



**SOCIAL SECURITY**  
Office of the Inspector General

January 14, 2010

The Honorable George V. Voinovich  
United States Senate  
Washington, D.C. 20510

Dear Senator Voinovich:

In a June 19, 2009 letter, you asked that we review hearing offices whose daily disposition rates fell below the national average. Specifically, you requested that we (1) determine why the administrative law judges in these hearing offices had productivity rates that lagged behind other offices nationwide; and (2) identify what steps might be taken to remedy the situation.

I appreciate the opportunity to share our insights on this important matter, and I am pleased to provide you the enclosed report. The report addresses your concerns and highlights various facts pertaining to the issues raised in your letter. The report also provides information regarding lower-producing administrative law judges identified in a prior review conducted by my office. To ensure the Social Security Administration is aware of the information provided to your office, we are forwarding a copy of this report to the Agency.

If you have any questions concerning this matter, please call me, or have your staff contact Misha Kelly, Congressional and Intra-Governmental Liaison, at (202) 358-6319.

Sincerely,

A handwritten signature in black ink that reads "Patrick P. O'Carroll, Jr."

Patrick P. O'Carroll, Jr.  
Inspector General

Enclosure

cc:  
Michael J. Astrue

# ***CONGRESSIONAL RESPONSE REPORT***

***Hearing Office Disposition Rates***

**A-07-10-21015**



**January 2010**

## **Mission**

**By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.**

## **Authority**

**The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:**

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

**To ensure objectivity, the IG Act empowers the IG with:**

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

## **Vision**

**We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.**

# *Background*

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## **OBJECTIVE**

The objective of our review was to address the request of Senator George V. Voinovich regarding hearing office disposition rates. Specifically, our review focused on identifying factors that affected the performance of Office of Disability Adjudication and Review (ODAR) hearing offices whose daily disposition rates fell below the national average.

## **BACKGROUND**

ODAR is responsible for holding hearings and issuing decisions as part of the Social Security Administration's (SSA) process for determining whether a person may receive benefits. ODAR directs a nation-wide field organization staffed with administrative law judges (ALJ) who conduct impartial hearings and make decisions on appealed determinations involving Retirement, Survivors, and Disability Insurance benefits as well as Supplemental Security Income. At the time of our review, there were 142 ODAR hearing offices nationwide.

SSA's disability programs have grown significantly since 2002 because aging baby boomers have begun reaching their most disability-prone years, and the economy has taken a downturn. This growth has resulted in a backlog of disability cases. The number of cases awaiting a decision from an ALJ has risen from over 463,000 at the end of Fiscal Year (FY) 2002 to over 722,000 at the end of September 2009.

On October 31, 2007, Chief ALJ Frank Cristaudo issued a memorandum that identified expectations regarding the services that ALJs provide to the public. Most notably, he asked ALJs to issue 500 to 700 legally sufficient decisions each year, act on a timely basis, and hold scheduled hearings unless there is a good reason to postpone or cancel.

In a June 19, 2009 letter, Senator Voinovich requested we review hearing offices whose daily disposition rates fell below the national average. Specifically, the Senator requested we determine why the ALJs in those hearing offices had productivity rates that lagged behind other hearing offices and identify what steps might be taken to remedy the situation.

To address Senator Voinovich's request, we conducted interviews at hearing offices in 9 of SSA's 10 regions. We selected these hearing offices because they had disposition rates per day per ALJ below the national average of 2.31 for FY 2009 through June. Table 1 identifies the hearing offices we visited and the average dispositions per day

per ALJ for each office.<sup>1</sup> At these hearing offices, we interviewed a total of 14 ALJs, 9 Hearing Office Chief ALJs (HOCALJ), 9 Hearing Office Directors, 9 Senior Attorney Advisors, and 9 Senior Case Technicians.<sup>2,3</sup>

Table 1 Selected Hearing Offices by SSA Region		
Region	Hearing Office	Average Dispositions Per Day Per ALJ
Boston	New Haven, CT	1.88
New York	Queens, NY	1.51
Philadelphia	Washington, D.C.	2.10
Atlanta	Tampa, FL	1.93
Chicago	Columbus, OH	1.47
Dallas	New Orleans, LA	2.11
Kansas City	Springfield, MO	2.02
Denver	Fargo, ND	2.18
San Francisco	Oakland, CA	1.47
<b>National Average Dispositions Per Day Per ALJ = 2.31</b>		

We also followed up on the performance of 14 ALJs identified in a prior review as lower producers.<sup>4</sup> To do so, we conducted interviews with the HOCALJs responsible for managing these 14 ALJs.

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<sup>1</sup> See Appendix B for the scope and methodology of our review and Appendix D for the FY 2009 dispositions per day per ALJ for all 142 ODAR hearing offices.

<sup>2</sup> We selected 18 ALJs to be interviewed. However, four ALJs declined to be interviewed for reasons not identified; therefore, some offices may have been impacted by a factor, but it was not identified.

<sup>3</sup> See Appendix C for the typical organization of a hearing office.

<sup>4</sup> SSA OIG, Congressional Response Report, *Administrative Law Judge and Hearing Office Performance* (A-07-08-28094), August 2008.

# *Results of Review*

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At the 9 hearing offices included in our review, we interviewed a total of 14 ALJs, 9 HOCALJs, 9 Hearing Office Directors, 9 Senior Attorney Advisors, and 9 Senior Case Technicians. We also analyzed hearings data from ODAR's Case Processing and Management System (CPMS).

Our review identified various factors that impacted hearing office productivity. Specifically, we found ALJs had control over certain factors that affected hearing office productivity—motivation and work ethic, case review time, and hearings management. Further, we identified factors related to support staff that can also affect hearing office productivity—staff quantity, quality, and composition.

We also followed up on the performance of 14 ALJs identified in a prior review as lower producers. We found the performance of most of these ALJs had either minimally improved or not improved at all. In fact, the FY 2009 average dispositions per day for all 14 ALJs were below the national average of 2.31 dispositions per day.

We also found that the HOCALJs, who were responsible for managing ALJ performance, had taken actions to address individual ALJ factors that impact hearing office performance. These actions primarily included mentoring and counseling. However, when these actions were not successful, Agency management rarely took performance-based disciplinary action against ALJs.

## **ADMINISTRATIVE LAW JUDGE FACTORS**

We found certain factors within an ALJ's control that can impact hearing office performance and lead to daily disposition rates below the national average. These factors include motivation and work ethic, case review time, and hearings management.

