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HUMANITARIAN ASSISTANCE

Status of North Korean Refugee Resettlement and Asylum in the United States



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Highlights of [GAO-10-691](#), a report to congressional requesters

Why GAO Did This Study

Famine killed hundreds of thousands of North Koreans in the 1990s and compelled a large number of others to leave in search of food, economic opportunities, and escape from a repressive regime. This migration continues. Some North Koreans seek resettlement in other countries, such as South Korea and the United States. To promote a more durable humanitarian solution to the plight of North Korean refugees, Congress passed the North Korean Human Rights Act in 2004. In reauthorizing the Act in 2008, Congress found that delays in processing North Korean refugees have led refugees to abandon their quest for U.S. resettlement. GAO was asked to (1) assess the U.S. government’s efforts to facilitate the processing of North Korean refugees who request resettlement in the United States from overseas, and (2) determine the number of North Koreans who have sought asylum to remain in the United States and the process by which they may do so. GAO is issuing a separate classified annex to this report. GAO analyzed data on North Korean refugees and asylees, interviewed agency officials, and conducted fieldwork in Asia.

This report does not contain recommendations. The Departments of State (State), Homeland Security, and Justice provided technical comments and GAO incorporated these comments, as appropriate.

[View GAO-10-691](#) or [key components](#). For more information, contact Thomas Melito at (202) 512-9601 or melitot@gao.gov.

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What GAO Found

The U.S. government has taken actions to facilitate the U.S. resettlement of North Korean refugees from overseas, but processing times did not improve from fiscal years 2006 to 2008 due in part to some host countries’ policies. The United States opened cases for 238 North Korean refugee applicants from October 2004 through March 2010, and 94 of these North Koreans arrived in the United States. As part of its recent actions to facilitate the processing of North Korean refugees, State has placed a high priority on these cases and provided additional staff time and resources to process these cases. However, according to U.S. officials, some U.S. requirements, such as conducting and clearing security checks, can delay U.S. processing. According to officials from the U.S. government and international organizations, the policies of some host countries also can affect U.S. processing of North Korean refugees. For example, some host countries delay granting North Korean refugees permission to leave their countries. Average processing times for North Koreans did not improve from fiscal years 2006 to 2008, the most recent year for which complete data were available (see below). State officials said that one host country limited U.S. government access to North Koreans in fiscal years 2007 and 2008, resulting in longer average processing times for cases created in those years. While processing times for North Koreans were lower in fiscal year 2006 than those of some other refugee populations, the processing times were generally comparable in fiscal year 2008.

Average Time to Process North Korean Refugees, Fiscal Years 2006 to 2008			
Case creation to U.S. arrival	FY 2006	FY 2007	FY 2008
Number of North Koreans who arrived in the United States (by year of case creation)	27	48	10
Average (number of days)	133	399	314

Source: GAO analysis of data from the Department of State, Refugee Processing Center.

From October 1, 2004, through March 2, 2010, at least 33 North Koreans have sought asylum protection to remain in the United States, but the actual number is likely higher. Of the 33 North Koreans, 9 individuals have been granted asylum, 15 are still pending, and 9 are categorized as “other decisions,” meaning their cases have been denied, dismissed, or withdrawn, according to U.S. Citizenship and Immigration Services (USCIS) data. The actual number of individuals is likely higher for several reasons including agencies’ difficulties in compiling information. North Koreans can seek asylum protection through two processes—the affirmative or the defensive. In the affirmative process, individuals who are physically in the United States may present an asylum application to USCIS and undergo a non-adversarial interview to determine their eligibility for asylum. In the defensive process, applicants request that the Department of Justice grant them asylum as a defense against removal from the United States. USCIS data do not include information on North Koreans who first claimed asylum before an Immigration Judge in the defensive process.

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Abbreviations

DHS	Department of Homeland Security
DOJ	Department of Justice
DRL	Bureau of Democracy, Human Rights, and Labor
EOIR	Executive Office for Immigration Review
HHS	Department of Health and Human Services
ICE	U.S. Immigration and Customs Enforcement
INA	Immigration and Nationality Act
IOM	International Organization for Migration
NGO	Nongovernmental Organization
NKHRA	North Korean Human Rights Act
OPE	Overseas Processing Entity
ORR	Office of Refugee Resettlement
PRM	Bureau of Population, Refugees, and Migration
RAPS	Refugees, Asylum, and Parole System
State	Department of State
UNHCR	United Nations High Commissioner for Refugees
USCIS	U.S. Citizenship and Immigration Services
USRAP	U.S. Refugee Admissions Program
WRAPS	Worldwide Refugee Admissions Processing System

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United States Government Accountability Office
Washington, DC 20548

June 24, 2010

The Honorable John Kerry
Chairman
Committee on Foreign Relations
United States Senate

The Honorable Sam Brownback
United States Senate

Famine killed hundreds of thousands of North Koreans in the 1990s and compelled a large number of others to leave in search of food, economic opportunities, and escape from a repressive regime with a history of human rights abuses.¹ This migration continues up to this day. The estimated number of North Koreans outside of the country has ranged from the thousands to the hundreds of thousands at any given time, according to nongovernmental organizations (NGO) and scholars. Some of the North Koreans who have escaped from North Korea desire to seek resettlement in other countries, such as the Republic of Korea (known as South Korea)² and the United States,³ where they may be eligible for resettlement benefits.⁴ North Korean refugees often face difficult and dangerous journeys transiting to countries where they can seek resettlement. Along the way, they are vulnerable to forced repatriation, human trafficking, and lack of protection from the countries they transit

¹An estimated 600,000 to over 2 million North Koreans were killed by the famine. Department of State and nongovernmental organization reports have described these conditions. For example, see *Final Report of Jay Lefkowitz, U.S. Special Envoy for Human Rights in North Korea*, January 17, 2009.

²The constitution of the Republic of Korea, known as South Korea, states that the territory of South Korea shall consist of the Korean Peninsula and its adjacent islands. According to South Korean officials, since the South Korean constitution considers all Koreans on the Korean Peninsula, including North Koreans, to be citizens of South Korea, North Koreans generally are entitled to South Korean citizenship, with some exceptions.

³North Koreans may seek resettlement in the United States as refugees. The U.S. Immigration and Nationality Act (INA), as amended, defines a refugee as "any person who is outside any country of such person's nationality who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." See 8 U.S.C. § 1101(a)(42).

⁴See app. II for a description of these benefits.

through.⁵ North Koreans face various economic, linguistic, social, medical, and other challenges when resettling in the United States and South Korea. However, some North Koreans have overcome these challenges and achieved accomplishments such as obtaining higher educational degrees.⁶

To promote a more durable humanitarian solution to the plight of North Korean refugees, Congress passed the North Korean Human Rights Act (NKHRA) in 2004.⁷ This act

- Authorized, in addition to funds otherwise available for such purposes, up to \$20 million for each of the fiscal years 2005 through 2012⁸ to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the North Korean government. These include refugees, defectors, migrants, orphans, and victims of human trafficking. The act defined humanitarian assistance as assistance to meet humanitarian needs, including, needs for food, medicine, medicinal supplies, clothing, and shelter. (See classified annex for details on the Department of State's (State) humanitarian assistance to North Koreans outside of North Korea.)⁹
- Clarified that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship that they may enjoy under the South Korean constitution.¹⁰ According to State, historically the United Nations High Commissioner for

⁵Report to the U.N. General Assembly on the *Situation of Human Rights in the Democratic People's Republic of Korea*, August 22, 2008, A/63/322 and Report to the Human Rights Council on the *Human Rights Situation that Require the Council's Attention*, February 24, 2009, A/HRC/10/18.

⁶See app. III for a more detailed discussion of some of the challenges that resettled North Koreans have faced assimilating in South Korea and the United States, as well as successes some resettled North Koreans have achieved.

⁷Pub. Law No. 108-333, October 18, 2004.

⁸The act originally authorized funding through 2008 but the North Korean Human Rights Reauthorization Act of 2008 extended the authorization through 2012. See Pub. Law No. 110-346, Sec. 10, October 7, 2008.

⁹GAO-10-690C.

¹⁰Under U.S. law, the legal standard for a refugee and asylee are the same, but noncitizens must apply for refugee status from outside the United States, and for asylum status from within the United States. See 8 U.S.C. § 1101(a)(42)(A) and 8 U.S.C. § 1158(b)(1).

Refugees (UNHCR) and the international community, including the United States, have viewed South Korea as the resettlement country of choice.

- Instructed the Secretary of State to facilitate the submission of applications for admission of North Koreans seeking protection as refugees. Prior to 2004, the United States had not resettled any North Korean refugees in the United States.

In reauthorizing the NKHRA in 2008,¹¹ Congress found that few North Korean refugees had resettled in the United States as opposed to South Korea¹² from 2004 to 2007, and extensive delays in assessing and processing the applications of North Korean refugees for resettlement in the United States had led refugees to abandon their quest for resettlement in the United States. In addition, Congress found that the number of North Koreans to whom the United States had granted asylum was fewer than the number of North Koreans who had been granted asylum in other countries.¹³ Based on your request, we (1) assessed the U.S. government's efforts to facilitate the processing of North Korean refugees who request resettlement in the United States from overseas, and (2) determined the number of North Koreans who have sought asylum to remain in the United States and the process by which they may do so. We are also issuing a separate classified annex that provides additional information pertaining to North Korean refugees.

To assess how the U.S. government processes North Korean refugees, we reviewed documents from State and the Department of Homeland Security (DHS) related to the U.S. Refugee Admissions Program (USRAP). We also interviewed officials from State, DHS, and international organizations in Washington, D.C. and Asia as well as the regional Overseas Processing Entity (OPE) that processes refugee applications to understand the various steps in overseas and domestic refugee processing. We also analyzed data from State's Worldwide Refugee Admissions Processing System (WRAPS) to determine the processing times for North Korean

¹¹North Korean Human Rights Reauthorization Act of 2008, Pub. Law No. 110-346, October 7, 2008.

¹²App. IV provides data on North Koreans who have resettled in South Korea.

¹³North Koreans have sought humanitarian protection, which includes refugee status, asylum status, and other immigration statuses extended on humanitarian grounds, in other countries besides the United States and South Korea. See app. V.

refugees.¹⁴ We calculated the processing times for North Korean cases created between fiscal years 2006 and 2008 to show the total number of days between case creation and arrival in the United States. We do not include cases created in fiscal year 2009 because all the refugees have not arrived in the United States and thus the data are not complete. In addition, we calculated the processing times for North Korean cases created between fiscal years 2006 and 2009 to show the total number of days between case creation and DHS approval, which occurs before a refugee arrives in the United States, because the data are complete through this step. To determine the number of North Koreans who have sought asylum to remain in the United States and the process by which they may do so, we reviewed documentation and data from U.S. Citizenship and Immigration Services (USCIS) and U.S. Immigration and Customs Enforcement (ICE) within DHS and from the Executive Office for Immigration Review (EOIR) within the Department of Justice (DOJ). We also interviewed officials from these agencies and reviewed relevant statutes. We conducted this performance audit from August 2009 to June 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix I provides a detailed description of our scope and methodology.

Results in Brief

The U.S. government has taken actions to facilitate the U.S. resettlement of North Korean refugees from overseas, but processing times did not improve from fiscal years 2006 to 2008, due in part to some host countries' policies. The U.S. Refugee Admissions Program opened cases for 238 North Korean refugee applicants from October 2004 to March 2010. Ninety-four individuals arrived in the United States, 107 withdrew their applications, 18 were rejected or denied, and 5 individual cases were closed. In addition, 14 individual cases were pending, including 9 that were on hold awaiting medical or other clearances. Within the last few years, State has taken actions to facilitate the processing of North Korean refugees by placing a high priority on North Korean cases, and providing

¹⁴For the purposes of this report, the term "processing time" refers to the time that elapses between the creation of a case for a refugee to be considered for resettlement in the United States and the arrival of the refugee in the United States.

additional staff time and resources to process these cases. For example, State and OPE officials said that in 2006, State created and funded a Korean-speaking special caseworker at the regional OPE to focus specifically on North Korean cases because they require more time than other refugee cases. According to officials from the U.S. government and international organizations, the policies of some host countries can affect U.S. processing of North Korean refugees. For example, some host countries delay granting exit permission for North Korean refugees, or do not recognize any North Koreans as “refugees” and limit access to them, according to U.S. officials. Total average processing times—from the time the case was created to the time of the North Korean’s arrival in the United States—did not improve for the 85 individual cases created in fiscal years 2006 through 2008 that arrived in the United States. Processing times increased from an average of 133 days in fiscal year 2006 to an average of 314 days in fiscal year 2008. State officials said that one host country limited U.S. government access to North Koreans in fiscal years 2007 and 2008, which resulted in longer average processing times for cases created in those years. For those stages in the overseas process that are primarily handled by the U.S. government, we also found that average processing times did not improve. In addition, while processing times for North Koreans were lower in fiscal year 2006 than those of some other refugee populations, processing times were generally comparable in fiscal year 2008.

