimes returns emails, "reaching someone on the phone, [is] impossible . . . If you have a question that needs to be answered, it's just like a total [black] box. Like you can't get to them."¹³⁴ Yet another attorney said that the New York Asylum Office offers "almost no information."¹³⁵ Another attorney contrasted the New York Asylum Office with the Newark Asylum Office: "Newark's open. They're responsive to their email. You kind of know their names . . . Bethpage is opaque. They're not responsive . . . I don't think they care. I don't think they believe in accountability."¹³⁶

Hana, an asylum seeker at the New York Asylum Office described the impact of this lack of transparency on her life. Hana had a well-documented case. However, after her interview she waited four years for a decision from the New York Asylum Office. During that time, she received generic answers from the office with a notice that her case was pending. She described the years-long wait for a decision "like living behind bars . . . there's nothing you can do. And you don't know what is happening and why it's taking this long."¹³⁷

Finally, in immigration court, the asylum seeker's attorney has a clear role and an opportunity to state their case. At the New York Asylum Office attorneys can be sidelined and told to remain quiet throughout the interview. "They shut you down," said one attorney, "They don't let you participate."¹³⁸

Asylum seekers agreed that the process in court, while more intimidating, was also fairer. For instance, Petra, an asylum seeker who was told she did not have a valid asylum claim by the New York Asylum Office, was referred to immigration court in 2018. Petra waited for three and a half years for an immigration judge to hear her case. Despite the long wait and the specter of deportation hanging over her head, she adamantly expressed that she preferred her experience in court to her New York Asylum Office interview: "I felt very calm because I was in front of justice."¹³⁹ She was granted asylum that day in immigration court.

¹³³ Interview with a New York immigration attorney.

¹³⁴ Interview with a New York immigration attorney.

¹³⁵ Interview with a New York immigration attorney.

¹³⁶ Interview with a New York immigration attorney.

¹³⁷ Interview with a New York immigration attorney.

¹³⁸ Interview with an asylum seeker.

¹³⁹ Interview with a New York immigration attorney.

¹⁴⁰ Interview with an asylum seeker.

This is a common story. Gustavo, another asylum seeker from Venezuela who was referred by the New York Asylum Office in 2017 was granted asylum five years later by an immigration judge. Another asylum seeker, Daniela, said that she would have skipped the asylum office altogether had she known that the immigration judge would be so much “more professional.”¹⁴¹

¹⁴¹ Interview with an asylum seeker.



XVII. Conclusion

Overall, people familiar with the policies and practices of the New York Asylum Office say that the office grants so few cases due to a simple, yet pernicious, matter of bureaucracy: granting a case takes more time than referring that case to immigration court. New York Asylum Office leadership pressures asylum officers to move through interviews as quickly as possible and asylum officers fear retaliation or termination if they cannot keep up a pace that they describe as damaging and unrealistic. Asylum officers are incentivized to refer cases because their performance is assessed in part on their ability to adjudicate asylum cases quickly. Therefore, some asylum officers refer cases even when they believe the asylum seeker has a valid legal claim for asylum. The New York Asylum Office is obsessed with performing a sort of pseudo-productivity by moving asylum seekers as quickly as possible out of their purview and onto the docket of another government agency. One attorney with decades of experience representing clients before the New York office said, “they really do not care” if cases are properly adjudicated: “The only thing that’s important to them is that the system continues to ride onwards, whether it’s remotely productive or counter-productive, they do not care.”¹⁴²

Some asylum officers feel that they are participating in an unethical system, while others simply feel that they are drowning in work. Asylum officers who came into the job with a humanitarian outlook either burn out or learn to comply with the pace. One former officer said: “I always felt like I was falling behind because I was doing a careful job. And I thought if [I increased my pace] I would be sacrificing the quality of my work.”¹⁴³ High staff turnover at the New York Asylum Office means that these conditions are more likely to self-perpetuate.

The agencies tasked with oversight of the New York Asylum Office have turned a blind eye to the toxic environment at the office. These practices mean that the New York Asylum Office is in danger of rendering itself irrelevant; a perfunctory and unnecessarily retraumatizing stop for the vast majority of asylum seekers on their way to immigration court.

¹⁴² Interview with New York immigration attorney.

¹⁴³ Interview with former New York Asylum Officer.



XVIII. Recommendations

The New York Asylum Office is in danger of failing its core constituencies and its mission. The following recommendations stem from our interviews with former New York Asylum Office employees, asylum seekers, attorneys, and other advocates, many of whom have years of experience with the New York Asylum Office. We have also incorporated recommendations from longtime advocates who work with asylum seekers in New York:

1. Change at the top:

A transition to new leadership at the New York Asylum Office. These new leaders should focus on reforming the toxic office culture of fear, and on a plan to retain asylum officers. We strongly urge that USCIS hire new leadership from outside of the New York Asylum Office. Hiring people with no previous connection to the New York Asylum Office will convince stakeholders, including current asylum officers and advocates, that USCIS is sincere in its reform efforts.