### **MOTIVATION AND WORK ETHIC**

Our interviews disclosed ALJ motivation and work ethic can impact hearing office performance and lead to disposition rates below the national average. Specifically, seven of the nine HOCALJs we interviewed cited qualities, such as lack of ambition and low personal expectations, as reasons some ALJs consistently process fewer dispositions than expected.<sup>5</sup> One HOCALJ stated, "While some ALJs are self-directed and intrinsically motivated to do their best, certain others are content to accomplish the minimum required to get by on a daily basis, whether it meets the production goals or not."

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<sup>5</sup> See Appendix E for hearing offices where motivation and work ethic were identified as factors that may impact productivity.

## CASE REVIEW TIME

Our interviews disclosed the time ALJs spend on case review before the hearing can impact hearing office performance and lead to disposition rates below the national average.<sup>7</sup> Seven of the nine HOCALJs we interviewed expected case review to take an average of 1 hour or less. However, seven of the ALJs we interviewed spent more than 1 hour reviewing a case before a hearing (see Table 2).<sup>8</sup> In fact, two ALJs stated it could take up to 4 hours.

Five of the nine HOCALJs stated some ALJs spend too much time on case review because they are inefficient or over-develop cases, which results in case review exceeding the 1-hour expectation. SSA does not collect information on case review time by ALJ; therefore, our analysis of this factor was limited to our interviews. Without empirical data on case review time for all ALJs, we do not know the percentage of ALJs who spend 1 hour or less on case review and whether this expectation is reasonable.

## HEARINGS MANAGEMENT

According to our interviews, ALJ management of hearings can impact hearing office performance. Specifically, the number of hearings scheduled and the length of the hearings can lead to disposition rates below the national average.

### Hearings Scheduled

Low disposition rates can result when ALJs do not schedule enough hearings.<sup>9</sup> Our interviews disclosed that ALJs were not scheduling the number of hearings expected by HOCALJs. Specifically, 5 of the 9 HOCALJs stated that they expected ALJs to schedule between 12 and 15 hearings per week. However, 7 of the 14 ALJs we interviewed indicated that they typically only scheduled from 8 to 10 hearings per week. In FY 2009, hearing offices nationwide scheduled an average of 2.57 hearings daily per ALJ. However, 12 of the 14 ALJs we interviewed scheduled between 1.60 and 2.50 per day—below the national average.

<sup>6</sup> One ALJ did not specify the length of time it took to review a case before a hearing.

<sup>7</sup> ALJs review cases before scheduling hearings to become familiar with the facts of the case and determine the need for additional evidence or expert opinions. See Hearings, Appeals, and Litigation Law Manual (HALLEX), Chapter I-2-5-30.

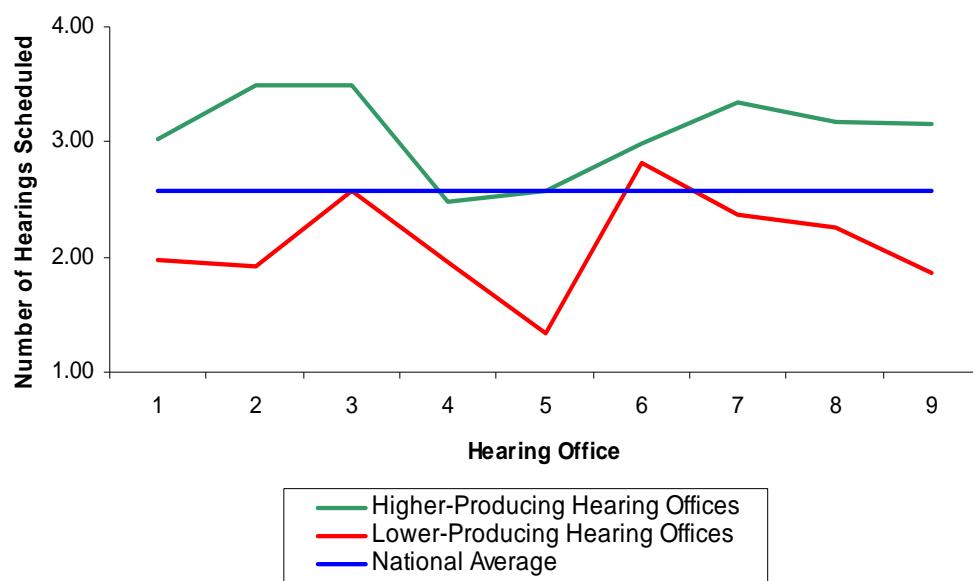
<sup>8</sup> See Appendix E for the five hearing offices where case review time was identified as a factor that may impact productivity for the seven ALJs.

<sup>9</sup> See Appendix E for hearing offices where the number of hearings scheduled was identified as a factor that may impact productivity.

Table 2 Time Spent Reviewing Cases	
Length of Case Review	Number of ALJs <sup>6</sup>
Up to 1 hour	6
More than 1 hour, but less than 2 hours	2
2 hours or more	5

Furthermore, in FY 2009, the number of hearings scheduled daily per ALJ was below the national average of 2.57 in seven of the nine hearing offices where we conducted interviews.<sup>10</sup> The average number of hearings scheduled daily in these seven hearing offices was between 1.33 and 2.37. Comparatively, when reviewing the number of hearings scheduled daily by nine of the highest-producing hearing offices, we found eight offices were at or above the national average of 2.57.<sup>11</sup> The average number of hearings scheduled daily in these eight hearing offices was between 2.57 and 3.50. Therefore, the hearing offices that scheduled more hearings issued more dispositions (see Chart 1).

**Chart 1: Hearings Scheduled Daily Per ALJ**



Currently, individual ALJs inform hearing office staff of the number of hearings they would like to schedule in a given timeframe. However, SSA proposed a change that will allow hearing office staff, rather than the individual ALJ, to set the time and place for a hearing. The intent of this change is to give hearing offices greater flexibility in scheduling hearings and is part of SSA's plan to increase efficiency in the hearing process and reduce the number of pending hearing requests.<sup>12</sup>

<sup>10</sup> We obtained data for the number of hearings scheduled daily per ALJ from the Caseload Analysis Report on hearings scheduled and held for FY 2009 through June in ODAR's CPMS.

<sup>11</sup> For comparative purposes, we identified the highest-producing hearing office in each of the same nine SSA regions where we conducted interviews with hearing offices that had disposition rates per day below the national average. The productivity time periods for comparison were the same - FY 2009, through June - based on dispositions per day per ALJ.