From October 1, 2004, to March 2, 2010, at least 33 North Koreans—including their dependents (some of whom may not be North Korean)—have sought asylum protection to remain in the United States, but the actual number of cases is likely higher for several reasons including agencies’ difficulties in compiling asylum information. North Koreans can seek asylum protection through two processes known as the affirmative and the defensive. In the affirmative asylum process, individuals who are physically in the United States, regardless of how they arrived or their current immigration status, may present an asylum application to DHS/USCIS and undergo an affirmative—or non-adversarial—interview to determine their eligibility for asylum. In the defensive asylum process, applicants request asylum as a defense against removal from the United States and can be held in detention while their case is processed. Individuals generally enter the defensive asylum process in one of three ways: (1) as a referral to an EOIR Immigration Judge following a finding of ineligibility in an affirmative asylum application; (2) by claiming, at a U.S. border, a credible fear of persecution or torture if returned to their home country after being placed in expedited removal proceedings; or (3) during removal proceedings as a defense to removal. Of the 33 North Koreans

DHS/USCIS identified as having applied for asylum in the United States since fiscal year 2005 through either the affirmative asylum or credible fear process, 9 individuals have been granted asylum. However, the actual number of cases is likely higher than 33 because the individuals identified by DHS/USCIS include only those whose claims originated with USCIS in the affirmative process or were interviewed by a DHS/USCIS asylum officer at the border to determine whether or not the individual had a credible fear of persecution or torture. The DHS/USCIS data do not include information on North Koreans who first claimed asylum before an EOIR Immigration Judge during removal proceedings.

Background

Estimates of the North Korean Population Outside of North Korea Vary

Estimates of the numbers of North Koreans outside of North Korea have varied widely over the past decade, according to NGOs and scholars. Estimates have ranged from 6,000 to over 300,000, depending on the source of the data and the time period in which the data were collected. Scholars and NGOs said that a number of factors can contribute to the variance in the estimates, including the following:

- *Some countries in the region limit access to the North Korean population, thereby preventing NGOs, international organizations, and scholars from collecting comprehensive data.* The UNHCR, the UN agency dedicated to the protection of refugees, has little access to North Korean refugees, according to UNHCR officials.¹⁵
- *Methodological variances among NGOs and scholars in accounting for the numbers of North Korean refugees.* In part because methodologies are not readily shared among those who collect data, estimates on the higher side could include North Koreans on the border who have been double-counted because of the two-way flow of migration across the border for economic purposes of finding work, according to scholars. Conversely,

¹⁵Article 35 of the 1951 Refugee Convention and Article II of the 1967 Refugee Protocol provide UNHCR with a role in supervising the application of those treaties. UNHCR's Statute (as adopted in UN General Assembly resolution 428(V) of Dec. 14, 1950) sets forth its mandate and provides the "foundation" for international refugee protection by UNHCR. According to the Convention, a refugee is a person who, "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."

scholars also said that some estimates might not include those North Koreans who transit through the region fairly quickly on their way to third countries for resettlement (see fig. 1).

Figure 1: Countries in East Asia and the Pacific



Source: Map Resources.

- *Difficulty obtaining comprehensive information on the estimates.* Scholars told us that because of the political sensitivities surrounding the North Korean population outside of North Korea, those collecting data on the population are hesitant to share their data for fear they will reveal their sources or compromise their operations in country. One scholar stated

that it would be helpful if information on estimates of North Koreans in the region could be shared among those collecting the data so that methodological approaches could be critiqued.

NGOs and scholars told us that, within the last couple of years, the flow of North Koreans out of North Korea has slowed due to the tightening of the border and stricter scrutiny of North Korean migrants. One recent estimate noted that the current number of North Koreans in the region might be between 6,000 and 16,000 at any given time. Despite the tightening of the borders, NGOs and scholars pointed out that North Koreans are still transiting through Asia to seek resettlement in other countries.

Composition of North Koreans Resettling in South Korea Has Changed over Time

According to NGOs and South Korean officials, the composition of North Koreans who have resettled in South Korea has changed over the past decade. While the ratio of male and female North Koreans arriving in South Korea in the early 2000s was closer to equal, South Korean data show that the number of female refugees has steadily increased, with 77 percent of the total number of refugees entering South Korea for resettlement being female in 2009. In addition, some of the more recent North Korean arrivals tend to be family members of those North Koreans who are already in South Korea. South Korean data indicate that 75 percent of North Koreans who arrived in South Korea recently range in age from 20 years to 40 years.

Various Entities Are Involved in the Processing and Resettlement of Refugees

The USRAP processes refugee applications for resettlement in the United States through an interagency effort involving a number of governmental and nongovernmental entities overseas and in the United States. Table 1 provides a description of these entities and their role in the USRAP process.

Table 1: Entities and Key Functions in U.S. Refugee Processing and Resettlement

Location	Entity	Function
Overseas	State/Bureau of Population, Refugees, and Migration (PRM)	Has overall management responsibility for USRAP, including referrals, background checks, and cooperative agreements with nongovernmental partners.
	OPE	Prescreens referrals and applications by collecting and verifying personal and family information, details of persecution or feared harm, and information for security checks. OPEs are international organizations or NGOs that operate under a cooperative agreement with State.
	DHS/USCIS	Interviews refugee applicants to determine their eligibility for U.S. admission.
Domestic	U.S. Resettlement Agencies	Place refugees with one of their affiliated offices and provide initial services for the refugees' first 30 to 90 days in the United States. They contribute cash or in-kind resources, such as employment services, to supplement U.S. government funding.
	U.S. Department of Health and Human Services (HHS)/Office of Refugee Resettlement (ORR)	Provides cash and medical assistance, employment services, English language training, and other support services.

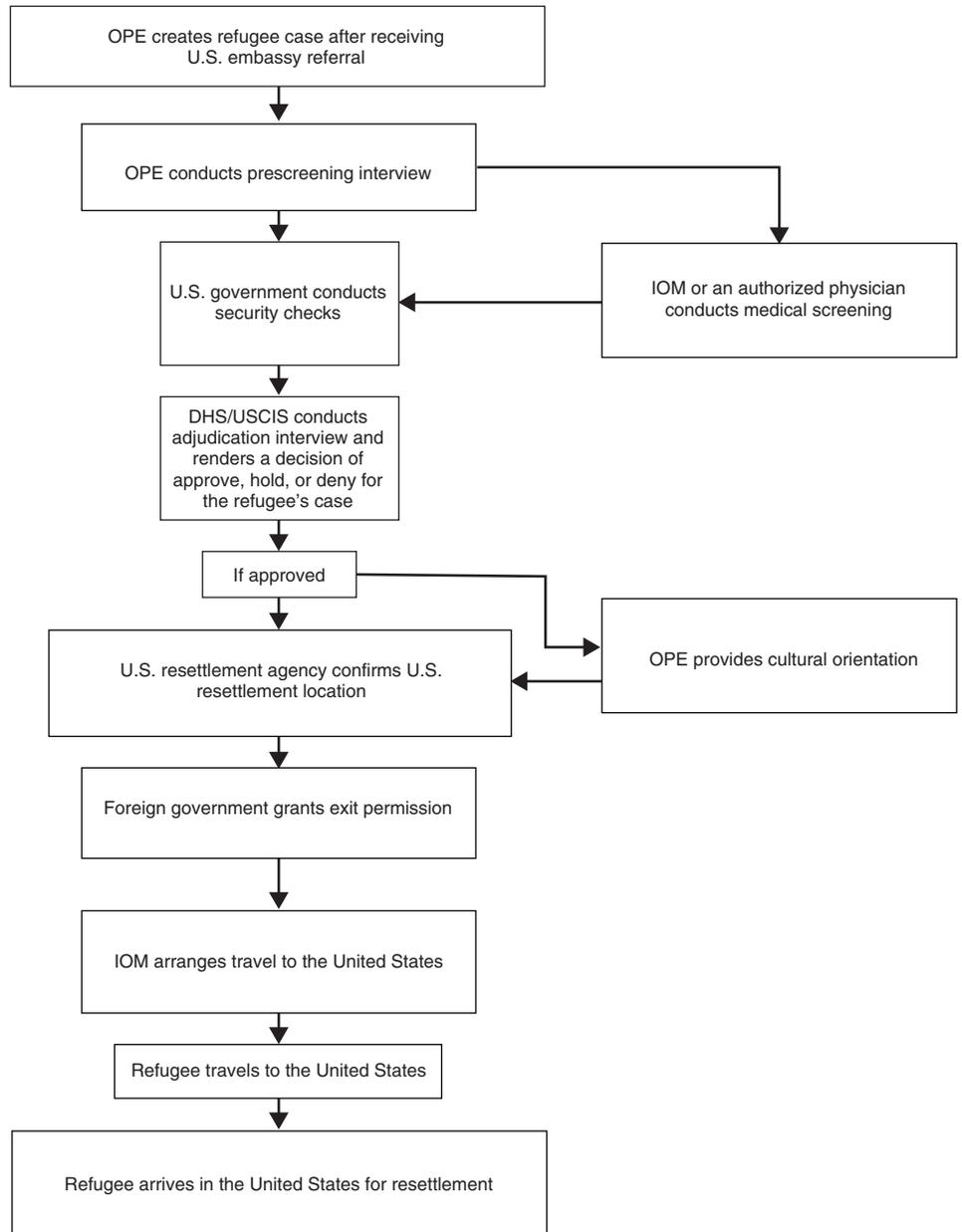
Source: GAO analysis of State, DHS, and HHS documents.

Note: DHS/USCIS officers (1) confirm the individual has access to the USRAP; (2) adjudicate the individual's claim, including past persecution or well-founded fear of future persecution; (3) review inadmissible criteria under the Immigration and Nationality Act (INA Section 212); and (4) review whether or not the individual has been firmly resettled in another country, which would be particularly relevant for North Koreans who have availed themselves of their South Korean citizenship.

USRAP's steps for processing North Korean refugees who have arrived in the United States for U.S. resettlement are shown in figure 2.¹⁶

¹⁶We provide additional details on USRAP's steps for processing North Korean refugee cases for U.S. resettlement in a classified annex to this report.

Figure 2: USRAP Steps for Processing North Koreans from Case Creation to Arrival in the United States for Resettlement



Source: GAO analysis of information provided by State, DHS, OPE, and IOM.

Note: In some cases, medical screening has occurred at the same time as the security checks and DHS/USCIS adjudication or before DHS/USCIS adjudication.

We provide further explanation of certain steps in the USRAP process below.

- *Case creation.* North Koreans generally request consideration as refugees from a U.S. embassy or from UNHCR. Under the USRAP, a U.S. embassy submits a P-1 referral¹⁷ to State/PRM in Washington, D.C., and the DHS/USCIS Refugee Affairs Division in Washington, D.C., and they must concur in the granting of the USRAP access to the refugee applicant. After this concurrence, State requests or authorizes the OPE to create the case in the State's WRAPS database. At this point, the refugee applicant begins the process for consideration for admission to the USRAP.
- *Security checks.* Once the OPE prescreening interview is completed, the OPE requests that U.S. government agencies conduct the required security checks.
- *DHS approval.* After the prescreening interview and usually after the security checks have been cleared, DHS/USCIS officers interview the refugee applicants and make a recommendation of either "approve," "hold," or "deny" for the case. The USCIS District Director or Deputy District Director must then review and agree with all recommendations before the case decision can be finalized.¹⁸ DHS/USCIS will not finalize approval for a case until all security checks have cleared. Once required security checks and medical screening are complete, and DHS/USCIS has determined that the refugee applicant is eligible for resettlement to the United States, the OPE confirms the resettlement location.
- *Exit permission.* After the United States has approved the refugee for resettlement and after the individual is ready to travel, the U.S. embassy or UNHCR requests exit permission from the government of the country where the refugee is being processed. According to U.S. officials involved in the processing of these cases, the exit permission process often entails ongoing communications with that government and can take several months.

¹⁷Priority 1 (P-1) includes all cases individually identified and referred to the USRAP by UNHCR, a U.S. embassy, or an NGO, according to State.

¹⁸Once the USCIS District Director or Deputy District Director approves or denies the decision for a North Korean, USCIS requires the USCIS field office to inform USCIS in Washington, D.C., of its decision.

-
- *Arrival in the United States.* Upon arrival in the United States, U.S. resettlement agencies and HHS provide eligible refugees with services and assistance, as noted in table 1.

Although the U.S. Government Has Taken Actions to Facilitate U.S. Resettlement of North Korean Refugees, Processing Times Did Not Improve

The USRAP opened cases for 238 North Korean refugee applicants from fiscal years 2005 to 2010, as of March 29, 2010. During this time period, the U.S. government, particularly State, took actions to facilitate the processing of North Korean refugees. However, the policies of some host countries affect U.S. processing times for North Korean refugees. From fiscal years 2006 to 2008, the most current year for which complete data were available, U.S. processing times did not improve. In addition, while processing times for North Koreans were lower in fiscal year 2006 than those of some other refugee populations, processing times were generally comparable in fiscal year 2008.¹⁹

The U.S. Refugee Admissions Program Processed North Korean Refugee Cases from Fiscal Years 2005 to 2010

The USRAP processed a total of 238 North Korean refugee applicant cases²⁰ from fiscal years 2005 to 2010, as of March 29, 2010. During this time period, 94 of these individuals arrived in the United States,²¹ 107 withdrew their applications, 18 were rejected or denied, and 5 individual cases were closed.²² In addition, 14 individuals were pending, including 9 that were on hold awaiting medical or other clearances. Figure 3 shows the status of North Korean refugee cases.

