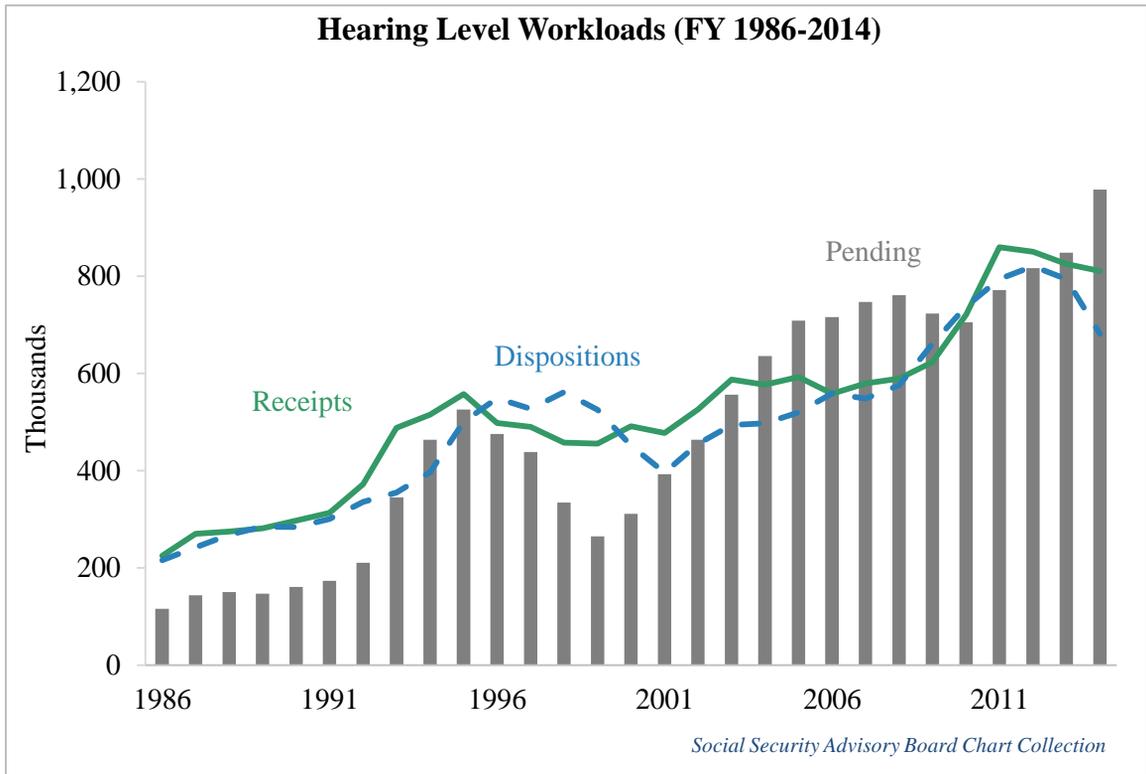


# Chapter 9: Hearings and Appeals

Social Security Advisory Board



# Chart 1: Hearing Level Workloads



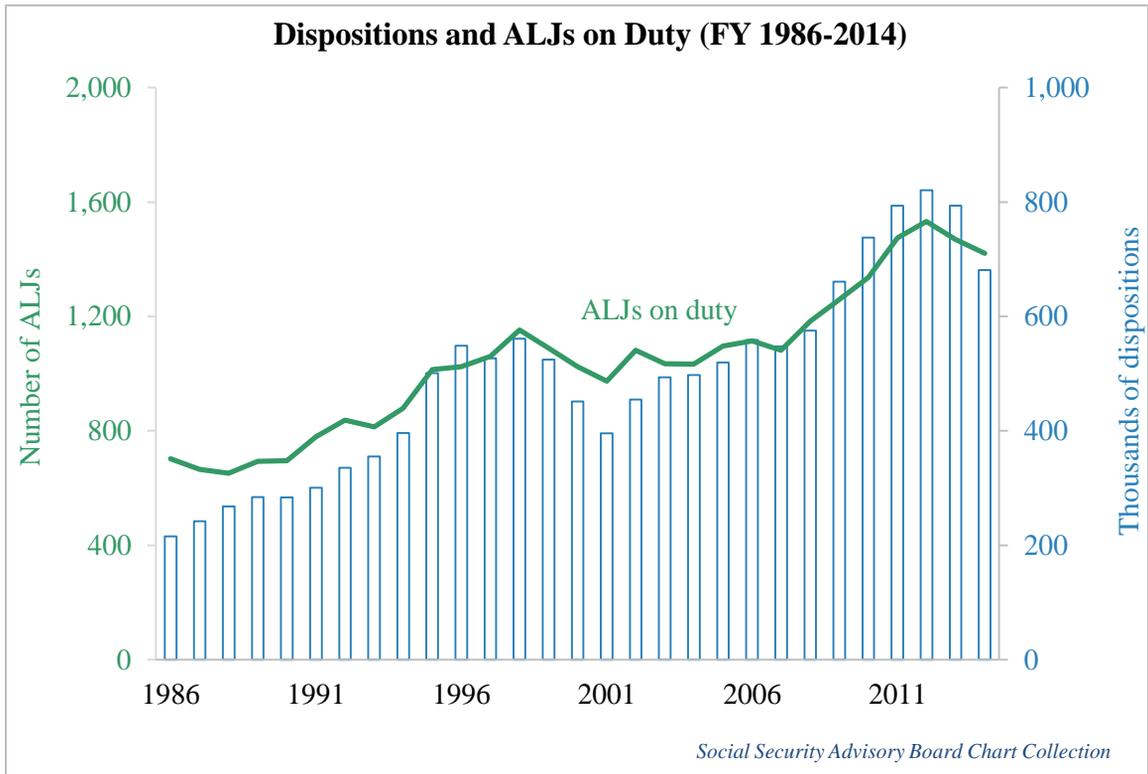
This chart shows the number of requests for new hearings, the number of hearing dispositions (which includes decisions and dismissals), and the number of cases pending a disposition for years 1986 to 2014. For much of the period since 2000, receipts outpaced dispositions, leading to a significant backlog of cases pending in hearing offices. Beginning in 2007, SSA implemented a backlog reduction plan that led to an increased number of dispositions. As a result, the gap between dispositions and receipts narrowed and the backlog of pending cases declined. Beginning in 2011, however, that gap began to widen again and the number of cases pending at the hearing level increased.

## Sources:

U.S. Social Security Administration, Office of Disability Adjudication and Review, *Key Workload Indicators Report*, for Fiscal Year 2010 and previous years.

U.S. Social Security Administration, Office of Disability Adjudication and Review, *Annual Statistical Supplement, 2015*, table 2.F9 for years after 2010.