<sup>12</sup> SSA, Setting the Time and Place for a Hearing before an Administrative Law Judge; Notice of proposed rulemaking, 73 Federal Register 218, pp. 66564 – 66568 (November 10, 2008). As of December 2009, the final rule had not been published in the Federal Register. The final rule will become effective 60 days after the date published in the Federal Register.

## **Length of Hearings**

We found the length of hearings can impact hearing office performance and lead to disposition rates below the national average. Our interviews revealed eight of the nine HOCALJs expected hearings in their office to last up to 1 hour. However, 5 of the 14 ALJs we interviewed stated the average length of their hearings was longer than 1 hour.<sup>13</sup> One ALJ stated some hearings lasted as long as 3 hours. SSA does not collect information on the length of hearings by ALJ; therefore, our analysis on this factor was limited to our interviews.

## **SUPPORT STAFF FACTORS**

We found the quantity, quality, and composition of support staff<sup>14</sup> can negatively impact hearing office performance, leading to disposition rates below the national average.<sup>15</sup> ALJs are supported by staff who, among other things

- conduct initial case screening and preparation,
- maintain a control system for all hearing office cases,
- conduct pre-hearing case analysis,
- develop additional evidence,
- schedule hearings, and
- prepare notices and decisions for claimants.<sup>16</sup>

## **QUANTITY**

Seven of the nine HOCALJs we interviewed stated low support staff ratios impacted hearing office performance.<sup>17</sup> At the end of FY 2008, six of the nine hearing offices where we conducted interviews had staff ratios below the desired 4.5 support staff to every ALJ (see Table 3, yellow highlight).<sup>18</sup> However, SSA hired additional support staff,

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<sup>13</sup> See Appendix E for the four hearing offices where the length of hearings was identified as a factor that may impact productivity for the five ALJs.

<sup>14</sup> SSA stated that it uses predictive modeling to determine the appropriate number and composition of staff. SSA also stated that it uses benchmarks to monitor case processing.

<sup>15</sup> Our audit of *Hearing Office Performance and Staffing*, (A-12-08-28088) is addressing support staff quantity and composition. We expect to issue the report in FY 2010.

<sup>16</sup> HALLEX, Chapter I-2-0-5 C. See Appendix C for the typical organization of a hearing office.

<sup>17</sup> See Appendix E for hearing offices where the quantity of support staff was identified as a factor that may impact productivity.

<sup>18</sup> According to the Commissioner of Social Security, SSA is striving to achieve a national average ratio of 4.5 support staff to every ALJ. Statement of Michael J. Astrue, Commissioner of Social Security, testimony before the House Committee on Ways and Means, March 24, 2009. According to SSA, it is working toward the staffing ratio goal of 4.5 support staff to every ALJ. However, flexibility is required because some offices do not need a 4.5 ratio to operate productively.

and only two of the nine hearing offices fell below the desired ratio by the end of FY 2009 (see Table 3, green highlight). Therefore, the lower number of support staff early in the year may have negatively impacted hearing office productivity. These staffing increases should contribute to an increase in productivity. However, new employees will not have an immediate impact on workloads, as hiring and fully training new employees is a lengthy and resource-intensive process.

**Table 3  
Hearing Office Staff Ratios<sup>19</sup>**

Hearing Office	September 27, 2008	September 30, 2009
New Haven, CT	5.00	5.60
Queens, NY	3.88	5.29
Washington, D.C.	5.00	5.00
Tampa, FL	4.20	5.07
Columbus, OH	3.71	3.66
New Orleans, LA	3.67	4.10
Springfield, MO	4.76	4.63
Fargo, ND	4.20	5.44
Oakland, CA	4.29	5.38

In addition to hiring support staff, centralized pulling and writing units can assist hearing offices in meeting their staffing and workload goals. The purpose of the centralized units is to process more claims with less staff and increase productivity. These units can supplement staffing and space shortages in hearing offices while providing management with greater flexibility to address unforeseen workload changes.

## QUALITY

Our interviews revealed the quality of support staff can impact hearing office performance. Specifically, nine ALJs expressed concerns with the quality of the staff in their hearing offices.<sup>20</sup> For example, one ALJ said, "Sometimes the decisions are written so badly [I want] to scream." Another ALJ stated the writers in the hearing office leave out doctor's opinions and use incorrect numbers and dates.

Further, we found the quality of support staff was a major concern in one hearing office. In fact, five of the six interviews we conducted in that hearing office disclosed problems with the quality of staff. Specifically, one of the interviewees stated that hearing office productivity is impacted by the quality of support staff, not the quantity. However, it was also stated that the quality of the support staff has improved because of the recent hiring of four employees, who are hard-working and productive.

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<sup>19</sup> ODAR, Division of Finance and Budget Analysis Bi-weekly Staffing Report.

<sup>20</sup> See Appendix E for the five hearing offices where the quality of support staff was identified as a factor that may impact productivity for the nine ALJs.

## COMPOSITION

The composition of support staff can impact performance. In fact, five of the nine HOCLJs stated the composition of support staff impacts hearing office productivity.<sup>21</sup> For example, one HOCLJ stated, “It is challenging for the office to increase productivity when the office is short on writing staff.” Further, another HOCLJ said, “A lack of case pullers directly affects ALJ productivity.”<sup>22</sup>

In January 2009, eight of the nine hearing offices where we conducted interviews had decision writer staff ratios below the desired 1.5 decision writers to every ALJ (see Table 4, yellow highlight).<sup>23, 24</sup> However, SSA has hired additional decision writers, and only one of the nine hearing offices had fallen below the desired ratio by the end of FY 2009 (see Table 4, green highlight). Therefore, the lower number of decision writers early in the year may have negatively impacted hearing office productivity. The increase in decision writing staff should contribute to an increase in productivity. However, new decision writers will not have an immediate impact on workloads, as hiring and fully training new employees is a lengthy and resource-intensive process.

**Table 4**  
**Decision Writer Staff Ratios<sup>25</sup>**

Hearing Office	January 17, 2009	September 30, 2009
New Haven, CT	1.40	1.80
Queens, NY	1.38	2.14
Washington, D.C.	1.00	1.83
Tampa, FL	1.53	1.93
Columbus, OH	1.34	1.15
New Orleans, LA	1.10	1.60
Springfield, MO	1.20	1.83
Fargo, ND	1.20	1.80
Oakland, CA	1.13	1.63

Further, as previously discussed, ODAR has created centralized pulling and writing units. These units can help expand the skill sets available to hearing offices and further assist in processing workloads.

