Inferences and Assumptions Project

November 9, 2021

**Inferences Codebook**

**Overview**

Coders will be using NVivo 12 software to ‘code’ decisions written by members of the Refugee Protection Division (RPD) of the Immigration and Refugee Board. As you will see, this software allows coders to open a document, select a portion of text, and assign that text to a particular ‘node’ that corresponds to one of the codes below. We will use the terms code and node interchangeably.

The aim of this coding is two-fold:

To quantify in how many of these decisions the members concluded, in the context of an assessment of the risk of persecution, that the claimant had lied. ‘Lying’ is defined here as having “invented some or all of their allegations with the intention of deceiving the Board.”

To explore the inferences that the members use to justify their conclusion that the claimant has lied. This coding will quantify in how many decisions each inference appears but will **not** capture how often it appears in a given decision.

**The coding process**

Coders will be trained in how to use the NVivo 12 software and will be assigned a set of decisions to code.

First:

Read the decision once through from start to finish.

Second:

Determine whether the member has made a finding on the claimant’s risk of persecution. In most cases, the decision will be directed toward answering this question. In a few cases, however, the member will have made a preliminary finding – either that the claimant has not established their identity, or that they should be excluded from refugee protection – that ends their analysis. If the member has not made a finding on the risk of persecution because some other kind of finding has ended their analysis:

1) do not code the decision

2) indicate this in a memo appended to the decision

Third:

For all decisions that address the risk of persecution, code one representative sentence from each decision at one of the two metrics codes: ‘Finding of deception’ or ‘No finding of deception.’

Fourth:

For all decisions that address the risk of persecution, begin coding for the ‘inference codes’ below at the part of the decision where the member begins their analysis (typically the decision begins with a summary of the alleged facts, and the decision proper then follows under the heading “Analysis” or something similar). The aim is to ensure that, for every negative credibility conclusion that the member draws, each inference that supports that conclusion is identified and coded at the proper node.

**The codes**

**At a glance**

**A1** Metrics codes

Finding of deception

Finding of no deception

**A2** Implausible inconsistency

Claimant and other participant statement

Between two claimant statements

**A3** Lack of appropriate knowledge

**A4** Lack of diligence

**A5** Lack of supporting evidence

**A6** Manner, general quality or texture of testimony

Hesitancy

Lack of detail

Lack of spontaneity

Other suspicious behaviour or mannerisms

Vagueness and/or evasiveness

**A7** Non-probative supporting evidence

Non-probative supporting documents

Non-probative supporting witness testimony

**A8** Previous deception

**A9** Promise, oath or affirmation

**AA10** Risk response

Delay in claiming

Delay in leaving

Failure to claim

Other implausibly risky behaviour

Reavailment

**AA11** Otherwise illogical or unlikely

**AA12** Other

In the chart below:

The BLUE cells are titles, not codes. They help to put the codes in context.

The GREEN cells are the highest level of codes (the ‘parent’ codes); the software will collect and aggregate the information from the ‘child’ codes that appear under them. The coders will not assign text to these codes.

The YELLOW cells are the codes that the coders will be using. The coders will select and assign text to these codes.

**Metrics codes**

One single representative paragraph or sentence in each decision should be coded at one or the other of the two ‘metrics’ codes below.

NOTE: This code is **not** aiming to quantify how many findings of deception, if any, are made in each decision. It is simply trying to capture a binary: did the member at any point make a finding of deception, or didn’t they?

|  |
| --- |
| **Finding of deception**  The member concludes that the claimant has invented some or all of their allegations with the intention of deceiving the Board. This includes overall findings that the claim was manifestly unfounded, that it had no credible basis, and it also includes findings that the claimant was generally credible but lied on discrete occasions. |
| **No finding of deception**  The member does not make a finding that the claimant has invented some or all of their allegations with the intention of deceiving the Board. This may be because the member finds the claimant is credible, expressly or by implication; because they make no credibility finding; or because they find that the claimant is delusional but not lying. |

**Inference codes**

These codes capture the member’s justifications for concluding that the claimant is lying. The member may use these inferences to conclude that the claimant is lying about a particular allegation, about a series of allegations, or about the entire substance of the claim.

The members may use the inferences captured in these codes in either of two ways:

The member may suggest that the inference justifies rejecting the claimant’s testimony or allegation at first instance (because of X, I find that this allegation is not credible).

Or the member may suggest that they doubt an aspect of the claimant’s evidence because of some other concern, and they are relying on this inference to justify rejecting the claimant’s attempt to allay that concern (I raised concern Y; the claimant tries to explain Y away by suggesting an explanation; because of X, this explanation is not credible).