## Chart 2: Dispositions and ALJs on Duty

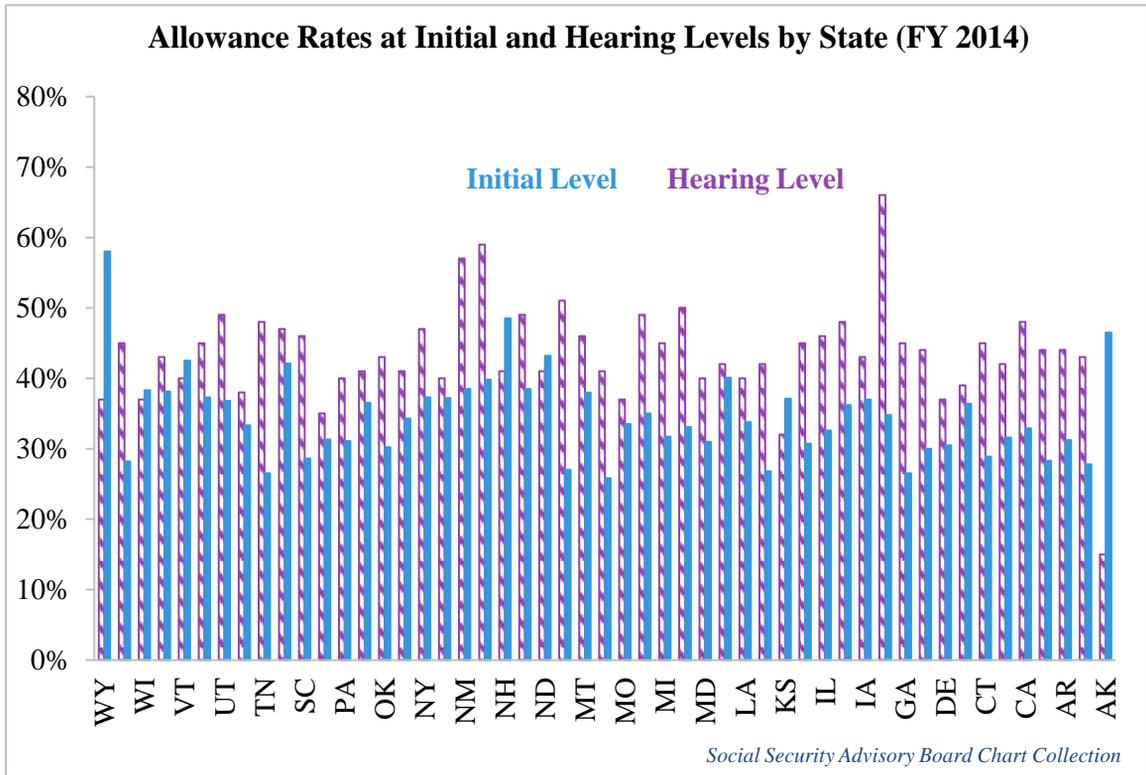


The number of dispositions per year, shown on the right axis, has tracked fairly closely the number of ALJs on duty, shown on the left axis. From 1999 to 2003 (with a one-time exception in 2002), SSA was unable to hire ALJs because of *Azdell v. James*, a lawsuit that arose out of changes that the Office of Personnel Management (the agency that has responsibility for the initial examination, certification for selection, and compensation of ALJs) made in 1996 to the scoring formula that is used to rate and rank potential ALJs. Even after the lawsuit was resolved in 2003, OPM did not open its hiring process to new applicants until 2007. Since 2007, SSA has added 339 new ALJs.

### Sources:

U.S. Social Security Administration, Office of Disability Determinations, data last received July 2015.