<sup>21</sup> See Appendix E for hearing offices where the composition of support staff was identified as a factor that may impact productivity.

<sup>22</sup> To prepare a case file for a hearing, a case puller must organize documents chronologically, remove duplicates, label and number all pertinent documents, and prepare an exhibit list.

<sup>23</sup> Before January 17, 2009, ODAR was not maintaining data on staff composition.

<sup>24</sup> A February 27, 2009 memorandum issued by the Deputy Commissioner for Disability Adjudication and Review recommended the regions hire 1.5 decision writers per ALJ to address support staff composition.

<sup>25</sup> See Footnote 19.

## PRIOR REVIEW OF LOWER PRODUCERS

We found the performance of most of the 14 ALJs identified in our prior review as lower producers had either minimally improved or not improved at all.<sup>26</sup> We identified minimal differences in the productivity of most of the ALJs when comparing their FY 2007 and 2009 disposition rates. As shown in Table 5, we determined the disposition rate

- increased for six ALJs (see green highlight),<sup>27</sup>
- remained the same for one ALJ (see light blue highlight), and
- decreased for seven ALJs (see yellow highlight).

**Table 5  
ALJ Disposition Rates**

ALJ No.	FY 2007 Dispositions per Day <sup>28</sup>	FY 2009 Dispositions per Day <sup>29</sup>	Change in Dispositions Per Day
1	1.14	2.15	1.01
2	0.69	1.61	0.92
3	0.73	1.09	0.36
4	0.71	1.04	0.33
5	1.23	1.52	0.29
6	0.63	0.88	0.25
7	0.83	0.83	0.00
8	1.31	1.30	(0.01)
9	0.77	0.71	(0.06)
10	0.71	0.63	(0.08)
11	1.00	0.92	(0.08)
12	0.76	0.67	(0.09)
13	0.62	0.44	(0.18)
14	1.55	1.09	(0.46)

In FY 2009, the average disposition rate per day for each of these 14 ALJs was below the national average of 2.31. Our interviews with the HOCLJs responsible for

<sup>26</sup> SSA OIG, Congressional Response Report, *Administrative Law Judge and Hearing Office Performance* (A-07-08-28094), August 2008. This review identified 19 fully available lower-producing ALJs in FY 2007. However, five of these ALJs were not considered fully available in FY 2009. Therefore, the current review only included the 14 fully available ALJs.

<sup>27</sup> ALJ numbers 1 and 2 had the greatest improvement in dispositions between FY 2007 and 2009. ALJ number 1 improved because of performance discussions by the Regional Chief ALJ, mentoring by another ALJ, and increased issuances of on-the-record decisions. ALJ number 2 improved because the HOCLJ strongly encouraged the ALJ to process more cases.

<sup>28</sup> Dispositions per day for FY 2007 were calculated by dividing the number of dispositions for each ALJ in FY 2007 by 249 (the number of workdays in FY 2007). The dispositions were obtained from a data extract from ODAR's CPMS.

<sup>29</sup> Dispositions per day for FY 2009 were calculated by dividing the number of dispositions for each ALJ in FY 2009 through June by 186 (the number of workdays in FY 2009 through June). The dispositions were obtained from ODAR.

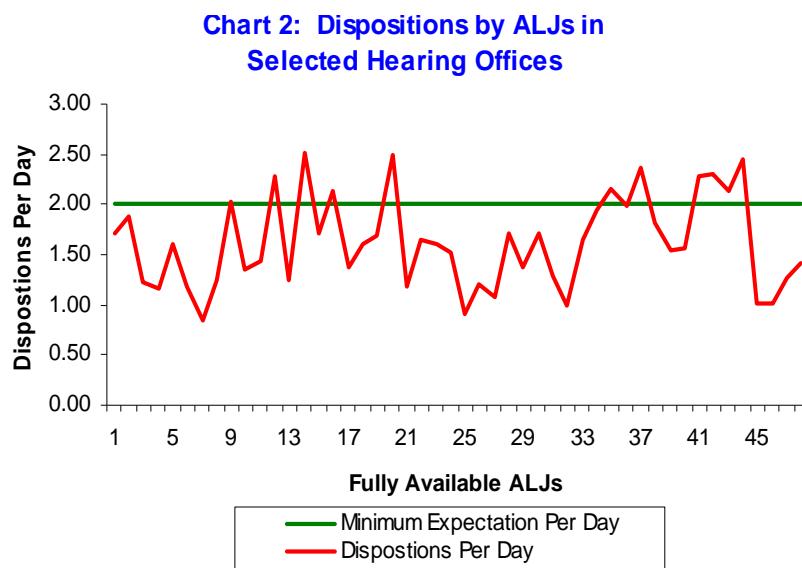
managing the 14 lower-producing ALJs disclosed that these ALJs had lower than average dispositions per day because of the same factors already discussed in this report—motivation and work ethic, case review time, hearings management, and support staff.

## ADDRESSING PRODUCTIVITY

According to the Commissioner of Social Security, an important bottom-line productivity measure is the percentage of ALJs who reach the minimum annual disposition expectation of 500 cases. As shown in Table 6, the percentage of ALJs who reach the 500-case disposition level is steadily increasing.<sup>30</sup>

Table 6 ALJs Reaching 500 Dispositions	
Fiscal Year	Percentage of ALJs
2007	46
2008	56
2009	71

Although according to SSA overall performance has improved, our review identified ALJs who were not on track to reach the minimum annual disposition expectation. Specifically, there were 48 ALJs considered fully available in the 9 hearing offices where we conducted interviews.<sup>31</sup> In FY 2009, and as a result of the factors presented in this report, 37 of these ALJs had daily disposition rates below the 2.00 per day needed to reach the minimum expectation of 500 (see Chart 2).<sup>32, 33</sup>



<sup>30</sup> Statement of Michael J. Astrue, Commissioner of Social Security, testimony before the House Committee on Ways and Means, November 19, 2009.

<sup>31</sup> These ALJs are considered fully available based on the employment classification for each ALJ as obtained from ODAR for FY 2009 through June.

<sup>32</sup> FY 2009 dispositions per day for these ALJs were calculated by dividing the number of dispositions in FY 2009 through June (obtained from ODAR) by 186 (the number of workdays in FY 2009 through June).

<sup>33</sup> To arrive at 2.00 dispositions per day, we divided the minimum expectation of 500 cases per year by the standard of 250 working days in a FY.