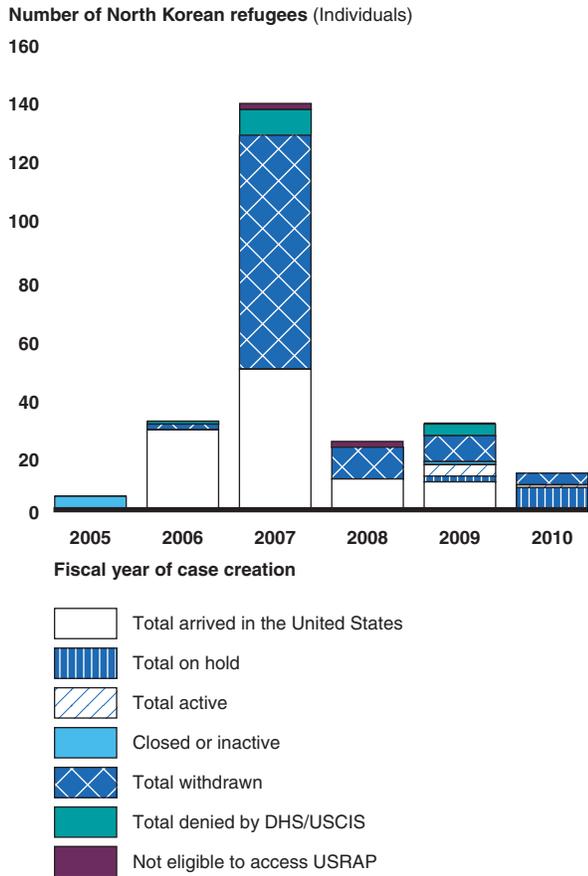
¹⁹We provide additional details pertaining to North Korean refugee processing in the classified annex to this report.

²⁰For the purposes of this report, the term “refugee case” refers to an individual, although State uses it to refer to a processing unit, which includes family members of principal applicants.

²¹Of these 94 individual refugee cases, 9 arrived in fiscal year 2006, 22 arrived in fiscal year 2007, 37 arrived in fiscal year 2008, 25 arrived in fiscal year 2009, and 1 arrived in fiscal year 2010. Five additional North Koreans arrived in the United States in April 2010, which is not reflected in the 94 arrivals because these individuals arrived after State provided us with case status data.

²²These five closed cases include deactivated and inactive cases and do not include cases that were closed because they were denied.

Figure 3: Status of North Korean Refugee Cases by Fiscal Year of Case Creation, as of March 29, 2010



Source: State Department, Refugee Processing Center, 2010.

According to State, many North Koreans withdrew their applications when they realized that (1) they would be found ineligible for consideration because they had already been firmly resettled²³ in South Korea or (2)

²³Generally an alien is considered to be “firmly resettled” if, prior to arrival in the United States, he or she entered into another country with, or while in that country received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement. 8 C.F.R. § 1208.15. For example, North Korean refugees who have availed themselves of their South Korean citizenship are considered firmly resettled in South Korea.

resettlement in South Korea was faster and entailed fewer requirements than U.S. resettlement.²⁴

All of the pending cases were created in fiscal years 2009 or 2010. These include active cases, some of which are awaiting exit permission, as well as cases that were put on hold. Cases may be on hold because they are awaiting medical clearance or clearance for other required security checks. According to U.S. and IOM officials, some North Korean applicants were required to complete medical treatment for tuberculosis, for which the U.S. Centers for Disease Control and Prevention requires 6 to 9 months of treatment before the U.S. government grants medical clearance and permission to travel to the United States.²⁵

The U.S. Government Has Taken Actions to Facilitate the U.S. Resettlement Process for North Korean Refugees

The U.S. government, particularly State, has taken actions to facilitate the U.S. resettlement process for North Korean refugees by placing a high priority on North Korean cases and providing additional resources to process these cases.

The U.S. Government Places a High Priority on the Processing of North Korean Cases

In response to the NKHRA, the U.S. government places a high priority on the overseas processing of North Korean refugee cases, specifically the processing stages involving OPE prescreening, security checks, DHS/USCIS interviews, and U.S. resettlement agencies.

- *OPE prescreening.* State has directed the OPE to prioritize the prescreening interviews of all North Korean cases at the start of the process. To do so, the OPE schedules and conducts the prescreening interview for North Korean cases before all other refugee cases on its list, according to OPE officials.
- *Security checks.* State has prioritized the security checks for some North Korean cases. State/PRM told us they usually expedite the security checks for some North Korean cases that have been pending for more than 2 or 3 months. Conducting and clearing security checks involve a number of

²⁴Eighty-one of these cases withdrew in fiscal year 2007. According to State, these cases were likely withdrawn due to the reasons cited.

²⁵Officials from State and international organizations have told us that this required medical treatment can lengthen processing times.

federal agencies, and this stage in USRAP can create delays in U.S. processing times, according to U.S. officials.²⁶

- *DHS/USCIS interviews.* State and DHS/USCIS prioritize North Korean cases by scheduling USCIS adjudication interviews with them before other refugee cases. According to DHS/USCIS officials, doing so can save a month or more in overall processing time. In addition, to expedite some North Korean cases that are urgent or of humanitarian concern, DHS/USCIS may conduct interviews before the security checks are cleared, whereas the standard protocol for most refugee populations is to conduct the USCIS interview afterwards.
- *U.S. resettlement agencies' assurance.* A final part of the process that State has prioritized is finding and confirming the resettlement location and resettlement agency support²⁷ for North Korean refugees who will soon arrive in the United States. For North Korean cases, State/PRM requests that U.S. resettlement agencies confirm the location and support upon arrival within 1 week, whereas this confirmation can take up to 4 weeks for other refugee populations, according to State/PRM.

The U.S. Government Provides Additional Staff Time and Resources to Process North Korean Refugees

The U.S. government provides additional resources to process North Korean refugee applicant cases. A State/PRM official told us that, overall, each North Korean case usually requires more of State's time and resources than a comparable refugee case from another country. According to another State/PRM official, North Korean cases at one point comprised 1 percent of State/PRM's caseload in the region but 20 percent of PRM's time. Since UNHCR is not permitted to access North Koreans in some of the countries in the region, State and DHS take over the refugee referral role. U.S. officials are also more involved in obtaining exit permission for North Koreans in some countries than they are for other

²⁶According to State/PRM and DHS/USCIS officials, conducting and clearing security checks can lengthen processing times for all populations that require these checks, and backlogs of security checks that were pending clearance have created delays for a number of refugee populations in the past, including North Koreans. Delays in clearing a security check can be caused by name duplication, multiple aliases, incomplete birth date or birthplace, and the addition of new and contradictory information provided by the refugee throughout the security check process. According to U.S. officials, a new security check must be conducted whenever a refugee introduces new or contradictory information in the fields identified above.

²⁷Resettlement agency support includes assistance provided to refugees to cover necessary expenses and living costs for the first 30 days in the United States. This assistance can last up to 3 months.

refugee populations for which UNHCR or IOM typically assists with this step of the process. Because North Korean refugee cases are more labor intensive than other refugee cases, State/PRM and OPE officials said that in 2006, State created and funded a Korean-speaking special caseworker at the regional OPE to focus specifically on North Korean cases. According to officials at the regional OPE, North Koreans are the only population to which this OPE dedicates a special caseworker. The special caseworker facilitates processing by often serving as an interpreter during the prescreening and DHS/USCIS interviews or interactions with U.S. staff. In addition, the special caseworker sends a biweekly status report to State/PRM and DHS/USCIS and, as of early 2010, was in the process of establishing monthly meetings with the North Koreans to update them on the status of their case. As a result, processing of these cases is now more efficient, according to U.S. and OPE officials. Additionally, officials from U.S. and international organizations must spend time traveling to different locations in the region to process some North Korean refugee applicants, since North Koreans are often housed in shelters or immigration detention centers located throughout the region rather than a few refugee camps concentrated in one country.²⁸ According to U.S. officials and international organizations, these trips can also lengthen the processing times for these cases.

Policies of Some Host Countries Affect U.S. Processing of North Korean Refugees

Some host countries' policies affect the processing of North Korean refugee cases, according to officials from the U.S. government and international organizations. For example:

- *Some host countries delay granting exit permission for North Korean refugees*, which can add months to overall processing times, according to U.S. officials. These officials also told us that some host countries often delay granting exit permission because they do not want to become “magnets” for more North Koreans and do not want to facilitate the movement of North Korean refugees from the host country to the United States. In addition, State officials told us that some host countries grant exit permission to North Koreans seeking resettlement in South Korea faster than those seeking U.S. resettlement, thus leading to faster processing times for the South Korean-bound North Koreans.

²⁸For example, U.S. processing of Burmese refugees is concentrated among refugee camps along the Thai-Burmese border.

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- *Some host countries consider North Korean refugee issues to be sensitive and prefer that these issues be handled discreetly, according to U.S. officials.* Due to these sensitivities, U.S. officials have told us that processing North Korean cases often requires a high level of U.S. involvement. For example, State officials described North Korean refugee cases in which the U.S. government and host countries communicated intensively over extended periods of time before the U.S. government received permission to process these cases or received exit permission in these countries. According to U.S. officials, one reason for these countries' reluctance to assist in the U.S. processing of North Korean cases is concern about creating tensions with the North Korean government.
 - *Some host countries do not recognize any North Koreans as "refugees" and limit access to them.* Some host governments consider North Koreans to be illegal or economic migrants, and thus do not offer them protection as refugees. Some of these countries are also not parties to the UN Protocol and Convention on Refugees and do not allow UNHCR access to North Korean refugees, according to UNHCR officials. In some of these countries, UNHCR does not assist the United States during the processing of North Korean refugee applicant cases. U.S. and OPE officials told us that some countries can also limit U.S. government and international organizations' access to North Korean refugee applicants by requiring them to request permission for meetings with these refugees during processing, which can cause delays.

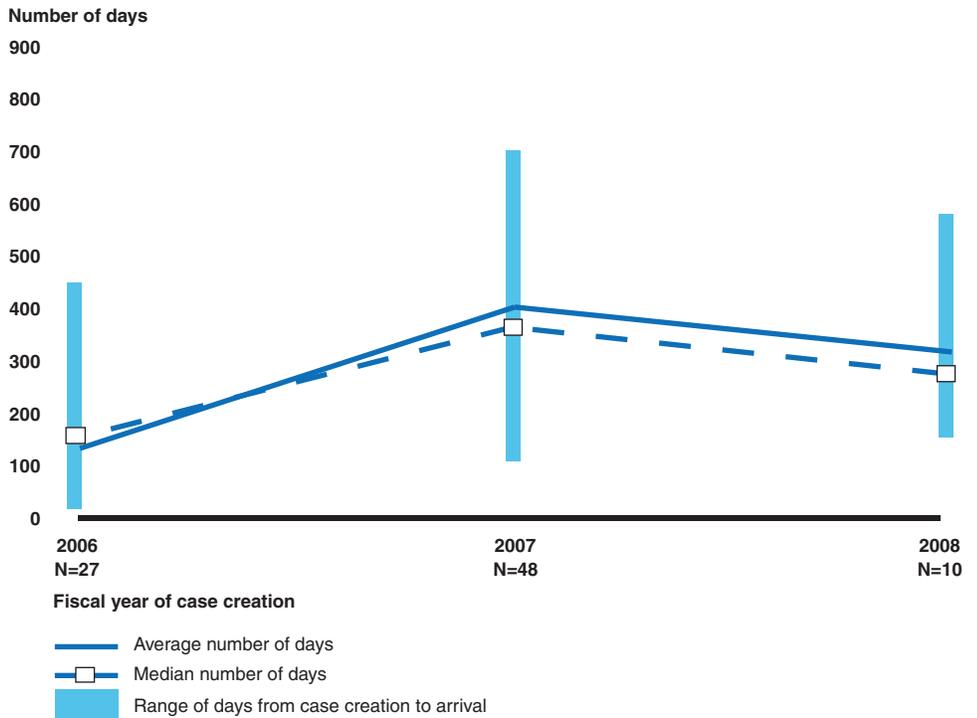
U.S. Processing Times for North Korean Refugees Did Not Improve from Fiscal Year 2006 to 2008, and Were Generally Comparable to Those of Some Other Refugee Populations in Fiscal Year 2008

Overall, average processing times did not improve for the 85 cases created in fiscal years 2006 to 2008 that arrived in the United States.²⁹ Average processing times increased from 133 days in fiscal year 2006 to 314 days in fiscal year 2008 (see fig. 4).³⁰ State officials said that one host country limited U.S. government access to North Koreans in fiscal years 2007 and 2008, which resulted in longer average processing times for cases created in those years.

²⁹While a total of 238 North Korean refugee cases were created and processed under the USRAP, data on processing times are based on the 85 cases created in fiscal years 2006 to 2008 that arrived in the United States. We do not include cases created in fiscal year 2009 because the case data are not complete.

³⁰Variances in the policies of countries where North Koreans are processed can affect year-to-year comparisons of processing times.

Figure 4: Average Processing Times for North Korean Refugee Cases by Fiscal Year of Case Creation, Fiscal Years 2006 to 2008



Source: State Department, Refugee Processing Center, 2010.

Notes:

We did not include processing times for fiscal year 2009 cases because the data are not complete. Six pending cases from fiscal year 2009 had not arrived in the United States at the time that State provided us with data, and therefore are not included in the data. As of March 29, 2010, these six cases had been in the process for U.S. resettlement for an average of 334 days. Since March 29, 2010, four of these six individual cases have arrived in the United States.