# Chart 3: Allowance Rates at Initial and Hearing Levels by State



There is a wide range from State to State in the hearing level allowance rates on disability claims. In 2014, favorable decision rates ranged from 15 percent in Alaska to 66 percent in Hawaii. These percentages show allowances as a percentage of overall case dispositions, and include dismissed cases. There is no overall correlation by state between the initial level and the hearing level allowance rates.

**Sources:**

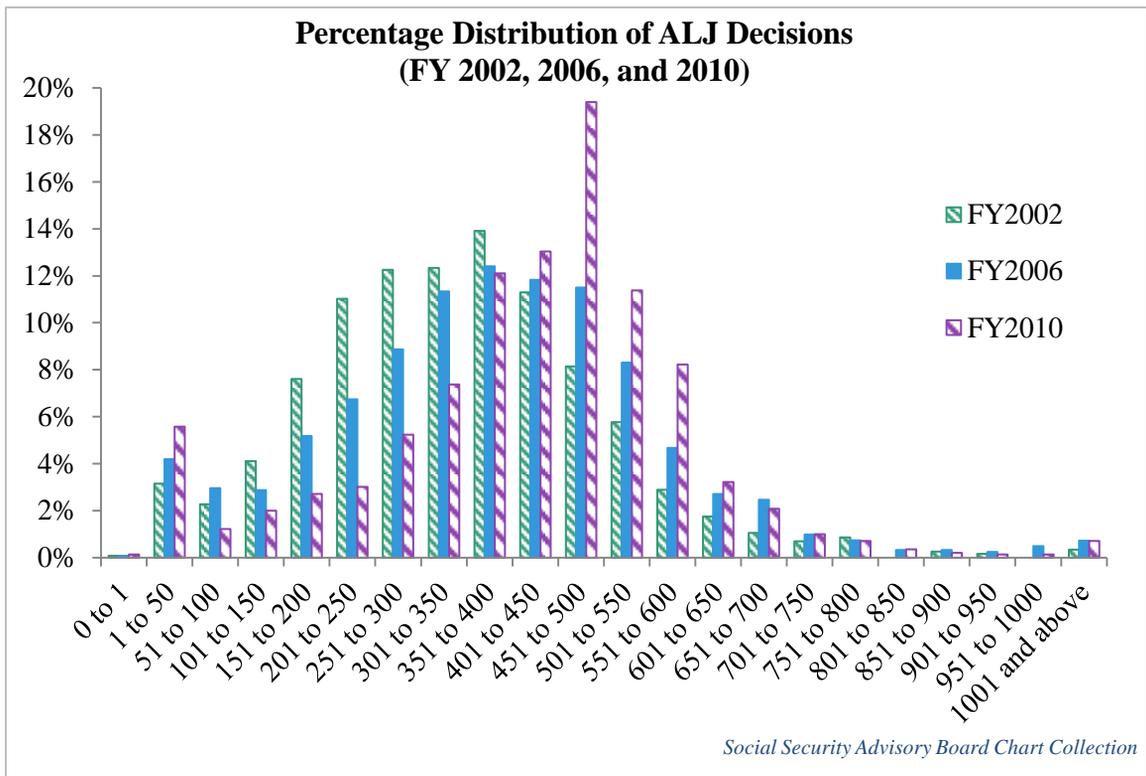
**Initial Level data:**

U.S. Social Security Administration, Disability Determination Services (DDS) Performance Management Report, FY 2014.

**Hearing Level data:**

U.S. Social Security Administration, Office of Disability Adjudication and Review, Case Processing Management Systems, data received March 2015.