Although these 37 ALJs were not on target to meet the goal of 500 dispositions per year, and their performance was well below average, action had been taken against only 1 of these ALJs based on performance during the period of our review.<sup>34</sup> Instead of taking disciplinary action based on performance, the HOCALJs in our review provided ongoing performance-enhancement activities—such as repetitive mentoring, counseling, and monthly performance meetings—for lower-performing ALJs.<sup>35</sup>

Federal regulations preclude SSA from rating an ALJ's job performance.<sup>36</sup> However, Federal law permits agency action against ALJs, under certain limited circumstances.<sup>37</sup> In fact, the Merit Systems Protection Board stated in the Matter of Chocallo, ". . . an administrative law judge is not immune from review for misconduct, incompetence or other failings in the performance of his/her duties . . . .t]he fact that an [ALJ] carries out his/her duties in a hearing room rather than an office does not provide an impenetrable shield from appraisal of performance."<sup>38</sup>

**Actions SSA is Taking to Address ALJ Productivity**

- Mentoring
- Counseling
- Monthly Meetings to Discuss Productivity

One HOCALJ we interviewed stated, "Everything that can be done to address [the ALJ's] performance has been done, but nothing helps." The HOCALJ further stated, "The government does not make judges accountable for their performance. Action has to be taken in order to solve the problem." Another HOCALJ acknowledged that an ALJ had been mentored by seven different ALJs since 2005. However, the ALJ's performance had not improved.

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<sup>34</sup> This action was due to the ALJ's failure to process assigned work timely and resulted in the issuance of a directive to complete cases within a specified timeframe.

<sup>35</sup> According to SSA, the minimum annual disposition expectation of 500 cases is a goal not a quota. Therefore, disciplinary action will not be taken against an ALJ simply because they fail to meet the goal.

<sup>36</sup> 5 C.F.R. §§ 930.206(a) and 930.211.

<sup>37</sup> An action may be taken against an ALJ appointed under section 3105 of title 5 of the United States Code by the agency in which the ALJ is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board. 5 U.S.C. § 7521.

<sup>38</sup> Matter of Chocallo, 1 M.S.P.R. 605, 611. (1980).

## **Conclusions**

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Interviews with HOCALJs, ALJs, and hearing office staff disclosed two factors that affect hearing office performance—factors under ALJ control and factors that relate to support staff. Factors under ALJ control included motivation and work ethic, case review time, and hearings management. Support staff factors included quantity, quality, and composition of the support staff. Since these same factors were identified in our FY 2008 review, SSA needs to continue addressing them.

Through hiring, SSA has taken steps to address some of the support staff factors we identified as affecting hearing office disposition rates. For example, we found SSA is striving to achieve a national average ratio of 4.5 support staff to every ALJ. By the end of FY 2009, only two of the nine hearing offices in our review had fallen below the desired level.

Although SSA reports that overall ALJ performance has improved since FY 2007, there are still a number of ALJs with an average disposition rate per day well below the national average. As a result, many of these ALJs will not reach the minimum annual disposition expectation of 500. Even though ALJs were performing at a level below SSA's expectation, SSA has not taken disciplinary actions against these ALJs. Rather, SSA relies on the HOCALJs to continue to provide ongoing performance-enhancement activities—such as mentoring, counseling, and monthly performance meetings.

# **Appendices**

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[\*\*APPENDIX A\*\*](#) – Acronyms

[\*\*APPENDIX B\*\*](#) – Scope and Methodology

[\*\*APPENDIX C\*\*](#) – Hearing Office Organization

[\*\*APPENDIX D\*\*](#) – Fiscal Year 2009 Dispositions Per Day Per Administrative Law Judge

[\*\*APPENDIX E\*\*](#) – Factors That Impact Productivity

## **Appendix A**

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### **Acronyms**

ALJ	Administrative Law Judge
CPMS	Case Processing and Management System
FY	Fiscal Year
HALLEX	Hearings, Appeals, and Litigation Law Manual
HOCALJ	Hearing Office Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
SSA	Social Security Administration
U.S.C.	United States Code

### **Scope and Methodology**

To address Senator Voinovich's request related to hearing office disposition rates, we:

- Reviewed applicable Federal laws and regulations and pertinent parts of the Hearings, Appeals, and Litigation Law Manual related to administrative law judge (ALJ) hearings.
- Reviewed prior Office of the Inspector General, Government Accountability Office, and Social Security Advisory Board reports related to the ALJ hearings process.
- Obtained the *National Ranking Report by ALJ Dispositions per Day per ALJ* for Fiscal Year (FY) 2009 through June from the Office of Disability Adjudication and Review's (ODAR) Case Processing and Management System.
- Identified the hearing office in each region with the lowest disposition rate per ALJ per day below the national average. We excluded any offices we visited while preparing our Congressional Response Report, *Administrative Law Judge and Hearing Office Performance* (A-07-08-28094). Region 10 did not have an office that met these criteria, so an office from this Region was not selected. For the selected hearing offices we:
  - Obtained the following information from ODAR for ALJs in each selected hearing office for FY 2009 through June.
    - Number of Dispositions
    - Average Processing Time in Days
    - Employment Classification (NOTE: ALJs were classified as not fully available for such reasons as being newly hired, being a union representative, being on extended leave, retiring, or being a part-time ALJ.)

- Interviewed 14 ALJs, 9 Hearing Office Chief ALJs (HOCALJ), and 27 hearing office staff members at 9 hearing offices nationwide.
  - For each hearing office, we used the employment classification obtained from ODAR and identified the two fully available<sup>1</sup> ALJs with the lowest disposition rate per ALJ per day. This resulted in 18 ALJs being selected to interview; however, 4 ALJs declined to participate.
  - Interviewed the HOCALJs at the nine selected hearing offices.
  - Interviewed 27 hearing office staff members at the selected hearing offices. Specifically, we interviewed nine Hearing Office Directors, nine Senior Case Technicians, and nine Senior Attorney Advisors.
- Identified 19 lower-producing ALJs from our Congressional Response Report, *Administrative Law Judge and Hearing Office Performance* (A-07-08-28094). For these ALJs, we:
  - Obtained the following information from ODAR for FY 2009 through June.
    - The ALJ's hearing office as of June 2009
    - Number of Dispositions
    - Average Processing Time in Days
    - Employment Classification
  - Used the employment classification obtained by ODAR and identified the 14 fully available ALJs.<sup>2</sup>
  - Interviewed the HOCALJ in the hearing offices of the 14 lower-producing ALJs to determine whether the ALJs' productivity had improved and actions being taken to address the performance of these ALJs.