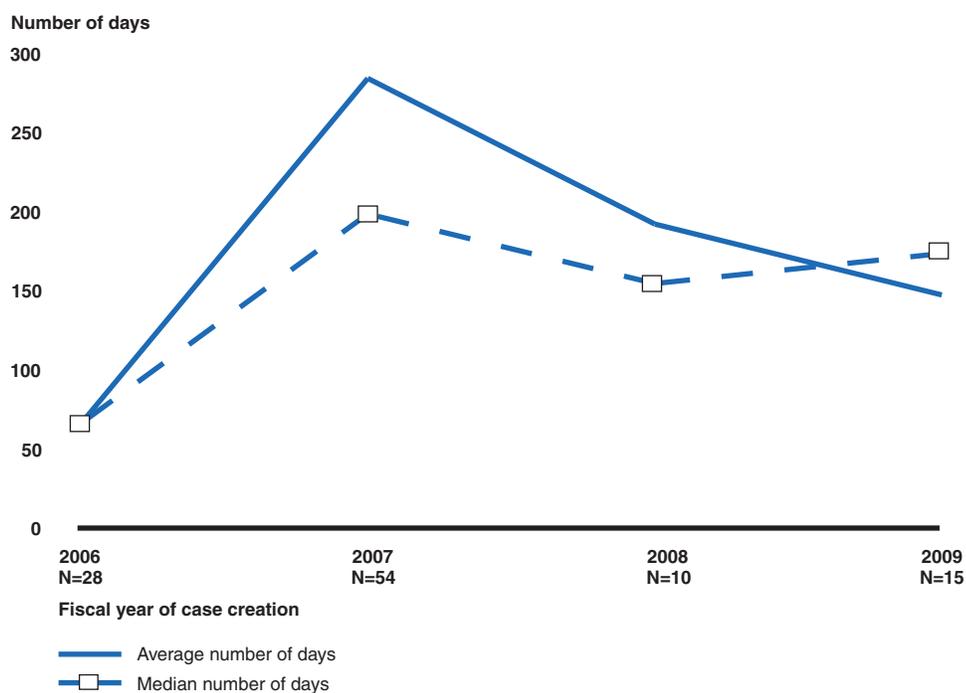
N=the number of North Korean refugees in the sample size for each fiscal year.

Furthermore, for those stages in the overseas process that are primarily handled by the U.S. government³¹—the stages between case creation and DHS approval—we found that average processing times did not improve from fiscal year 2006 to fiscal year 2009. Average processing times in fiscal year 2009 (147 days) were faster than in fiscal years 2007 (284 days) and

³¹These stages exclude the amount of time it takes for a foreign government to grant exit permission to North Korean refugees.

2008 (192 days), but slower than in fiscal year 2006 (65 days) (see fig. 5).³² The time period from case creation to DHS approval includes all of the pending cases that were created in fiscal year 2009 that were excluded from figure 4.³³

Figure 5: Average Processing Times for DHS Approval of North Korean Cases by Fiscal Year of Case Creation, Fiscal Years 2006 to 2009



Source: State Department, Refugee Processing Center, 2010.

Note: N=the number of North Korean refugees in the sample size for each fiscal year.

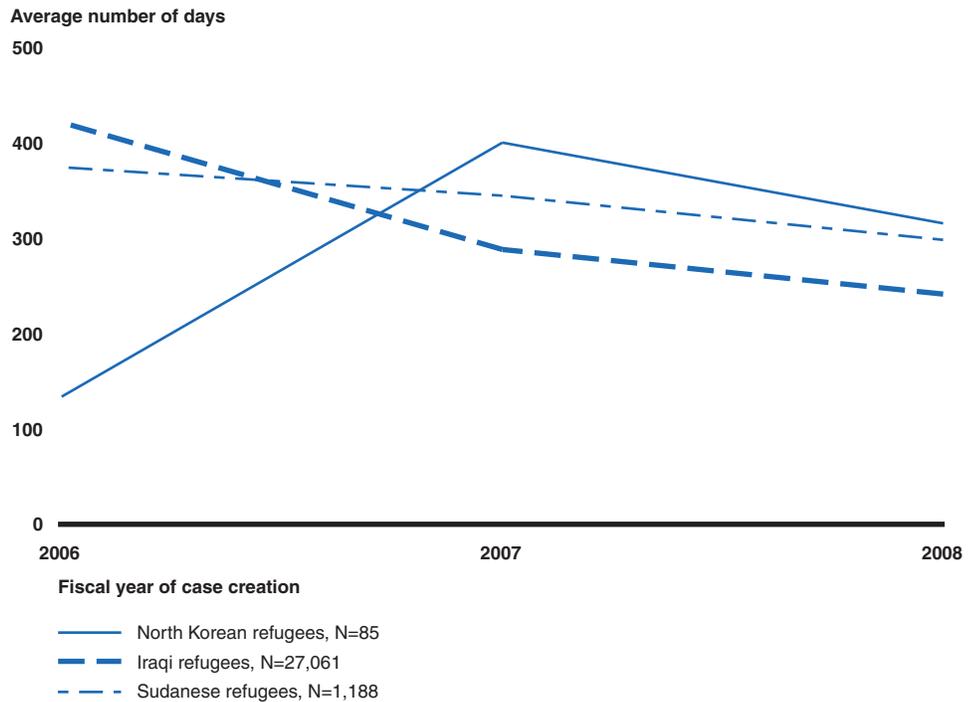
³²Although average processing times fell between fiscal year 2008 and fiscal year 2009, the median processing time rose, which means there was no definitive improvement in 2009.

³³We have complete data through fiscal year 2009 for the processing times of North Korean cases that pertain to the stages between case creation and DHS approval.

Processing Times for North Korean Refugees in Fiscal Year 2008 Generally Comparable to Those of Some Other Refugee Populations

According to State data from fiscal years 2006 to 2008, processing times for North Koreans in fiscal year 2008 were generally comparable to those of some other refugee populations that require similar security checks, as well as to those of some other refugee populations in the region. (See figs. 6 and 7.) When compared to two other refugee populations that require similar security checks—Iraqi and Sudanese refugees—there were greater disparities in average processing times in fiscal year 2006 compared to fiscal years 2007 and 2008; however disparities have lessened over time. For example, in fiscal year 2006, average processing times for North Koreans were 287 days faster than average processing times for Iraqis, but were 74 days slower than these times for Iraqis in fiscal year 2008.

Figure 6: Processing Times from Case Creation to Arrival: North Korean Refugee Applicants Compared to Other Select Refugee Populations That Require Similar Security Checks



Source: State Department, Refugee Processing Center, 2010.

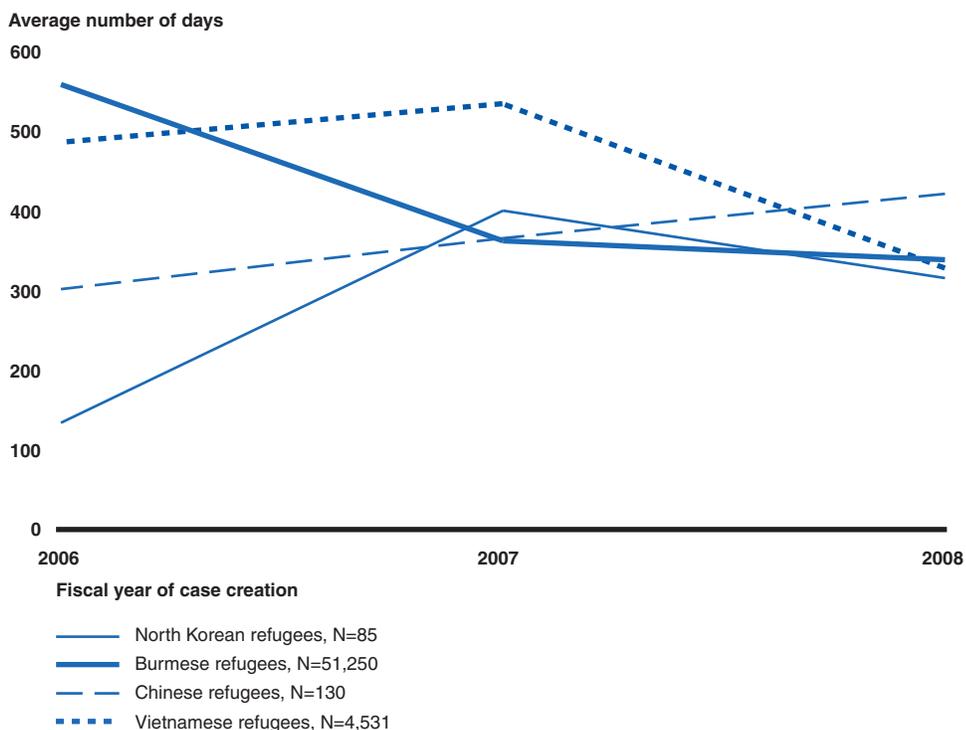
Notes:

N=the number of refugees in the sample size for all fiscal years combined.

The number of refugees represented in the graphic are—North Koreans: FY 2006=27, FY 2007=48, FY 2008=10; Iraqis: FY 2006=84, FY 2007=7,991, FY 2008=18,986; Sudanese: FY 2006=562, FY 2007=256, FY 2008=370.

Processing times for North Koreans in fiscal year 2008 were also generally comparable to those of three other refugee populations who are processed in the region, namely Burmese, Chinese, and Vietnamese refugees. While there were disparities in average processing times for North Korean refugees compared to these populations in fiscal year 2006, these disparities lessened over time. For example, in fiscal year 2006, average processing times for North Koreans were 424 days faster than average processing times for Burmese, but only 23 days faster in fiscal year 2008. There are substantially fewer North Korean refugee cases than Iraqi, Sudanese, Burmese, or Vietnamese refugee cases, as described in the notes to figures 6 and 7.

Figure 7: Processing Times from Case Creation to Arrival: North Korean Refugee Applicants Compared to Other Select Refugee Populations in the Region



Source: State Department, Refugee Processing Center, 2010.

Notes:

N=the number of refugees in the sample size for all fiscal years combined.

The number of refugees represented in the graphic are—North Koreans: FY 2006=27, FY 2007=48, FY 2008=10; Burmese: FY 2006=5,390, FY 2007=31,069, FY 2008=14,791; Chinese: FY 2006=32, FY 2007=39, FY 2008=59; Vietnamese: FY 2006=2,331, FY 2007=1,350, FY 2008=850.

A number of factors can affect processing times for all refugee populations, including North Koreans as described earlier. While we discussed factors that affect processing times of North Korean cases, the factors affecting other populations were outside the scope of our review.

At Least 33 North Koreans Have Applied for Asylum Status in the United States, but the Number Is Likely Higher

In the United States, North Koreans have applied for asylum protection through two processes—the affirmative and the defensive. DHS/USCIS identified 33 North Koreans who have applied for asylum in the United States from October 2004 through March 2010, but the actual number is likely higher.

North Koreans Have Sought Asylum Protection in the United States through Both the Affirmative and Defensive Asylum Processes

North Koreans have sought asylum status in the United States through either the affirmative or defensive process. The asylum process for North Koreans is generally similar to that of individuals of other nationalities, except that DHS/USCIS conducts an additional review of North Korean cases.

Affirmative Asylum Process

In the affirmative asylum process, individuals, including North Koreans, who are physically in the United States—regardless of how they arrived or their current immigration status—may present an asylum application to DHS/USCIS. Following the initiation of background checks, a DHS/USCIS asylum officer conducts a non-adversarial interview with the applicant to verify the applicant’s identity, determine whether the applicant is eligible for asylum, and evaluate the credibility of the applicant’s asylum claim. If the asylum officer finds the applicant is eligible for asylum, the officer issues an approval and the applicant can remain in the United States. If the asylum officer finds the applicant is ineligible for asylum but the applicant is otherwise in lawful immigration status, the asylum officer denies the claim and the applicant can remain in the United States under the terms of

his or her lawful status.³⁴ However, if the applicant is determined to be ineligible for asylum and does not otherwise have a lawful immigration status, then the applicant is placed in removal proceedings and the case is referred to an EOIR Immigration Judge for a hearing.

Defensive Asylum Process

Through the defensive asylum process, applicants, including North Koreans, request asylum as a defense against removal from the United States and can be held in detention while their case is processed. According to DHS/USCIS officials, individuals generally enter the defensive asylum process in one of three ways: (1) as a referral to an EOIR Immigration Judge following a finding of ineligibility in an affirmative asylum application; (2) by asserting a claim of asylum after they are apprehended in the United States and placed into removal proceedings because they are in violation of their immigration status or do not have proper documentation; or (3) after being detained at a port of entry without proper documentation or apprehended near a port of entry within 14 days of their illegal entry, being placed in expedited removal proceedings,³⁵ and asserting a fear of return or intention to apply for asylum and after a DHS/USCIS asylum officer finds that they have a credible fear of persecution³⁶ or torture.³⁷ Adjudication of asylum claims in immigration court is “adversarial” in that the EOIR Immigration Judge receives the applicant’s claim and then hears arguments about the applicant’s eligibility for asylum from the applicant and the U.S.

³⁴According to USCIS, the asylum officer first issues a Notice of Intent to Deny to the applicant, who then has 16 days to provide a rebuttal. The asylum officer considers the rebuttal, if any, prior to issuing a final denial or grant of asylum.

³⁵Expedited removal is a provision in the INA. See INA Section 235(b)(1)(A)(i) and 8 U.S.C. § 1225(b)(1)(A)(i). With certain exceptions, this provision allows an immigration officer to remove an arriving alien from the United States without further hearing or review if the officer determines that the alien is inadmissible because the alien lacks proper documentation or committed fraud or willful misrepresentation of the facts to gain admission into the United States, unless the alien indicates either an intention to apply for asylum or a fear of persecution or torture.

³⁶Under the INA, the “credible fear of persecution” means “there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien’s claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum” under the INA. See Section 235(b)(1)(B)(v), and 8 U.S.C. § 1225(b)(1)(B)(v).

³⁷If the DHS/USCIS asylum officer determines that the alien does not have a credible fear of persecution or torture, the alien may request that an Immigration Judge review the asylum officer’s decision. The Judge may sustain the officer’s decision or vacate the decision, allowing the applicant to apply for asylum as a defense to removal, according to USCIS.

government, which is represented by a DHS/Immigration and Customs Enforcement (ICE) attorney. The EOIR Immigration Judge then makes an eligibility determination, which can be appealed by either the applicant or the U.S. government. Immigration Judges can grant asylum to applicants, allowing them to stay in the United States, or deny asylum and order them to be removed from the United States unless they qualify for another form of relief. DHS/ICE enforces alien detention and removal. Appendix VI provides more information about the affirmative and defensive asylum processes.