## Chart 4: Distribution of ALJ Decisions



This chart shows, for fiscal years 2002, 2006, and 2010, numeric ranges of ALJ-issued decisions, and the percentage of ALJs who fall in each range. For example, in 2002, 5.8 percent of the ALJs issued between 501 and 550 decisions; in 2006, the percentage of ALJs in that range went up to 8.3 percent; and in 2010, the percentage went up to 11.4 percent. The average number of decisions per ALJ was 343 in 2002, 358 in 2006, and 394 in 2010.

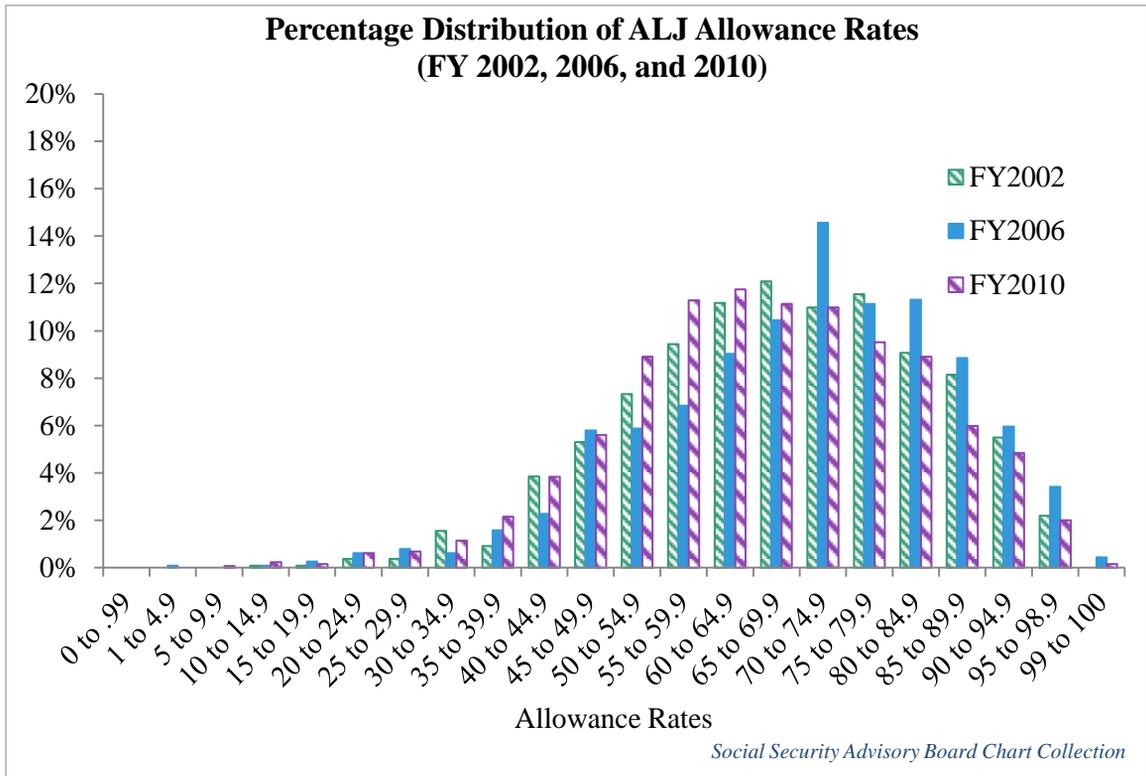
SSA established guidelines in 2007 that asked each ALJ to issue 500 to 700 hearing decisions per year. In 2002, only 158 ALJs (14 percent) issued more than 500 decisions. By 2010, 394 ALJs (28 percent) issued in excess of 500 decisions. The dramatic increase in decisions in fiscal year 2010 in the 451-500 range most likely reflects the ALJs' growing adherence to the new guidelines.

The percentage of ALJs issuing fifty or fewer decisions has also increased but this probably represents newly hired ALJs in those years who had less than a full year on the job.

### Sources:

U.S. Social Security Administration, Office of Disability Adjudication and Review, *Case Processing Management Systems*, data received June 2011.