Our work was conducted at the Office of Audit in Kansas City, Missouri, and various hearing offices nationwide from July through October 2009. We determined that the data used in this report were sufficiently reliable given the review objective and their intended use. We conducted our review in accordance with the President's Council on Integrity and Efficiency's *Quality Standards for Inspections*.<sup>3</sup>

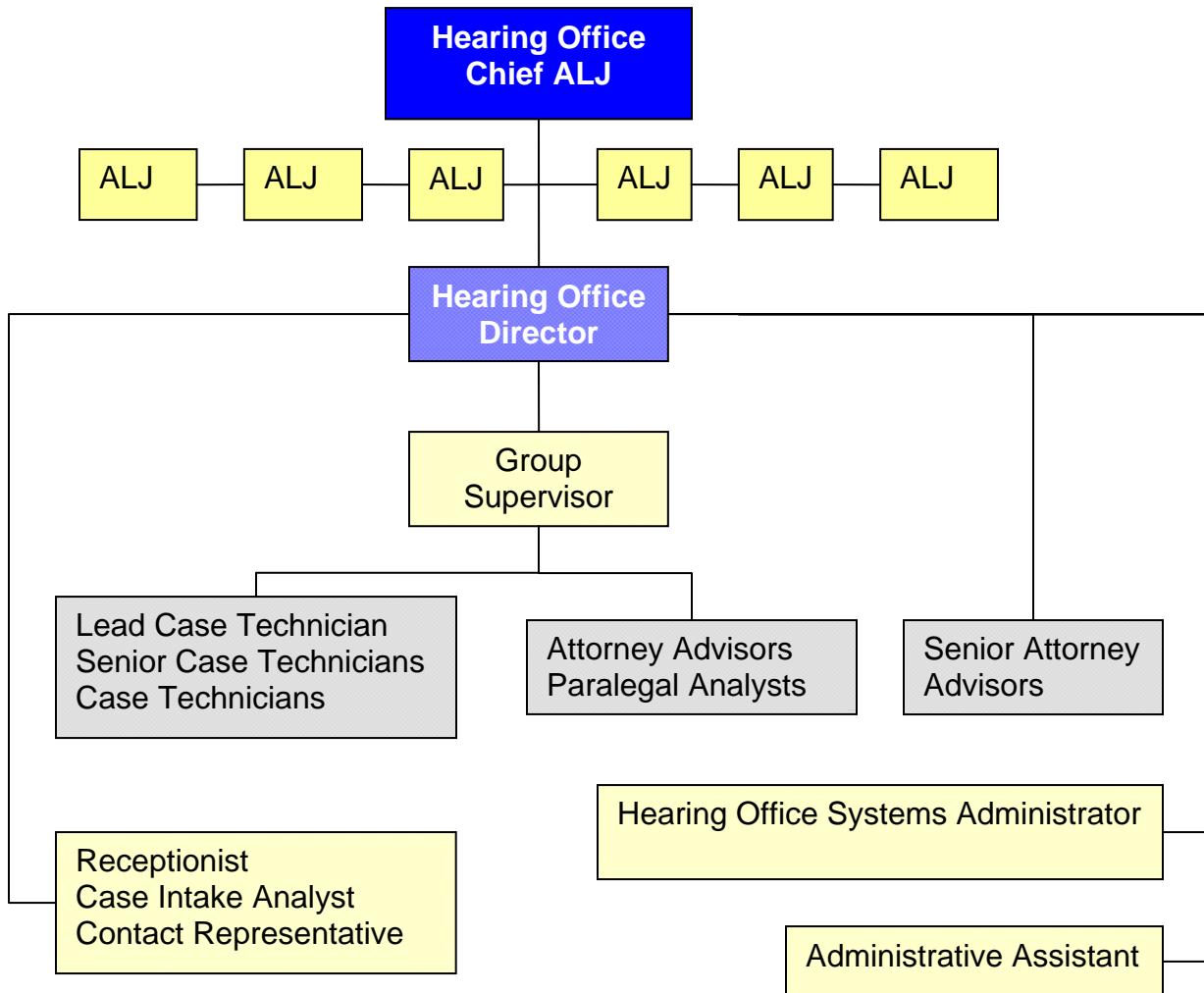
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<sup>1</sup> Judges classified by ODAR as newly hired, union representative, on extended leave, retired, or being a part-time judge were considered not fully available to issue dispositions.

<sup>2</sup> One ALJ retired, three ALJs were union representatives, and one ALJ was on administrative leave pending disciplinary action; therefore, these ALJs were not fully available to issue dispositions.

<sup>3</sup> In January 2009, the President's Council on Integrity and Efficiency was superseded by the Council of the Inspectors General on Integrity and Efficiency, Inspector General Reform Act of 2008, Pub. L. No. 110-409 § 7, 5 U.S.C. App. 3 § 11.

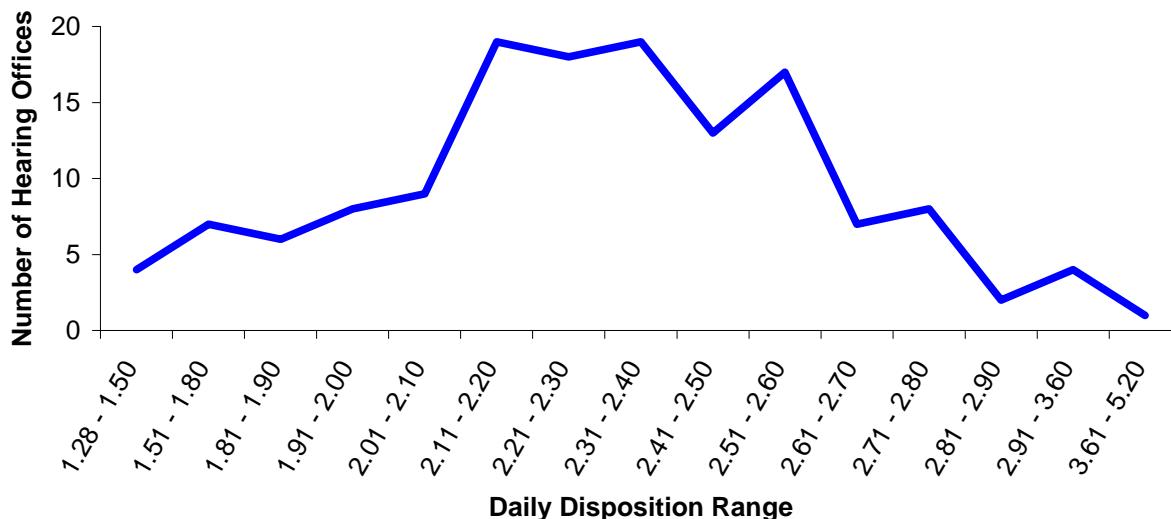
# **Hearing Office Organization**



### **Fiscal Year 2009 Dispositions Per Day Per Administrative Law Judge**

From September 27, 2008 through June 26, 2009, the 1,057 available administrative law judges (ALJ) issued an average of 2.31 dispositions per day (see Table 1 on the following page).<sup>1</sup> The average disposition rates per ALJ per day by hearing office ranged from a low of 1.28 to a high of 5.20, as shown in Chart D-1 and in Table D-1.<sup>2</sup> For example, 4 of the 142 hearing offices had disposition rates ranging from 1.28 to 1.50.