Additional Level of Review for North Korean Asylum Cases

North Koreans and North Koreans with South Korean citizenship claiming asylum through the affirmative process or who claim a credible fear of persecution or torture during expedited removal proceedings receive an additional level of review at USCIS Asylum Division headquarters.³⁸ DHS/USCIS officials stated that, because North Korean asylum seekers may attract national media attention or a high-level U.S. government interest, USCIS headquarters must review North Korean asylum cases before rendering a final decision. DHS/USCIS asylum field offices send the USCIS Asylum Division headquarters a packet containing the asylum application or credible fear worksheet, a draft assessment of the case, and other supporting documents. Asylum officers at USCIS headquarters review the case to ensure that proper procedures were followed and the decision on the case is legally sufficient. According to DHS/USCIS officials, North Korean asylum cases follow the same process as affirmative asylum cases of other nationalities apart from this case review.

Since some North Koreans seeking asylum have citizenship in both North Korea and South Korea, according to USCIS and EOIR officials, U.S. asylum decisions for North Koreans can be affected by the issues of dual citizenship. Under U.S. law, North Koreans holding South Korean citizenship must establish a fear of persecution or torture in South Korea, as well as North Korea, to obtain asylum in the United States.³⁹ Historically, UNHCR and the international community, including the

³⁸The USCIS Asylum Division also requires headquarters quality assurance review for 10 categories of affirmative cases and certain subcategories of credible fear cases, in addition to these North Korean cases.

³⁹Under the INA, asylum relief may be granted to qualified applicants who can establish they are unable or unwilling to return to their country of nationality because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. See § 208(b), 8 U.S.C. § 1158 (b) and § 101(a)(42)(A), and 8 U.S.C. § 1101(a)(42)(A).

United States, viewed South Korea as the third-country resettlement of choice. The constitution of the Republic of Korea, known as South Korea, states that the territory of South Korea shall consist of the Korean Peninsula and its adjacent islands. According to South Korean officials, since the South Korean constitution considers all Koreans on the Korean Peninsula, including North Koreans, to be citizens of South Korea, North Koreans generally are entitled to South Korean citizenship, with some exceptions. However, the 2004 NKHRA sought to clarify that North Koreans are not barred from eligibility for refugee or asylum consideration in the United States on account of any legal right to citizenship that they may enjoy under the South Korean constitution.⁴⁰ Accordingly, USCIS and EOIR officials told us that North Korean citizens applying for asylum who have not availed themselves of South Korean citizenship only need to establish a fear of persecution or torture in North Korea, while those North Koreans who have availed themselves of South Korean citizenship must establish a fear of persecution or torture in both countries.⁴¹ USCIS and EOIR make a determination regarding the North Korean applicant's citizenship before determining eligibility for U.S. asylum. DHS/USCIS officials stated that at least one North Korean with South Korean

⁴⁰See Section 302 of the 2004 NKHRA. The House report accompanying the 2004 NKHRA also noted that the legislation did not change U.S. law, "but makes it clearer, explicitly endorsing the approach of U.S. Immigration Courts in proceedings involving North Koreans, in which their asylum claims were adjudicated with reference to the actual circumstances they face inside North Korea. It is meant to put to rest the erroneous opinion (proposed by some State Department personnel) that, because North Koreans may be able to claim citizenship if and when they relocate to South Korea, they must be regarded as South Koreans for U.S. refugee and asylum purposes, irrespective of whether they are able or willing to relocate to South Korea."

⁴¹Case law before the Board of Immigration Appeals in 2007 also spoke to this issue. In *Matter of K-R-Y- and K-C-S-*, 24 I&N Dec. 133 (BIA 2007) the Board looked, in part, at whether the respondents were precluded from establishing asylum as to North Korea because they had acquired South Korean citizenship. The Board looked to section 302(b) of the 2004 NKHRA which states, in part, "...a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea." The Board found that section 302 of the 2004 NKHRA does not apply to North Korean asylum applicants who have availed themselves of citizenship in South Korea. In support of its position, the Board cited section 302(a) of the NKHRA stating, "The NKHRA states that it is 'not intended ...to apply to former North Korean nationals [such as the respondents] who have availed themselves of those rights' i.e. taken advantage of the opportunity to seek and accepts South Korean citizenship." As such, the Board found that the respondents were precluded from establishing eligibility for asylum as to North Korea because they were firmly resettled in South Korea. See 24 I&N Dec. 133, 136 (BIA 2007). Generally an alien is considered to be "firmly resettled" if, prior to arrival in the United States, he or she entered into another country with, or while in that country received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement. See 8 C.F.R. § 1208.15.

citizenship was placed in the defensive asylum process after the individual was found to have a credible fear of persecution or torture in both North and South Korea. According to EOIR data, the North Korean was granted asylum.

The Number of North Koreans Who Have Sought Asylum in the United States Is Likely Higher than 33

DHS/USCIS identified 33 North Koreans—including their dependents (some of whom may not be North Korean)—who have sought asylum in the United States since fiscal year 2005 through either the affirmative asylum or credible fear process.⁴² Of the 33 North Korean asylum seekers, 9 have been granted asylum, 15 are pending, as of March 2, 2010, and 9 individual cases were closed or resolved for other reasons (“other decisions”).⁴³ A North Korean applicant receives a grant of asylum if USCIS or the EOIR Immigration Judge determines that the applicant is eligible for asylum. The asylee can remain in the United States indefinitely unless asylum is terminated. The 33 North Korean asylum seekers comprise a total of 25 asylum cases, of which 7 cases were granted asylum.⁴⁴ Furthermore, 24 North Koreans originally sought asylum through the affirmative asylum process. Nine North Koreans were placed in the credible fear process, and when found eligible, applied for asylum with EOIR in the defensive asylum process. Table 2 provides a summary of the outcomes for North Korean asylum seekers since fiscal year 2005.

⁴²The 33 North Korean asylum seekers identified by USCIS include only North Koreans whose claims originated with USCIS in the affirmative process or the credible fear process. The North Korean affirmative asylum seekers in USCIS’s database system have North Korea listed as their country of nationality. In addition, the North Korean asylum seekers in the credible fear process have North Korea listed as one of their countries of nationality. The affirmative asylum seekers include two dependent spouses and two dependent children who are listed as citizens of South Korea. Dependents are not required to establish eligibility for asylum independently from the principal applicant and can be citizens of any country. See 8 C.F.R. § 208.21.

⁴³Pending applications include those on which a decision has not yet been rendered by either USCIS or EOIR. Applications in the “other decisions” category include those that have been denied asylum, dismissed, found to have a negative credible fear, or withdrawn.

⁴⁴According to USCIS officials, a USCIS asylum case generally consists of the principal applicant, and may include his or her spouse, and/or unmarried children under the age of 21 (“dependents”) located in the United States.

Table 2: North Korean Asylum Seekers Identified by USCIS from Fiscal Year 2005 to Present

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010 ^a	Total
Granted	0	4	2	2	1	0	9
Pending	0	2	2	0	9	2	15
USCIS	0	0	0	0	4	1	5
EOIR	0	2	2	0	5	1	10
Other decisions	5	2	2	0	0	0	9
Credible fear withdrawn/removed ^b	1	0	0	0	0	0	1
Negative credible fear/removed ^c	3	0	1	0	0	0	4
Asylum denied by USCIS ^d	0	2	0	0	0	0	2
Asylum denied by EOIR	1	0	0	0	0	0	1
Asylum dismissed as abandoned by USCIS	0	0	1	0	0	0	1

Source: GAO analysis of USCIS, ICE, and EOIR data.

^aFiscal year 2010 includes data from October 1, 2009 through March 2, 2010.

^bAccording to USCIS, the applicant was placed in expedited removal, withdrew his credible fear case, and was removed from the United States.

^cAccording to USCIS, of the four individuals found not to have a credible fear of persecution or torture by an asylum officer, only one individual requested an Immigration Judge review of the officer's decision.

^dIf a DHS/USCIS asylum officer denies the claim, the applicant can remain in the United States under the terms of his or her lawful status.

Notes:

Data above include all North Korean affirmative asylum and credible fear cases. North Koreans who first claimed asylum during removal proceedings as a defense to removal are not included in the above data.

Data above were compiled by DHS/USCIS using asylum applicants' country of nationality rather than country of birth. Individuals born in North Korea but holding citizenship in another country may not be included.

Data above do not reflect any changes in the applicants' country of nationality made by EOIR or ICE during subsequent stages of the asylum process or during alien deportation or removal.

Fiscal year refers to either the date in which the individual or principal applicant filed a completed affirmative asylum application with DHS/USCIS or the date in which an individual was referred to DHS/USCIS for the credible fear process.

The number of North Korean asylum seekers since October 1, 2004, is likely higher than 33 because that number includes only individuals whose asylum claims originated with DHS/USCIS and does not include defensive

asylum claims that originated with EOIR. Compiling complete data on North Korean asylum cases is difficult for the following reasons:⁴⁵

- A comprehensive database representing all asylum cases from both the affirmative and defensive processes does not exist. For example, the North Korean cases identified by DHS/USCIS include only those that originated with USCIS in the affirmative process or that were interviewed by a DHS/USCIS asylum officer at the border to determine whether or not the individual had a credible fear of persecution or torture, according to USCIS officials. Therefore, the USCIS data do not include information on North Koreans who first claimed asylum defensively in front of an EOIR Immigration Judge during removal proceedings. According to EOIR officials, EOIR would have to manually review files for cases in the defensive process in each immigration court district across the United States to determine with certainty the number of asylum applicants born in North Korea.⁴⁶
- Asylum statistics may not reflect changes made in the asylum applicants' personal information during the asylum process or during alien detention and removal. For example, DHS/USCIS officials said that their data would not reflect any changes made by EOIR or DHS/ICE to an applicant's personal information during the defensive process, such as a change in an applicant's country of nationality. However, USCIS makes changes to personal data if it is discovered while the case is in the affirmative asylum and credible fear processes with DHS/USCIS, according to USCIS officials. USCIS identified one credible fear applicant listed as North Korean in the USCIS database who was later determined to be South Korean by DHS/ICE.

The difficulties that EOIR faces in compiling comprehensive North Korean asylum statistics are reflected in the reports required under the 2004

⁴⁵Prior to October 22, 2004, USCIS databases did not distinguish between North Korea and South Korea, but rather identified "Korea" as the country of nationality and the country of birth. North Korean asylum applications filed prior to this date may not be clearly identified in USCIS databases, according to DHS/USCIS officials.

⁴⁶USCIS maintains two databases, one that contains information on all affirmative asylum cases and another that contains information on credible fear cases. EOIR maintains a separate database that contains information on all defensive asylum cases. USCIS and EOIR databases do not share complete information on asylum cases and, as a result, the information gathered from either database is not representative of the entire universe of North Korean asylum cases. See app. I for further details on USCIS's and EOIR's databases.

NKHRA.⁴⁷ EOIR officials stated they provide North Korean asylum statistics to State for the report on an annual basis but, because of the many problems associated with compiling comprehensive statistics on North Korean asylum cases, State has generally not presented the number of North Korean asylum applications filed or granted since fiscal year 2005. According to the reports to Congress, “the issues surrounding claims by individuals of North Korean origin are complex.” The reports further state that, to protect the identities of individual applicants, DHS and DOJ officials could provide information on North Korean asylum cases to Members of Congress in an oral briefing by request, rather than in a written report. While USCIS Asylum Division headquarters has not provided such an oral briefing, other USCIS and DHS offices have conducted such briefings, according to USCIS. DOJ/EOIR officials told us they have never provided such an oral briefing.

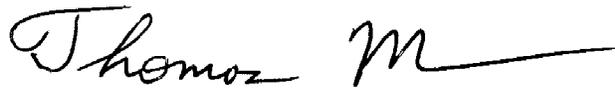
Agency Comments

We provided a draft of this report to the Departments of State, Homeland Security, Justice, and Health and Human Services. State, DHS, and DOJ provided technical comments, which have been incorporated throughout the report, as appropriate.

We are sending copies of this report to interested congressional committees and to the Secretaries of State, Homeland Security, Justice, and Health and Human Services. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

⁴⁷Section 305 of the 2004 NKHRA requires that the Secretary of State and the Secretary of Homeland Security submit a joint report to appropriate congressional committees and the House and Senate Judiciary Committees each year that includes the number of aliens who are nationals or citizens of North Korea who have applied for political asylum and the number who were granted political asylum. State takes the lead in compiling and transmitting these reports to Congress.

If you or your staffs have any questions about this report, please contact me at (202) 512-9601 or melitot@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix VII.

A handwritten signature in black ink that reads "Thomas M" followed by a long horizontal flourish.

Thomas Melito
Director, International Affairs and Trade

Appendix I: Objectives, Scope, and Methodology

In this report, we (1) assess the U.S. government's efforts to facilitate the processing of North Korean refugees overseas for resettlement in the United States, and (2) determine the number of North Koreans who have sought asylum to remain in the United States and the process by which they may do so. Because Congress passed the North Korean Human Rights Act (NKHRA) in 2004, we focused our data collection efforts on fiscal years 2005 through 2010.