2. Train security officers to be more humane to asylum seekers:

Security guards should demonstrate empathy and patience with asylum seekers, including non-English speakers, persons with disabilities, families, children, and more.

3. Security guards and other frontline staff should speak languages other than English:

Frontline staff at the New York Asylum Office should speak languages other than English, like Spanish or Chinese. According to FOIA data obtained by Human Rights First, between October of 2015 and May of 2021, more than 40% of affirmative asylum seekers at the New York Asylum Office were from Spanish-speaking countries. Another roughly 20% of asylum seekers during this period were Chinese.¹⁴⁴ When frontline staff cannot communicate with asylum seekers in a language they understand, there is more tension, confusion and inefficiency permeating the experience for asylum seekers and the office culture in general.

4. Make the New York Asylum Office accessible:

Relocate the office to a more central location that is accessible by public transportation. Until the relocation is feasible, the New York Office should implement practical transportation solutions such as linking the interview schedule with the Long Island Railroad schedule and providing regular shuttle services between central locations and the office. In the alternative, the New York Asylum Office could set up a satellite office within New York City to interview applicants who live within city limits. Recently, the Newark Asylum Office set up

¹⁴⁴ Data on file with the Safe Harbor Clinic; Human Rights First, USCIS Records Reveal Systemic Disparities in Asylum Decisions (May 18, 2022), <https://humanrightsfirst.org/library/uscis-records-reveal-systemic-disparities-in-asylum-decisions/>.

a satellite office in Manhattan, so there is precedent for the New York Asylum Office to follow. These adjustments would ease the burden of traveling to Bethpage on asylum seekers, attorneys, and asylum officers.

5. Treat Asylum Seekers more humanely:

USCIS's training manual reminds asylum officers that an asylum interview "may be a pivotal point in an interviewee's life." And while an asylum officer may not remember every person they interview, an asylum seeker's experience at the asylum office "may shape their opinion of the U.S. government . . . for years to come."¹⁴⁵ With this in mind, New York Asylum Officers should treat asylum seekers with patience, humanity, and dignity. New York Asylum Office leadership should encourage and reward this behavior, rather than implement policies that discourage it. Asylum officers should never yell at applicants or refuse them a short break during an interview. They should also refrain from asking deliberately confusing questions in an effort to trip up asylum seekers. In short, asylum officers should abide by their non-adversarial mandate and treat people like human beings to foster an environment that encourages applicants to feel comfortable.¹⁴⁶ This recommendation can be implemented immediately, it costs nothing, and it would dramatically impact people's experience at the New York Asylum Office.¹⁴⁷

6. Mentoring for Asylum Officers:

Former New York Asylum Officers discussed how the lack of mentorship and support at the New York Asylum Office made their already difficult jobs, even more unmanageable. Without sufficient support and ongoing mentorship, officers face the complicated task of assessing asylum cases with little guidance or help. We suggest implementing policies that promote open communication, teamwork, mentorship from more senior officers, and constructive feedback. Such changes may promote staff retention and morale.

7. Improve and streamline current processes:

This can be done in several ways, such as: (a) pre-assigning cases so that officers are better prepared to evaluate claims and wait times are reduced for applicants; (b) streamlining interviews so that they take less time by focusing less on mechanical, rote questions and more on substance; (c) outsourcing security checks to be done before applicants arrive for their interviews, so officers have more time to familiarize themselves with the substance of the asylum claim; and (d) returning to the previous practice of issuing decisions to applicants within 14 days of the interview.

¹⁴⁵ U.S. Cit. & Imm. Serv., Interviewing—Introduction to the Non-Adversarial Interview, Training Module, at 13 (Dec. 20, 2019), https://www.uscis.gov/sites/default/files/document/foia/Interviewing_-_Intro_to_the_NonAdversarial_Interview_LP_RAIO.pdf.

¹⁴⁶ *Id.*

¹⁴⁷ This recommendation is based on our interviews with asylum seekers, attorneys, and former asylum officers. Repeatedly, people recounted an asylum officer's harsh demeanor or their refusal to take a moment to listen to an asylum seeker's explanation. We have also based this recommendation on the work of the Asylum Seeker Advocacy Project which surveyed its asylum seeker members. More than 79,000 asylum seekers responded to a question about how they would change the asylum process. Among the top 5 suggestions was "Asylum seekers should be treated more humanely." Asylum Seeker Advocacy Project, 5 Ways to Change the Asylum Process, Asylum Seeker Advocacy Project, <https://help.asylumadvocacy.org/5-ways-to-change-the-asylum-process/>.

7. Oversight from RAIO and USCIS:

No asylum office should be a fiefdom. RAIO and USCIS must provide more oversight of the New York Asylum Office with a focus on assuring a functional office culture, decreasing attrition rates among office staff, and preventing office leadership from running the office with impunity.

8. Transparency and responsiveness to stakeholders:

When attorneys and asylum seekers contact the New York Asylum Office, leadership should be responsive and transparent. The New York Asylum Office should be clear and transparent about the process and timeline by which stakeholders can expect a response from the New York Asylum Office. Also, the office should provide clear reasoning and explanations when they respond to stakeholders.