**Chart D-1: Dispositions Per Day Per ALJ  
by Hearing Office**



To identify factors that contribute to the lower-than-average disposition rates in nine hearing offices, we conducted interviews with select hearing office staff. We selected the hearing office in each Social Security Administration region that had the lowest disposition rate per day per ALJ (see Table D-1, green highlight).<sup>3</sup>

<sup>1</sup> The Office of Disability Adjudication and Review's (ODAR) monthly reporting cycle ends on the last Friday of the month. Our reporting period consists of FY 2009 through June. Therefore, FY 2009 began on September 27, 2008 and the month of June ended June 26, 2009. ODAR calculates the average number of daily dispositions per ALJ by dividing the total number of dispositions by the total number of ALJs available, which is then divided by the number of workdays in the reporting period.

<sup>2</sup> Average number of dispositions per day per ALJ as identified on the Case Processing and Management System (CPMS) National Ranking Report by ALJ Dispositions Per Day Per ALJ for FY 2009 through June.

<sup>3</sup> We excluded hearing offices that had been visited during our review Congressional Response Report, *Administrative Law Judge and Hearing Office Performance* (A-07-08-28094), August 2008.

Further, we conducted analysis at 14 hearing offices to determine whether the productivity of lower-producing ALJs identified in our prior review had increased and identified factors that impacted their performance (see Table D-1, yellow highlight).

<b>Rank<sup>4</sup></b>	<b>Hearing Office</b>	<b>Region</b>	<b>Dispositions Per Day Per ALJ<sup>5</sup></b>	<b>Available ALJs<sup>6</sup></b>
1	Ponce, PR	2	5.20	0.81
2	Mayaguez, PR	2	3.56	0.57
3	Jericho, NY	2	3.51	5.38
4	Harrisburg, PA	3	3.42	6.33
5	Greenville, SC	4	3.11	7.93
6	Seven Fields <sup>7</sup>	3	2.88	6.13
7	St Louis, MO	7	2.81	8.19
8	Albany, NY	2	2.80	6.60
8	Kingsport, TN	4	2.80	7.64
10	Bronx, NY	2	2.78	6.53
10	Flint, MI	5	2.78	4.94
10	Wilkes Barre, PA	3	2.78	7.15
13	Nashville, TN	4	2.76	6.16
14	Eugene, OR	10	2.74	3.18
15	Creve Coeur, MO	7	2.73	9.33
16	Los Angeles Downtown, CA	9	2.68	5.47
17	Atlanta Downtown, GA	4	2.67	12.99
18	Fort Smith, AR	6	2.65	4.52
18	Little Rock, AR	6	2.65	11.28
20	Wichita, KS	7	2.62	6.75
21	Columbia, SC	4	2.61	7.70
21	Tucson, AZ	9	2.61	4.23
23	Long Beach, CA	9	2.60	5.75
23	Spokane, WA	10	2.60	3.78
25	Pittsburgh, PA	3	2.59	6.80
26	Colorado Springs, CO	8	2.58	4.70
26	Minneapolis, MN	5	2.58	11.50
28	Ft Lauderdale, FL	4	2.57	10.49
29	Grand Rapids, MI	5	2.56	7.01

<sup>4</sup> ODAR ranked hearing offices 1 through 142 for dispositions per day per ALJ in FY 2009. The hearing office with a rank of 1 had the highest dispositions per day per ALJ while the hearing office ranked 142 had the lowest dispositions per day per ALJ.

<sup>5</sup> Average number of dispositions per day per ALJ as identified on the CPMS National Ranking Report by ALJ Dispositions Per Day Per ALJ for FY 2009 through June.

<sup>6</sup> Average number of ALJs available as identified on the CPMS Caseload Analysis Report for FY 2009 as of the end of June 2009.

<sup>7</sup> The Seven Fields hearing office is in Mars, Pennsylvania.

**Table D-1**  
**ALJ Dispositions Per Day and Available ALJs by Hearing Office**

Rank <sup>4</sup>	Hearing Office	Region	Dispositions Per Day Per ALJ <sup>5</sup>	Available ALJs <sup>6</sup>
29	Jackson, MI	4	2.56	7.37
31	San Juan, PR	2	2.55	8.16
31	Shreveport, LA	6	2.55	7.16
33	Honolulu, HI	9	2.54	0.93
33	Oak Park, MI	5	2.54	9.35
35	Brooklyn, NY	2	2.53	10.50
36	Johnstown, PA	3	2.52	3.84
37	Alexandria, LA	6	2.51	9.12
37	Huntington, WV	3	2.51	7.63
37	Tulsa, OK	6	2.51	8.87
40	Charlotte, NC	4	2.50	10.37
40	Montgomery, AL	4	2.50	8.99
40	Raleigh, NC	4	2.50	10.25
43	Birmingham, AL	4	2.48	13.83
43	New York, NY	2	2.48	11.78
45	Orland Park, IL	5	2.47	8.36
46	Charleston, WV	3	2.46	8.93
46	Providence, RI	1	2.46	3.78
48	Evansville, IN	5	2.44	5.03
49	Paducah, KY	4	2.43	3.67
50	Fort Wayne, IN	5	2.42	5.14
50	Macon, GA	4	2.42	7.70
52	Philadelphia East, PA	3	2.41	7.56
53	Albuquerque, NM	6	2.38	8.09
53	Dallas Downtown, TX	6	2.38	10.69
53	Manchester, NH	1	2.38	4.08
53	Norfolk, VA	3	2.38	5.33
53	San Jose, CA	9	2.38	4.43
53	Syracuse, NY	2	2.38	7.38
53	West Des Moines, IA	7	2.38	5.86
60	San Bernardino, CA	9	2.37	7.06
61	Newark, NJ	2	2.36	8.59
62	Chattanooga, TN	4	2.35	9.50
62	Houston-Bissonnet, TX	6	2.35	8.30
62	Mobile, AL	4	2.35	11.12
62	Tupelo, MS	4	2.35	6.91
66	McAlester, OK	6	2.34	2.07
66	San Francisco, CA	9	2.34	5.72
68	Greensboro, NC	4	2.32	8.72
68	Metairie, LA	6	2.32	6.54
70	Elkins Park, PA	3	2.31	8.46
70	Stockton, CA	9	2.31	5.75
72	Los Angeles West, CA	9	2.30	6.20
72	Phoenix, AZ	9	2.30	8.75