To assess how the U.S. government processes North Korean refugees, we reviewed documents from the Departments of State (State) and Homeland Security (DHS) related to the U.S. Refugee Admissions Program (USRAP). We also interviewed officials from State's Bureau of Population, Refugees, and Migration (PRM); State's Bureau of East Asian and Pacific Affairs; State's Bureau of Democracy, Human Rights, and Labor; State's Office to Monitor and Combat Trafficking in Persons; State's Office of the Special Representative for North Korea Policy; DHS Security Advisory Opinion Review Board; and DHS/U.S. Citizenship and Immigrations Services (USCIS). Additionally, in Asia we interviewed representatives from the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), and the regional Overseas Processing Entity (OPE) to understand the various steps in overseas and domestic refugee processing. We spoke with both U.S.- and South Korean-based nongovernmental organizations (NGO), academics, think tanks, and resettled North Koreans living in the United States to learn about the characteristics of the North Korean refugee population; the challenges that North Korean refugees face in their journeys from North Korea to gain access to refugee admissions processing in Asia; and factors that North Koreans consider when deciding in which country to resettle. We also analyzed aggregate and country-specific data from State's Worldwide Refugee Admissions Processing System (WRAPS) to determine the processing times for North Korean refugees from fiscal years 2005 to 2010. We asked State to provide us WRAPS data on an individual level because some cases in WRAPS include more than one individual. To determine the reliability of WRAPS data on North Korean refugees, we interviewed State/PRM and OPE officials who input, monitor, and use these data about procedures for collecting data and ensuring their accuracy. We also reviewed the data at various stages of the refugee resettlement process and analyzed the WRAPS Privacy Impact Assessment.¹ We determined that

¹The E-Government Act of 2002 requires federal agencies to conduct privacy impact assessments for systems or collections containing personal information.

these data were sufficiently reliable to calculate the processing times for North Korean cases created (1) between fiscal years 2006 and 2008 for the total number of days between case creation and arrival in the United States, and (2) between fiscal years 2006 and 2009 for the total number of days between case creation and DHS approval of the case. We made this determination because decisions on DHS approval had been made for all pending cases created in fiscal year 2009 and prior years, but not all of the pending cases that were created in fiscal year 2009 had arrived in the United States, and therefore we did not have complete data on arrivals for that year. However, although we worked to identify delays in U.S. processing through interviews and an examination of the aggregate data, we did not have access to individual-level data on the factors that might influence processing times. Consequently, we were not able to probe these factors using statistical modeling techniques, and cannot comment on the extent to which changes in processing times might be attributable to factors such as State Department or Asian countries' actions.

To determine the number of North Koreans who have sought asylum to remain in the United States and the process by which they may do so, we reviewed relevant statutes as well as documentation and data from USCIS and U.S. Immigration and Customs Enforcement (ICE) within DHS and from the Executive Office for Immigration Review (EOIR) within the Department of Justice (DOJ). We also interviewed officials from these agencies. We analyzed data from USCIS's Refugees, Asylum, and Parole System (RAPS) to determine the number of North Korean affirmative asylum applicants processed from fiscal years 2005 to 2010. To determine the reliability of RAPS data on North Korean asylum applicants, we interviewed DHS/USCIS officials about their procedures for collecting affirmative asylum application data and ensuring their accuracy. In addition, we asked about data limitations and analyzed the RAPS Privacy Impact Assessment² and System of Records.³ We also obtained data from

²The E-Government Act of 2002 requires federal agencies to conduct privacy impact assessments for systems or collections containing personal information. A privacy impact assessment includes information such as the characterization of the information in the system, including how data are collected and maintained; the use of the information and the accuracy of the data being used; how long the system retains data after collection; the scope of internal DHS data sharing; the content, scope, and authority for information sharing external to DHS; and technical safeguards and measures.

³A system of records includes information such as system location, categories of individuals in the system, categories of records in the system, authority for maintenance of the system, purposes, retrievability, safeguards, and retention and disposal of information.

USCIS's Asylum Prescreening System (APSS) to determine the number of North Korean credible fear applicants processed between fiscal years 2005 and 2010. To determine the reliability of APSS data on North Korean asylum applicants, we interviewed DHS/USCIS officials about their procedures for collecting the credible fear data and ensuring their accuracy. USCIS databases contain data on all citizens of North Korea in both affirmative and credible fear cases, according to USCIS. We requested data on North Korean asylum cases in the defensive process from EOIR. However, EOIR was not able to provide comprehensive data on its North Korean asylum cases without a manual review of individual cases. According to EOIR officials, asylum applicants with North Korea as their country of birth may have been categorized as South Koreans in EOIR databases because, in accordance with eligibility requirements in the INA, the database only tracks country of nationality and not birth, making a manual review necessary to provide accurate data. EOIR officials also stated that they did not have resources necessary to perform a manual review. We determined that the RAPS and APSS data were sufficiently reliable to report on the North Korean affirmative asylum cases and credible fear cases from fiscal years 2005 to 2010. However, these data may not represent all North Korean asylum cases filed during this time period because EOIR was not able to provide data on North Koreans who first claimed asylum defensively in front of an EOIR Immigration Judge.

To describe the resettlement benefits offered to North Korean refugees both in the United States and in South Korea and to describe the resettlement experiences of North Koreans, which are discussed in appendixes II and III of this report, we reviewed relevant laws, regulations, and policies regarding government-funded refugee resettlement programs in both countries. We obtained documentation and spoke with officials at State/PRM and the Department of Health and Human Service's (HHS) Office of Refugee Resettlement (ORR). Through field work in South Korea, we met with South Korean officials from the Ministry of Unification to discuss the assistance and social services that the South Korean government provides to North Koreans. Information on South Korea's resettlement program to North Koreans was provided by the South Korean Ministry of National Unification and was not independently verified. We also visited the Hanawon Social Adaptation Education facility, a South Korean government-run facility, to observe the social adaptation training provided to North Koreans and the Hangeore Middle and High School to see how North Korean students receive special educational courses to prepare them for entrance into the South Korean school system. In addition, we spoke with six resettlement agencies that have resettled North Koreans in the United States: Episcopal Migration Ministries,

International Rescue Committee, Church World Service, Lutheran Immigration and Refugee Service, U.S. Conference of Catholic Bishops, and World Relief. We met with NGOs in both the United States and South Korea who provide services to resettled North Koreans to discuss the challenges that they have faced in serving this population. We also interviewed several North Korean refugees who have resettled in the United States about their experiences. Their views or experiences may not be representative of all North Korean refugees. German, British, Japanese, and Canadian foreign officials and embassies provided us with data on North Koreans who have sought humanitarian protection in countries other than the United States. We did not conduct a data reliability assessment on this information because we are providing these data for background purposes only.

We conducted this performance audit from August 2009 to June 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on audit objectives.

Appendix II: Resettlement Benefits Available to North Koreans in the United States and South Korea

Both the United States and South Korea offer resettlement benefits to North Koreans that cover immediate needs assistance, cash and medical assistance, social and employment services, and other needs. By law, U.S. resettlement assistance and services are provided to refugees without regard to race, religion, nationality, sex, or political opinion.¹ North Koreans receive the same benefits and access to federal programs as all other refugee populations.² The United States, which resettles more refugees than any other country, resettled refugees from 69 countries in fiscal year 2008, according to State. The 99 North Koreans who have resettled in the United States represent a very small portion of the approximately 260,000 refugees resettled in the United States since fiscal year 2006.³

Almost all of the refugees in South Korea are North Korean, and South Korea's resettlement program was specifically created to provide benefits and services for North Koreans.⁴ Approximately 18,000 North Koreans have resettled in South Korea since the 1950s, while only 268 individuals who were not from North Korea have been granted refugee or humanitarian status in South Korea since 1994, according to South Korean government officials. The South Korean Ministry of Unification manages the resettlement program, and almost 50 percent of the Ministry's budget is allocated for the resettlement of North Koreans, according to Ministry reports. According to South Korean officials, the government has tailored its resettlement program to specifically reflect the changing needs of resettled North Koreans over time.

¹See 8 U.S.C. § 1522(a)(5).

²In addition to such assistance, North Koreans and other refugee groups may be eligible for federal public benefit programs, such as Temporary Assistance for Needy Families, and Medicaid and Children's Health Insurance Program, depending on the program and the state in which they reside.

³The number of North Koreans who have resettled in the United States is as of April 2010.

⁴South Korea's resettlement support is based on the 1997 Act on the Protection and Settlement Support of Residents Escaping from North Korea, according to South Korean officials.

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Both governments' resettlement benefits cover immediate needs (fig. 8), cash and medical assistance (fig. 9), social and employment services (fig. 10), and other benefits (fig. 11).⁵

⁵For the U.S. resettlement assistance we looked at State/PRM-funded benefits as well as the major federal benefits available to eligible refugees, according to HHS. We do not provide an all-inclusive listing of benefits, since this was outside of the scope of our review. For some of the benefits in the United States, we have incomplete information, including funding levels, since some of the benefits offered are contingent upon the state that the refugee resides in. In addition to the resettlement benefits that the United States and South Korea offer, NGOs in both countries also provide assistance to North Koreans. According to North Koreans in the United States as well as U.S. resettlement agencies, the Korean-American community has provided additional support to resettled North Koreans. This support has included employment assistance, English language training, transportation, interpretation, cultural orientation, and financial support to attend classes. In South Korea, 67 NGOs have formed the "NGO Network for Supporting North Korean Defectors" to coordinate programs and establish an effective support system for North Koreans.

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Figure 8: Highlights of Immediate Needs Benefits Available to Resettled North Koreans in the United States and in South Korea, as of March 2010

Program	Description	Benefits eligibility timeline (from date of arrival, in years)
Immediate needs - U.S. Refugee Resettlement Program		Years 0 1 2 3 4 5 6 7
Bureau of Population, Refugees, and Migration reception and placement services ^a	Reception at airport. Transportation to resettlement destination.	■ Upon arrival
	\$1,100 to provide for initial food, housing, necessary clothing; referrals to medical, training, and other social service programs.	■ Up to 3 months

Program	Description	Benefits eligibility timeline (from date of Hanawon graduation, in years)
Immediate Needs - South Korean Resettlement Program for North Koreans		Years 0 1 2 3 4 5 6 7
Hanawon Social Adaptation Education facility	12-week government-run training course that covers topics such as initial settlement support; mental stability and health education; career guidance and basic vocational training; and introduction to South Korean society and overcoming socio-cultural differences.	■ Upon arrival
Hana Centers	3-week course focusing on local services and assistance and adapting to society.	■ 3 weeks
Resident Registration	Issuance of permanent residence and resident registration card.	■ Immediate
Apartment and Leasing Support	Leased apartment and \$11,456 for security deposit.	■ Up to 50 years
Resettlement Assistants	Two assistants offer intensive resettlement support after family moves into community.	■ 6 months

Source: GAO analysis of information provided by PRM, HHS, and the South Korean Ministry of Unification.

^aPRM's reception and placement benefits are not subject to financial eligibility criteria.

Immediate Needs Assistance

Both the United States and South Korea provide benefits to address the immediate needs of resettled North Koreans (see fig. 8). Refugees are eligible for State/PRM-funded basic needs support and services when they arrive in the United States. As of January 1, 2010, State/PRM provided the resettlement agencies with \$1,800 per refugee to cover the direct and administrative costs of these services, of which at least \$1,100 must be designated for the direct support of the refugee's short-term living

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expenses.⁶ To facilitate North Koreans' resettlement, the South Korean government established the Hanawon Social Adaptation Education facility in 1999 to provide North Koreans with a 12-week training course before they resettle in local communities. The Hanawon curriculum is divided into four categories: mental stability and health education, career guidance and basic vocational training, introduction to South Korean society and overcoming socio-cultural differences, and initial settlement support. Following graduation from Hanawon and resettlement in a South Korean community, North Koreans may continue their education through local Hana Centers that provide an additional 3 weeks of job and employment training.⁷ South Korea helps North Koreans find rental units and provides the security deposit as well as the resettlement assistants who offer additional support after a family moves into a South Korean community.

⁶According to State/PRM, its assistance typically lasts for 30 days, but support may continue for up to 90 days. Prior to January 1, 2010, State/PRM provided resettlement agencies with \$900 per refugee to cover direct and administrative costs of assistance.

⁷The South Korean government operated six Hana Centers as a pilot project in 2009 and plans to expand the program to thirty centers.

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Figure 9: Highlights of Cash and Medical Assistance Benefits Available to Resettled North Koreans in the United States and in South Korea, as of March 2010

Program	Description	Benefits eligibility timeline (from date of arrival, in years)
Cash and Medical Assistance - U.S. Refugee Resettlement Program		
		Years 0 1 2 3 4 5 6 7
Temporary Assistance for Needy Families (TANF)	Time-limited cash assistance and other support services for qualifying low-income individuals with dependent children. 2008 TANF levels by state ranged from \$170 to \$923 per month for a single-parent family of three. ^a	Up to 5 years
Supplemental Security Income (SSI)	Cash assistance to low-income individuals who are aged, blind, or disabled.	Up to 7 years ^b
If ineligible for TANF or SSI, then... Refugee Cash Assistance (RCA)	Program similar to TANF for refugees who do not qualify for TANF.	Up to 8 months
Medicaid/Children's Health Insurance Program (CHIP) ^c	Health care coverage for qualifying low-income individuals.	Up to 7 years
If ineligible for Medicaid/CHIP, then.... Refugee Medical Assistance (RMA)	Program similar to Medicaid for refugees who do not qualify for Medicaid.	Up to 8 months

Program	Description	Benefits eligibility timeline (from date of Hanawon graduation, in years)
Cash and Medical Assistance - South Korean Resettlement Program for North Koreans		
		Years 0 1 2 3 4 5 6 7
Financial Assistance	One-time payment of \$2,644 at graduation from Hanawon, with an additional \$2,644 in quarterly installments.	1 year
Additional Benefits for the Disabled	Payment of \$13,571 over a 5-year period for eligible North Koreans with disabilities.	5 years
Additional Benefits for the Elderly	Payment of \$6,345 over a 5-year period for individuals over 60 years of age at graduation from Hanawon.	5 years
Minimum Living Support	Cash assistance of \$353 a month for qualifying low-income families.	Eligible indefinitely
Medical Care	Free medical services at South Korean hospitals for qualifying low-income families.	Eligible indefinitely

Source: GAO analysis of information provided by HHS and the South Korean Ministry of Unification.