# Chart 5: Distribution of ALJ Allowance Rates



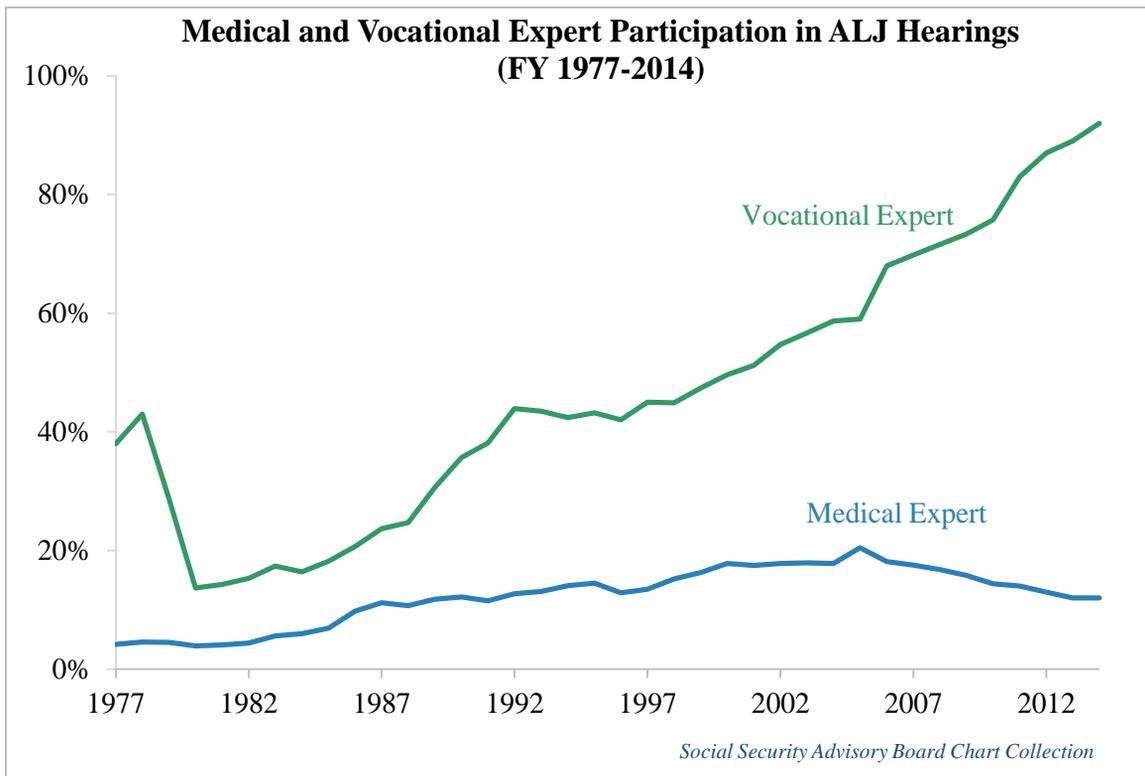
This chart shows the ranges of ALJ allowance rates in fiscal years 2002, 2006, and 2010 and the percentage of ALJs within those ranges. For example, in 2002, 11.4 percent of ALJs had allowance rates between 71 percent and 75 percent; in 2006, 14.7 percent were in that range; and in 2010, it was 10.6 percent.

The average ALJ allowance rate was 66 percent in 2002, 68 percent in 2006, and 65 percent in 2010.

**Sources:**

U.S. Social Security Administration, Office of Disability Adjudication and Review, *Case Processing Management Systems*, data received June 2011.