**Table D-1**  
**ALJ Dispositions Per Day and Available ALJs by Hearing Office**

Rank <sup>4</sup>	Hearing Office	Region	Dispositions Per Day Per ALJ <sup>5</sup>	Available ALJs <sup>6</sup>
72	Sacramento, CA	9	2.30	8.71
75	Hattiesburg, MS	4	2.29	8.90
75	Jacksonville, FL	4	2.29	10.04
75	Lexington, KY	4	2.29	8.88
75	San Antonio, TX	6	2.29	15.33
79	Charlottesville, VA	3	2.27	4.15
79	Savannah, GA	4	2.27	7.75
81	Billings, MT	8	2.26	4.38
81	Lansing, MI	5	2.26	6.24
81	Salt Lake City, UT	8	2.26	5.75
84	Dallas North, TX	6	2.25	12.56
84	Houston Downtown, TX	6	2.25	8.64
84	Memphis, TN	4	2.25	9.40
87	Louisville, KY	4	2.22	6.77
88	Downey, CA	9	2.21	4.19
88	Springfield, MA	1	2.21	5.23
90	Atlanta North, GA	4	2.20	7.67
90	Fort Worth, TX	6	2.20	8.55
90	Morgantown, WV	3	2.20	5.88
93	Middlesboro, KY	4	2.19	2.52
94	Fargo, ND	8	2.18	4.75
95	Las Vegas, NV	9	2.17	2.75
96	Voorhees, NJ	2	2.16	6.75
97	Charleston, SC	4	2.15	8.12
98	Boston, MA	1	2.14	11.36
98	Dover, DE	3	2.14	3.75
98	Hartford, CT	1	2.14	4.90
98	Orlando, FL	4	2.14	9.04
102	Florence, AL	4	2.13	6.14
102	Philadelphia, PA	3	2.13	7.69
102	Roanoke, VA	3	2.13	7.53
105	Portland, ME	1	2.12	4.96
105	Santa Barbara, CA	9	2.12	2.75
105	Seattle, WA	10	2.12	12.19
108	New Orleans, LA	6	2.11	8.56
109	Omaha, NE	7	2.10	4.43
109	Washington, DC	3	2.10	4.44
111	Detroit, MI	5	2.09	9.63
112	Knoxville, TN	4	2.07	9.79
113	Kansas City, MO	7	2.06	9.60
114	Denver, CO	8	2.05	8.59
114	Oak Brook, IL	5	2.05	8.08
116	Springfield, MO	7	2.02	4.62
117	Richmond, VA	3	2.01	6.04

**Table D-1**  
**ALJ Dispositions Per Day and Available ALJs by Hearing Office**

<b>Rank<sup>4</sup></b>	<b>Hearing Office</b>	<b>Region</b>	<b>Dispositions Per Day Per ALJ<sup>5</sup></b>	<b>Available ALJs<sup>6</sup></b>
118	Indianapolis, IN	5	2.00	10.64
118	Orange, CA	9	2.00	7.19
120	Buffalo, NY	2	1.99	13.37
121	San Rafael, CA	9	1.98	4.21
122	Peoria, IL	5	1.97	7.37
123	Baltimore, MD	3	1.96	8.75
123	Evanston, IL	5	1.96	8.85
125	Tampa, FL	4	1.93	14.44
126	Fresno, CA	9	1.89	7.39
127	New Haven, CT	1	1.88	4.67
127	Portland, OR	10	1.88	7.54
129	Dayton, OH	5	1.86	5.50
130	Cleveland, OH	5	1.84	12.78
131	Oklahoma City, OK	6	1.82	12.10
132	Pasadena, CA	9	1.78	5.44
133	Milwaukee, WI	5	1.75	10.51
134	Chicago, IL	5	1.66	9.28
135	Cincinnati, OH	5	1.65	10.01
136	White Plains, NY	2	1.64	5.53
137	Madison, WI	5	1.63	2.00
138	Queens, NY	2	1.51	7.32
139	Columbus, OH	5	1.47	9.60
139	Oakland, CA	9	1.47	7.55
141	Miami, FL	4	1.40	8.10
142	San Diego, CA	9	1.28	8.64
<b>National</b>			<b>2.31</b>	<b>1,056.92</b>

## Appendix E

### Factors That Impact Productivity

Our interviews with Hearing Office Chief Administrative Law Judges (ALJ), ALJs, and hearing office staff disclosed factors that can negatively impact hearing office performance and can lead to disposition rates below the national average. Table E-1 identifies the hearing offices that may have been impacted by each factor.

Hearing Office	Motivation and Work Ethic	ALJ Factors			Support Staff Factors		
		Case Review Time	Hearings Scheduled	Length of Hearings	Quantity	Quality	Composition
1			X	X		X	
2	X	X	X	X	X	X	X
3	X				X		X
4	X	X	X		X	X	X
5	X	X	X	X	X	X	X
6	X				X		
7		X	X				X
8	X		X	X	X		
9	X	X	X		X	X	

<sup>1</sup> Four ALJs declined to be interviewed; therefore, some offices may have been impacted by a factor, but it was not identified.

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The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Counsel to the Inspector General (OCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

### **Office of Audit**

OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

### **Office of Investigations**

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### **Office of the Counsel to the Inspector General**

OCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCIG also advises the IG on investigative procedures and techniques, as well as on legal implications and conclusions to be drawn from audit and investigative material. Also, OCIG administers the Civil Monetary Penalty program.

### **Office of External Relations**

OER manages OIG's external and public affairs programs, and serves as the principal advisor on news releases and in providing information to the various news reporting services. OER develops OIG's media and public information policies, directs OIG's external and public affairs programs, and serves as the primary contact for those seeking information about OIG. OER prepares OIG publications, speeches, and presentations to internal and external organizations, and responds to Congressional correspondence.

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