^aTANF levels by state were compiled by the Center on Budget and Policy Priorities. These figures represent the TANF payments provided by states in July 2008 for a single-parent family of three by month.

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⁷The SSI Extension for Elderly and Disabled Refugees Act (Pub. Law No. 110-328) provides additional benefits for up to 2 years, and in certain cases 3 years, for qualifying immigrant SSI recipients who meet certain requirements. This extension is effective from October 1, 2008, until September 30, 2011, after which time noncitizens' eligibility reverts to 7 years.

⁸Refugees are eligible for emergency Medicaid from the date of their arrival in the United States, if they otherwise meet the eligibility requirements for their state's Medicaid program.

Notes:

This figure does not include all exceptions to the general eligibility time frames for refugees to receive federal programs in the United States. Rather, we included those exceptions most relevant to refugees who entered the United States since 2005.

In general, to receive benefits in the United States, refugees must meet all financial and nonfinancial eligibility criteria of each program. In addition, once refugees obtain citizenship, their eligibility for SSI, TANF, Medicaid, CHIP, or Supplemental Nutrition Assistance Program (SNAP) is the same as the eligibility for any U.S. citizen.

Cash and Medical Assistance

Both the United States and South Korea provide resettled North Koreans with cash and medical assistance (see fig. 9). North Korean refugees may be eligible for a number of longer-term U.S. federal public benefit programs—including TANF, Medicaid and CHIP, and SSI for up to 7 years generally, depending on the program and the state.⁸ Refugees who are not eligible for TANF, SSI, Medicaid, or CHIP may be eligible for ORR funded Refugee Cash Assistance⁹ and Refugee Medical Assistance for up to 8 months, according to HHS. In South Korea, resettled North Koreans receive a one-time financial benefit, or endowment, valued at approximately \$5,000 upon their entry into South Korean society. Qualified low-income families also receive free medical care indefinitely at South Korean hospitals as well as minimum living support of \$353 per month indefinitely.

⁸While TANF, Medicaid, SNAP, and SSI all serve low-income people, the financial eligibility thresholds, or income limits, for these benefits differ. Specifically, TANF's income limit varies by state. Medicaid income limits can also vary by state, as well as by type of recipient. For example, the Medicaid income limits for children at this time generally range from 100 to 185 percent of the federal poverty guidelines, depending on age. The SNAP income limit is generally set at 130 percent of the federal poverty guidelines. In contrast, SSI's income limit is set at a fixed dollar amount.

⁹According to ORR officials, adults without dependent children are the most frequent cases of individuals who do not qualify for TANF, but who qualify for the Refugee Cash Assistance program.

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Figure 10: Highlights of Social and Employment Service Benefits Available to Resettled North Koreans in the United States and in South Korea, as of March 2010

Program	Description	Benefits eligibility timeline (from date of arrival, in years)
Social and Employment Services - U.S. Refugee Resettlement Program		
		Years 0 1 2 3 4 5 6 7
Office of Refugee Resettlement social services ^a	Emphasis on securing early employment for refugees, including employment preparation and job placement and retention services.	Up to 5 years ^{b,c}

Program	Description	Benefits eligibility timeline (from date of Hanawon graduation, in years)
Social and Employment Services - South Korean Resettlement Program for North Koreans		
		Years 0 1 2 3 4 5 6 7
Employment Incentive ^d	Financial incentive for maintaining stable employment for at least 6 months; maximum of \$19,740 in combination with job training incentive.	Up to 3 years
Job Training Incentive ^d	Financial incentive for undergoing at least 500 hours of job training, including acquiring technical licenses; up to \$19,740 in combination with employment incentive.	Up to 5 years
Hana Centers	Services including psychological counseling, job training, and employment assistance.	Up to 1 year
Half Wage Subsidy	Companies hiring a North Korean employee receive a subsidy equivalent to half of the employee's wages.	Up to 3 years
Residence Counselor	Provides assistance with securing government-issued documents and accessing financial and medical assistance.	Eligible indefinitely
Employment Counselor	Provides assistance on accessing vocational training and finding jobs.	Eligible indefinitely

Source: GAO analysis of information provided by HHS and the South Korean Ministry of Unification.

^aORR social service benefits are not subject to financial eligibility criteria.

^bRefugee eligibility for ORR social services ends when they obtain U.S. citizenship.

^cORR social services include citizenship and naturalization preparation services as well as referral and interpretation services, which may be offered beyond 5 years.

^dThe employment and job training incentives are provided per individual.

Social and Employment Services

Both the United States and South Korea provide social and employment services for resettled North Koreans (see fig. 10). In the United States, ORR social services emphasize the preparation of refugees for job placement and retention. In addition, ORR's program offers a wide range

Appendix II: Resettlement Benefits Available to North Koreans in the United States and South Korea

of services that include employability services, such as English language instruction, vocational training, and on-the-job training.¹⁰ North Koreans in South Korea may also access social and employment services. For example, North Koreans may receive financial payments as incentives for maintaining stable employment or undergoing job training, including acquiring technical licenses. The combined maximum value of these incentives is about \$20,000. The Hana Centers also provide psychological counseling to North Koreans for up to 1 year following their resettlement. The South Korean government also pays companies half of the wages of their North Korean employees for up to 3 years.

Figure 11: Highlights of Other Benefits Available to Resettled North Koreans in the United States and in South Korea, as of March 2010

Program	Description	Benefits eligibility timeline (from date of arrival, in years)
Other Benefits - U.S. Refugee Resettlement Program		Years 0 1 2 3 4 5 6 7
Supplemental Nutrition Assistance Program (SNAP)	Food assistance for qualifying low-income individuals.	Eligible indefinitely

Program	Description	Benefits eligibility timeline (from date of Hanawon graduation, in years)
Other Benefits - South Korean Resettlement Program for North Koreans		Years 0 1 2 3 4 5 6 7
Provincial Residence Subsidy	Subsidy of up to \$2,291 for resettling outside of the capital city, Seoul.	2 years following resettlement
Personal Safety Counselor	Local police officer provides protection.	Eligible indefinitely
Tuition Assistance	Full tuition at public middle school, high school, and university; half tuition at private university.	Eligible indefinitely, age limits may apply
Hangyeore Middle and High School	Boarding school for North Korean students to prepare them for the transition to the South Korean school system.	Up to 2 years, age limits may apply

Source: GAO analysis of information provided by HHS and the South Korean Ministry of Unification.

¹⁰ORR provides states with funding to make grants and contracts with local community and faith-based organizations to deliver social services to refugee clients, according to ORR.

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to North Koreans in the United States and
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Notes:

This figure does not include all exceptions to the general eligibility time frames for refugees to receive federal programs in the United States. Rather, we included those exceptions most relevant to refugees who entered the United States since 2005.

In general, to receive benefits in the United States, refugees must meet all financial and nonfinancial eligibility criteria of each program. In addition, once refugees obtain citizenship, their eligibility for SSI, TANF, Medicaid, CHIP, or SNAP is the same as the eligibility for any U.S. citizen.

Other Benefits

North Korean refugees in the United States and South Korea may receive additional benefits (see fig. 11). For example, eligible refugees in the United States can qualify for food assistance under SNAP. Aside from the major federal benefit programs available to eligible refugees, there are additional programs such as school lunch programs for children of eligible refugees. The South Korean government provides North Koreans with a personal safety counselor for protection indefinitely as well as a subsidy to resettle outside of the capital city, Seoul. In addition, the South Korean government may provide long-term tuition assistance for those North Koreans attending higher education institutions. Notably, the South Korean government has established a system to support the education and integration of North Korean children. For example, the government-funded Hangeore Middle and High School, established in 2006, was specifically designed to address the needs of North Korean students and serve as a transition school until the students are ready to enter regular South Korean schools. Children at Hangeore stay at the boarding school for 6 months to 2 years depending on their individual performance. According to the school's principal, the school's mission is to (1) match the age group of the students with their abilities in school, (2) enhance students' learning capabilities, (3) help students to overcome cultural differences, and (4) help students to heal psychologically.

Appendix III: Challenges Some Resettled North Koreans Face in Assimilating in the United States and in South Korea

North Koreans who have resettled in the United States and in South Korea come from an isolated society with limited or no exposure to capitalism and can therefore face economic difficulties. According to some of the North Korean refugees we spoke with in the United States, they have encountered difficulties finding jobs and affording basic living expenses. South Korean and U.S. officials also noted that North Koreans in South Korea have high rates of unemployment. In addition, North Koreans also have difficulties learning basic day-to-day skills, such as using supermarkets, credit cards, and public transportation.

According to NGOs and government officials, North Koreans face linguistic, cultural, and social challenges in both the United States and South Korea. For example, North Koreans who are now resettled in the United States told us about their struggles adjusting to a new language and culture. Even in South Korea, North Koreans face difficulties with the Korean language due to the differences in dialects. In addition, North Koreans in South Korea face social problems and have higher school dropout, crime, and alcoholism rates, according to South Korean and U.S. government officials.

Obtaining medical care has also been a challenge for some North Koreans. Since some North Koreans arrive in the United States in poor health and have suffered traumatic and stressful experiences, obtaining and affording medical care has been important, according to resettled North Korean refugees and NGOs. State/PRM, OPE, and IOM officials have told us that some North Koreans face mental health issues and psycho-social problems, in addition to physical problems.

Some North Koreans who have resettled in the United States and South Korea have overcome some of the challenges of assimilating into a new culture and society and have achieved accomplishments such as obtaining higher educational degrees. According to an NGO, some North Koreans who have resettled in the United States have passed their General Educational Development Test or are attending community college. Moreover, during our fieldwork in South Korea we heard of 10 North Korean students who attended medical school in South Korea after finishing high school. In addition, some resettled North Koreans have become business owners, according to NGO and South Korean government sources. Finally, some resettled North Koreans have established or work for NGOs in South Korea that assist other resettled North Koreans. For example, Dr. Lee Ae-Ran, the first female North Korean defector to receive a doctoral degree in South Korea, has established a number of organizations to assist other North Koreans in

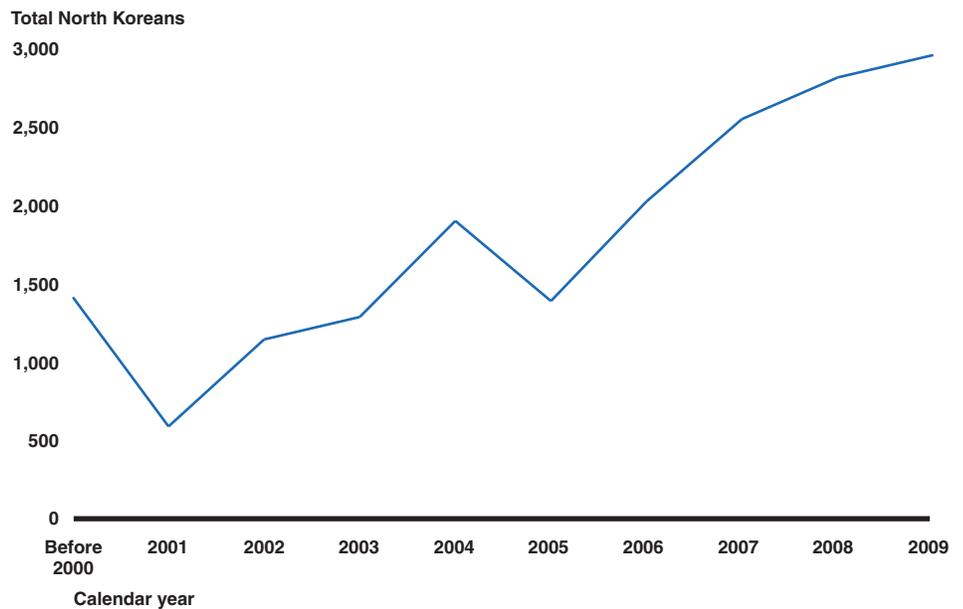
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South Korea. She was awarded the 2010 U.S. State Department International Women of Courage award for her accomplishments.

Appendix IV: Data on North Koreans Who Have Resettled in South Korea from the End of the Korean War through 2009

As illustrated in figure 12, approximately 18,000 North Koreans have resettled in South Korea since the end of the Korean War, according to South Korean government data.¹ The number of North Koreans resettling in South Korea has increased since 2000 with some years, namely calendar years 2004 and 2006, seeing an annual increase of 46 percent or more. The number of North Korean refugees arriving in South Korea increased 5 percent from calendar years 2008 to 2009.²

Figure 12: Number of Resettled North Koreans in South Korea, Calendar Years prior to 2000 through 2009



Source: South Korean Ministry of Unification.

According to data from the South Korean government, 81 percent of the resettled North Koreans in South Korea are from the Hamgyeong Province in the northeast area of North Korea. In recent years, the percentage of North Korean refugees who are women has increased from about

¹The South Korean government tracks North Korean arrivals by calendar year. Before calendar year 2001, the South Korean government provides a cumulative total of the number of North Koreans who arrived in South Korea in the years leading up to and including calendar year 2000.

²We are providing these data for background purposes only. For that reason, and because it was provided by a foreign government, we did not attempt to assess the reliability of the data.

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50 percent in 2001 to about 77 percent in 2009, according to South Korean data.