# Chart 6: Medical and Vocational Expert Participation in ALJ Hearings

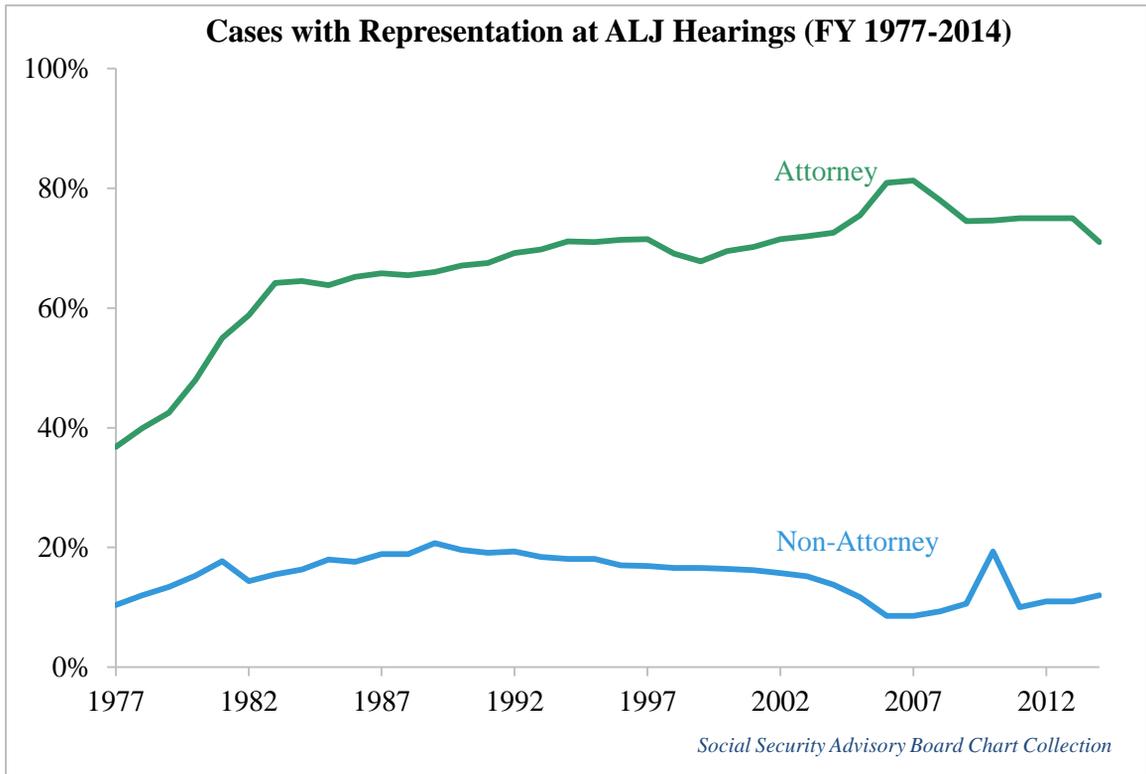


The use of vocational experts by ALJs has increased greatly since 1980, and they are now used in over three-fourths of all ALJ hearings, even though they rely on an outdated Dictionary of Occupational Titles to support their testimony. The adoption of vocational regulations (SSR 82-41) in 1979 was supposed to reduce their use. Later court decisions and regulatory changes, however, contributed to increased use. Over the same period, the use of medical experts grew from about 4 percent in 1977 to a high of about 20 percent in 2005. In 2014, ALJs used medical experts in 12 percent of their cases.

### Sources:

U.S. Social Security Administration, Office of Disability Adjudication and Review, *ODAR Participation Report and OHA Case Control System* (years before 1985), data received June 2015.

## Chart 7: Cases with Representation at ALJ Hearings



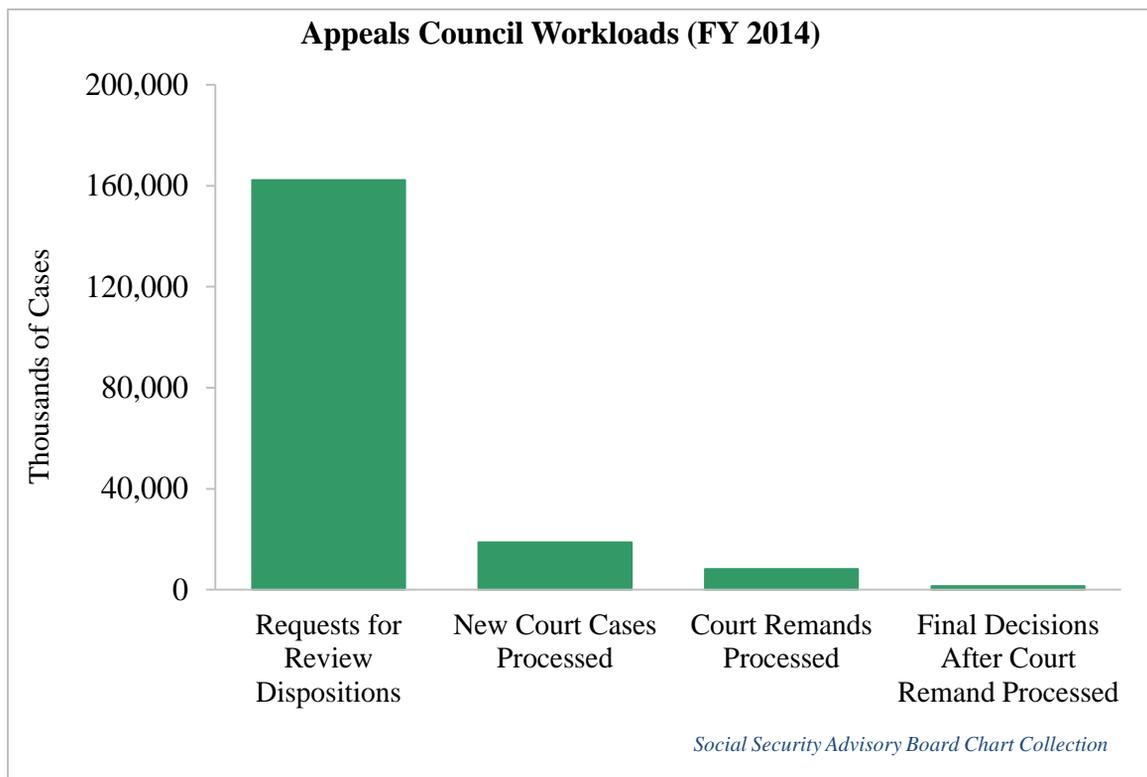
The percentage of DI and SSI claimants represented by attorneys at ALJ hearings has more than doubled since 1977, while the use of non-attorney representatives has remained in the 10-20 percent range. The figures for attorney and non-attorney representatives are not additive since some claimants may have both.

### Sources:

U.S. Social Security Administration, Office of Disability Adjudication and Review, *ODAR Participation Report and OHA Case Control System* (years before 1985), data received June 2015.

**Note:** The figures for attorney and non-attorney representatives are not additive since some claimants may have both.

## Chart 8: Appeals Council Workloads



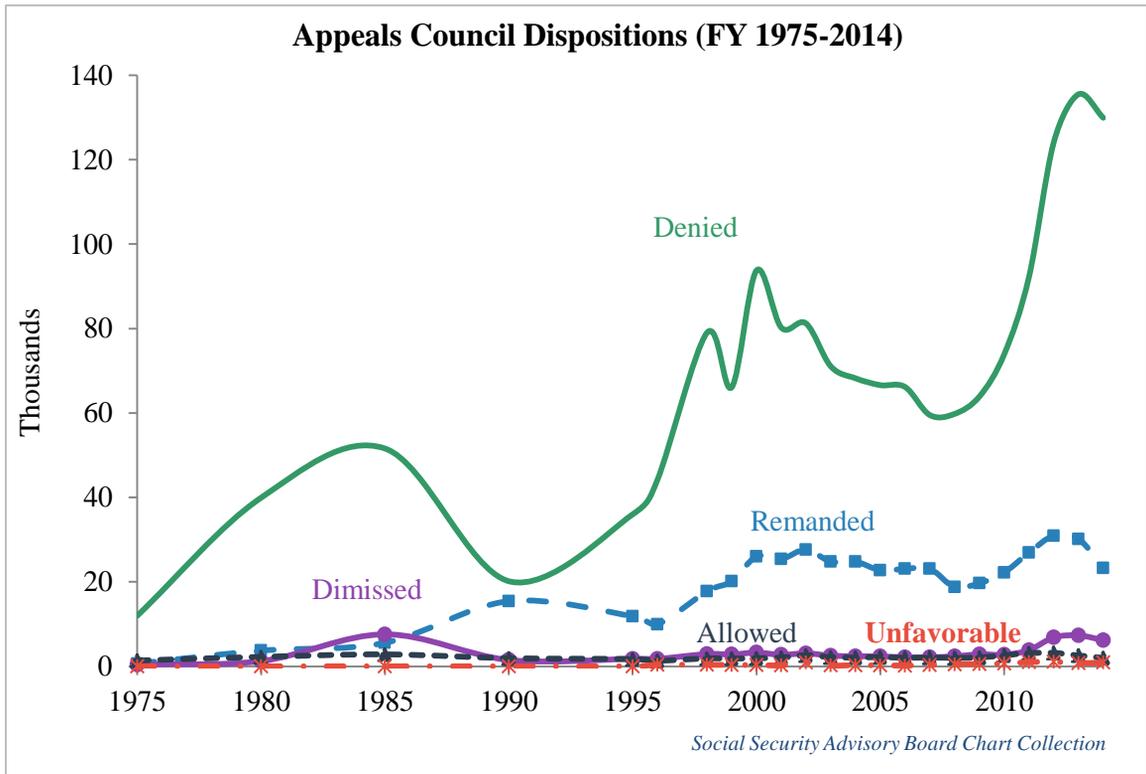
In addition to dealing with requests for review, i.e., the appeals of hearing level decisions, the Appeals Council:

- Reviews new court cases to determine whether they should be defended on the record or whether the Commissioner should seek a voluntary remand, and prepares the certified administrative record for new court cases of appealed SSA decisions;
- Processes remands from the courts; and
- Reviews final court decisions and makes recommendations as to whether appeal should be sought.

### Sources:

U.S. Social Security Administration, Office of Disability Adjudication and Review, *Key Workload Indicators Reports*, data received June 2015.

# Chart 9: Appeals Council Dispositions



Over the years, most of the cases handled by the Appeals Council have been either denied review or remanded back to the ALJ hearing level. The increase in dispositions through 2000 reflects a marked increase in the number of requests for Appeals Council review beginning in 1996 through 2000. As the number of cases being reviewed has grown, so has the number of cases being remanded back to the ALJs. The percentage of remands has declined, however, from 40 percent of all Appeals Council dispositions in 1990, to 14 percent of dispositions in 2014.