Appendix V: Humanitarian Protection Status for North Koreans in the United Kingdom, Germany, Canada, and Japan

This appendix provides data on North Korean applicants for humanitarian protection status in the United Kingdom, Germany, Canada, and Japan. Humanitarian protection status includes refugee status, asylum status, and other immigration statuses governments extend on humanitarian grounds. Each country has different definitions of refugee or asylum seeker; thus, countries' data are not directly comparable.¹

The United Kingdom, Germany, Canada, and Japan have provided North Koreans with a humanitarian protection status to allow them to remain in their countries. As shown in table 3, from calendar year 2006 to September 30, 2009, the United Kingdom received a total of 665 applications filed by North Koreans for a humanitarian protection status. According to the British Embassy, the United Kingdom granted 350 North Korean cases humanitarian protection status during this time period.²

Table 3: North Koreans Applying for a Humanitarian Protection Status in the United Kingdom for Calendar Years 2006 to September 30, 2009

	2006	2007	2008	2009	Total
Cases filed	45	410	185	25	665
Cases granted	20	155	175	0	350

Source: British Embassy in Washington, D.C.

Notes:

Data reflect North Korean cases and not individuals. Data on cases granted reflects initial decisions, excluding the outcome of appeals or other subsequent decisions. All cases were filed within the United Kingdom.

Calendar year 2009 data show case information up to September 30, 2009. The British Embassy provided data for calendar years 2006 through September 30, 2009.

From calendar years 2000 through 2009, 329 North Korean individuals applied for a humanitarian protection status in Germany, as shown in table 4. German Embassy officials informed us that Germany granted a humanitarian protection status to 189 North Korean individuals from

¹We are providing these data for background purposes only. For that reason, and because they were provided by foreign governments, we did not attempt to assess their reliability.

²British data pertain to North Korean cases and not individuals.

**Appendix V: Humanitarian Protection Status
for North Koreans in the United Kingdom,
Germany, Canada, and Japan**

calendar years 2000 through 2003. Since calendar year 2003, two North Koreans have been granted a humanitarian protection status in Germany.³

Table 4: North Koreans Applying for a Humanitarian Protection Status in Germany for Calendar Years 2000 to 2009

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Individuals filed	92	84	82	24	25	8	3	3	3	5	329
Individuals granted	56	53	51	29	1	1	0	0	0	0	191

Source: German Embassy in Washington, D.C.

Note: Data reflect North Korean individuals and not cases. All individuals filed within Germany. Asylum cases that are still pending in one year carry over to the next year.

As shown in table 5, from calendar years 2000 through 2009, 217 North Korean individuals applied for humanitarian protection status in Canada. According to a Canadian official, the Canadian Immigration and Refugee Board had granted 76 of these North Koreans humanitarian protection status, with 66 granted in calendar year 2009.

Table 5: North Koreans Applying for a Humanitarian Protection Status in Canada for Calendar Years 2000 to 2009

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Individuals filed	n/a	n/a	n/a	3	0	1	26	113	31	43	217
Individuals granted	n/a	n/a	n/a	1	0	1	0	1	7	66	76

Source: Office of the Director General, Refugees Branch, Citizenship and Immigration Canada.

Note: Data reflect North Korean individuals and not cases. All individuals filed claims within Canada. Asylum cases that are still pending in one year carry over to the next year.

Japanese officials informed us that over 100 North Koreans have entered Japan on humanitarian grounds.⁴ They did not provide us with additional information.

³According to German officials, 1,391 North Koreans resided in Germany as of December 31, 2008. Most of these North Koreans reside in Germany using an immigration status not related to humanitarian protection.

⁴According to Japanese officials, the Government of Japan provides humanitarian protection to North Korean refugees based on the “Law to Address the Abduction Issue and Other North Korean Human Rights Violations” enacted in June 2006. According to these officials, Article 6, Section 1 of the Law defines “North Korean refugees” as “people who have escaped from North Korea and for whom the Government of Japan recognizes the necessity for protection and assistance from a humanitarian perspective.”

Appendix VI: The Affirmative and Defensive Asylum Processes in the United States

Individuals can acquire asylum status in the United States through either the affirmative process or the defensive process. Figure 13 outlines the steps involved in both the affirmative and defensive asylum processes.

Affirmative Asylum Process

In the affirmative asylum process, individuals who are physically in the United States, regardless of how they arrived or their current immigration status, may present an asylum application to DHS/USCIS. Following the initiation of background checks, a DHS/USCIS asylum officer conducts a non-adversarial interview with the applicant to verify the applicant's identity, determine whether the applicant is eligible for asylum, and evaluate the credibility of the applicant's asylum claim. DHS/USCIS asylum officers can also request a comment letter from State's Bureau of Democracy, Human Rights, and Labor (DRL) on a particular case.¹ These comment letters help inform the asylum officers' decisions on cases by providing information on general country conditions and information specific to an individual applicant's situation that may not be accessible from other sources. In the case of dual citizenship, the DRL comment letter could include information on both countries. If the DHS/USCIS asylum officer finds the applicant is eligible for asylum,² the officer issues an approval and the applicant can remain in the United States. If the DHS/USCIS asylum officer finds the applicant is ineligible for asylum but the applicant is otherwise in lawful immigration status, the asylum officer issues a Notice of Intent to Deny to the applicant, who then has 16 days to provide a rebuttal. The DHS/USCIS asylum officer considers the rebuttal, if any, prior to issuing a final denial or grant of asylum. If the DHS/USCIS asylum officer issues a final denial of asylum status, the applicant can remain in the United States under the terms of his or her lawful status. However, if the applicant is determined to be ineligible for asylum and does not otherwise have a lawful immigration status, then the applicant is placed in removal proceedings and the case is referred to an Executive Office for Immigration Review (EOIR) Immigration Judge for a hearing.

¹Pursuant to 8 C.F.R. § 208.11, USCIS may request a State/DRL comment letter at the agency's discretion. Prior to April 6, 2009, USCIS was required by regulation to submit a copy of all asylum applications to State/DRL who had the option to provide comments.

²All asylum decisions are reviewed by a supervisory asylum officer prior to issuance of the decision.

Defensive Asylum Process

Through the defensive asylum process, applicants request asylum as a defense against removal from the United States and can be held in detention while their case is processed. According to DHS/USCIS officials, individuals are generally placed in the defensive asylum process in one of three ways.

- DHS/USCIS can refer them to an EOIR Immigration Judge after a finding of ineligibility in an affirmative asylum application.
- They can assert a claim of asylum after they are apprehended in the United States and placed into removal proceedings because they are in violation of their immigration status or do not have proper documentation.
- DHS can place them in the defensive asylum process if they are detained at a port of entry without proper documentation or are apprehended near a port of entry within 14 days of their illegal entry,³ they are being placed in expedited removal proceedings they assert a fear of return or intention to apply for asylum, and after a DHS/USCIS asylum officer finds that they have a credible fear of persecution⁴ or torture (“the credible fear process”).⁵

Adjudication of asylum claims in immigration court is “adversarial” in that the EOIR Immigration Judge receives the applicant’s claim and then hears arguments about the applicant’s eligibility for asylum from the applicant and the U.S. government, which is represented by a DHS/ICE attorney. The Immigration Judge then makes an eligibility determination, which can be

³DHS is authorized to place aliens in expedited removal proceedings who are encountered by an immigration officer within 100 air miles of the U.S. international land border and who have not established to the satisfaction of an immigration officer that they have been physically present in the United States continuously for the 14-day period immediately prior to the date of the encounter.

⁴Under the INA, the “credible fear of persecution” means “there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien’s claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum.” See Section 235(b)(1)(B)(v), and 8 U.S.C. § 1225 (b)(1)(B)(v).

⁵If the DHS/USCIS asylum officer determines that the alien does not have a credible fear of persecution or torture, the alien may request that an Immigration Judge review the asylum officer’s decision. The Judge may sustain the officer’s decision or vacate the decision, allowing the applicant to apply for asylum as a defense to removal, according to USCIS.

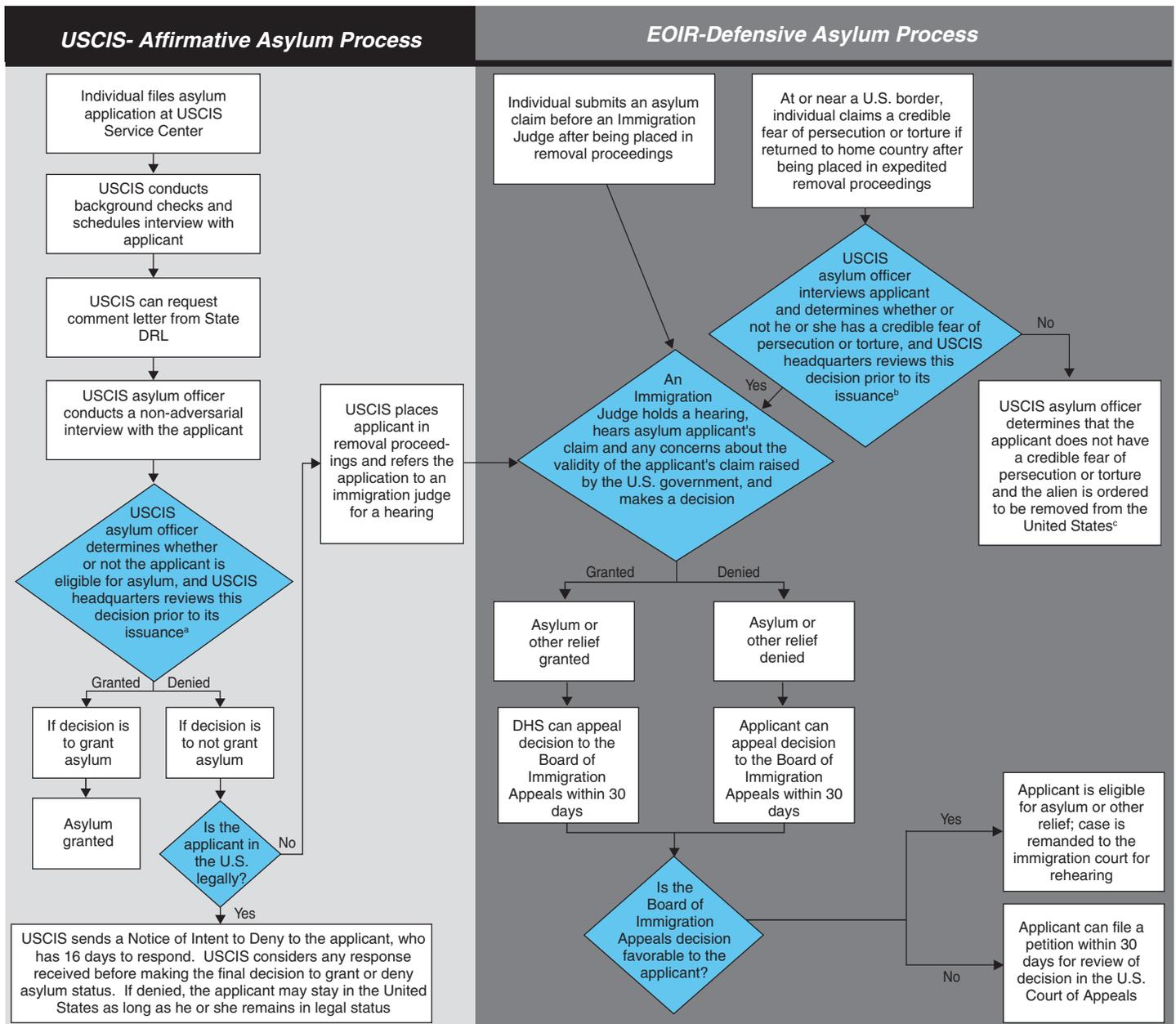
appealed by either the applicant or the U.S. government.⁶ Immigration Judges can grant asylum to applicants, allowing them to stay in the United States, or deny asylum and order them to be removed from the United States unless they qualify for another form of relief.⁷ DHS/ICE enforces removal orders by coordinating alien deportation and repatriation.

⁶If the applicant or DHS disagrees with the Immigration Judge's decision, either party may appeal the decision to EOIR's Board of Immigration Appeals. If the Board's decision is adverse to the applicant, he or she may file an appeal with the federal circuit courts of appeal.

⁷GAO previously reported that, across immigration courts, seven factors significantly affected asylum outcomes: (1) whether the asylum application was first filed affirmatively with DHS's asylum office or defensively with DOJ/EOIR's immigration court; (2) the nationality of the applicant; (3) the time period in which the asylum decision was made; and whether the applicant (4) had representation, (5) filed the application within 1 year of entry to the United States, (6) claimed dependents on the asylum application, and (7) had ever been detained (defensive cases only). Across Immigration Judges, in addition to these seven factors, two other factors significantly affected asylum outcomes: (1) the gender of the Immigration Judge and (2) the length of experience as an Immigration Judge. GAO, *U.S. Asylum System: Significant Variation Existed in Asylum Outcomes across Immigration Courts and Judges*, GAO-08-940 (Washington, D.C.: Sept. 25, 2008).

Appendix VI: The Affirmative and Defensive Asylum Processes in the United States

Figure 13: Steps in the Affirmative and Defensive Asylum Processes



Source: GAO analysis of USCIS and EOIR data.

^aUSCIS Asylum Division headquarters reviews affirmative asylum decisions for North Koreans and North Koreans with South Korean citizenship before issuing the decision.

**Appendix VI: The Affirmative and Defensive
Asylum Processes in the United States**

^bUSCIS Asylum Division headquarters reviews all credible fear decisions for North Koreans and North Koreans with South Korean citizenship before issuing the decision.

^cThe applicant may request that an EOIR Immigration Judge review the DHS/USCIS asylum officer's determination that the alien does not have a credible fear of persecution or torture. The Judge may sustain the officer's decision or vacate the decision, allowing the applicant to apply for asylum in court, according to USCIS.

Appendix VII: GAO Contact and Staff Acknowledgments

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Staff Acknowledgments

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