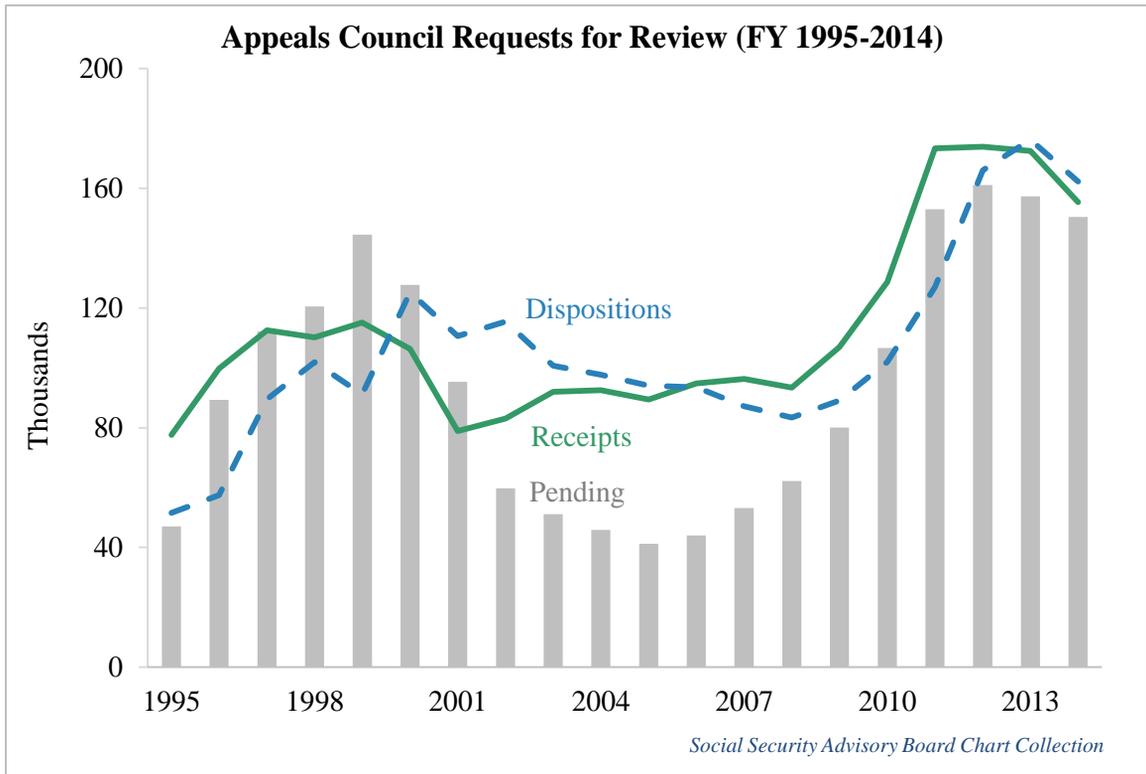
It is important to note the difference between 'denied' and 'unfavorable' categories. A request for review will be denied if the Appeals Council does not find a legal basis to exercise its appellate jurisdiction, i.e. to review the ALJ's decision. If it does find a legal basis to review the decision, the Appeals Council can issue a remand, dismiss the case, or issue a new decision entirely. New decisions are categorized as either favorable (i.e. "allowed") or unfavorable.

### Sources:

U.S. Social Security Administration, Office of Disability Adjudication and Review, *Key Workload Indicators Reports and Appeals Review Processing System*, data last received June 2015.

**Note:** The figures in this chart include non-disability claims. Unfavorable data is not available before 1995.

# Chart 10: Appeals Council Requests for Review



With receipts outpacing dispositions from 2007 through 2012, the number of requests for review pending at the Appeals Council had increased during this period. This growth in receipts mirrors increases in the number of hearing receipts over the last several years. In 2013 and 2014, however, dispositions were greater than receipts, causing the backlog of pending appeals to decrease again.

Another function of the Appeals Council is to perform a quality review of a limited number of ALJ cases before the effectuation of the final decision. Data for the period shown in the chart above is incomplete as the reviews were started and stopped for a variety of reasons over the course of the last 30 years. A new pre-effectuation review started in 2011.

### Sources:

U.S. Social Security Administration, Office of Hearings and Appeals, *Key Workload Indicator Reports* for fiscal years 1975-2004.

U.S. Social Security Administration, *Office of Disability Adjudication and Review, Appeals Council Automated Processing System* for fiscal years 2005-2014, data received June 2015.