|  |  |  |
| --- | --- | --- |
| **Behaviour/alleged behaviour**  In the codes below, the member is concerned with how the claimant acted. References to behaviour in these codes include ‘alleged’ behaviour.  E.g. The risk response code includes:  inferences where the member concludes that observed behaviour (e.g. failing to claim right away) suggests that the story is a lie; and  inferences where the member concludes that alleged behaviour (antagonizing the agent of persecution) is unlikely to be true. | | |
|  | **Risk response**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: the finding that the claimant's response to a dangerous situation was not plausible because the claimant failed to take reasonable steps to reduce their risk exposure. If the situation had really been as dangerous as the claimant claims, the claimant would have acted differently out of a rational instinct for self-preservation. | |
|  | | **Delay in claiming in Canada or abroad**  The aspect of the claimant's account that the member identifies as undermining their credibility is: the finding that the claimant delayed in making their refugee claim in Canada or in another country.  **The claimant could not reasonably explain:**  **why they delayed in brining their refugee claim**  **why they did not claim right away/immediately/sooner/at the earliest opportunity**  **why they did not ask for protection right away etc.**  **why they voluntarily exposed themselves to the risks of deportation to their home country**  **The tribunal would have expected a person at risk to:**  **make a claim right away/immediately/sooner/at the earliest opportunity**  **ask for protection right away etc.** |
|  | | **Delay in leaving**  The aspect of the claimant's account that the member identifies as undermining their credibility is: the finding that the claimant delayed in leaving their country after the danger allegedly arose.  **The claimant could not reasonably explain:**  **why they delayed in leaving, waited to leave, did not flee sooner/earlier/immediately/at the first opportunity**  **why they put off the decision to leave**  **The tribunal would have expected a person at risk:**  **to leave right away/immediately/sooner/at the earliest opportunity**  **to flee when the danger arose** |
|  | | **Failure to claim in safe third country**  The aspect of the claimant’s account that the member identifies as undermining their credibility is: the finding that the claimant, at some point after the danger arose and before claiming in Canada, entered another country and failed to make a refugee claim in that country.  **The claimant could not reasonably explain:**  **why they failed to make claim in Country X**  **why they did not ask for protection from Country X**  **why they voluntarily exposed themselves to the risks of deportation to their home country**  **The tribunal would have expected a person at risk to:**  **make a claim in the first safe country that they reach**  **ask for protection right away/immediately/sooner/at the earliest opportunity/at the first opportunity** |
|  | | **Reavailment**  The aspect of the claimant's account that the member identifies as undermining their credibility is: the finding that the claimant, having left their country after the danger arose, chose to return home.  **The claimant could not reasonably explain:**  **why they chose to return home**  **why they voluntarily exposed themselves to the risks of returning**  **The tribunal would have expected a person at risk:**  **to stay out of reach of the agents of persecution**  **not to return to a country where their life is threatened etc.** |
|  | | **Other implausibly risky behaviour**  The aspect of the claimant's account that the member identifies as undermining their credibility is: the finding that the claimant's conduct - OTHER THAN the conduct covered in the other risk response nodes – or the conduct of a third party exposed the claimant or the third party to danger and that this voluntary level of risk exposure is not plausible.  **The claimant could not reasonably explain why he would have done X, given that X was very dangerous.**  **The tribunal cannot accept that the claimant did X, given how dangerous X was.**  **X was evidently dangerous. The tribunal therefore does not believe that the claimant did X.**  **The tribunal would expect that a person in the claimant’s circumstances would not be so foolish/foolhardy as to do X.**  **It strains credulity/is illogical/ is impossible to believe that anyone would ever do X under the circumstances that the claimant describes.** |
|  | **Lack of diligence**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: an express finding that the claimant was not diligent in preparing their claim – e.g. they did not make reasonable or appropriate efforts to gather evidence, file documents on time, seek counsel, etc.  **The claimant:**  **displayed a lack of diligence,**  **demonstrated a lack of care or attention or concern about their case**  **did not make serious efforts/made minimal efforts to i.e. find a lawyer sooner, to get X document, send in an amendment, etc.**  **The tribunal would have expected a person at risk:**  **to make reasonable efforts/more of an effort to prepare their claim**  **to make diligent efforts to get supporting evidence**  **to do everything reasonably possible to try to obtain proof etc.** | |
|  | **Previous deception**  The member justifies the conclusion that the claimant has invented an allegation or allegations with reference to 1) the member’s finding that the claimant had attempted in the past to deceive someone other than the Board about that same allegation 2) the member’s finding that the claimant had attempted in the past to deceive someone about some other allegation 3) the member’s earlier finding in the decision that the claimant had deceived or attempted to deceive someone.  NOTE: The key point here is that one credibility conclusion is building on another: the member is supporting a second credibility conclusion with reference to an earlier one. This code is concerned with inferences that take the form of “because you lied then, you’re lying now” or “because you lied about X, Y is unlikely to be true.”  The purpose of the restriction in 1) above (“someone other than the Board”) is to avoid capturing every inference about, e.g., statements in the BOC (that claimants would technically have made “in the past”).  1)  **The claimant lied to the agents of persecution in order to convince them to release him from prison. This reflects poorly on the claimant’s credibility.**  **The claimant admitted to having attempted to defraud the smuggler who brought him to Canada. This demonstrates that the claimant has a penchant for dishonesty.**  **The claimant admitted to having submitted fraudulent documents to the visa officer. The panel finds that this misrepresentation undermines the claimant’s credibility.**  **The claimant’s previous attempts to mislead the authorities reflect poorly on her credibility/cause the tribunal to doubt her evidence.**  2)  **In light of the panel’s finding that the client lied about X, the panel is not prepared to accept the claimant’s testimony about Y.**  **Given that the panel found that X did not occur, the panel does not believe that Y occurred.**  **The panel has found, for the reasons set out above, that the claimant is not credible. The panel is therefore not prepared to accept his testimony about Y.**  **Given the claimant’s general lack of credibility, the panel rejects the claimant’s testimony about Y.** | |
|  | **Promise, oath or affirmation**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: the fact that the claimant promised/swore/affirmed/declared etc. that the contents of the BOC, IMM form etc. were true, complete and correct (or words to that effect). E.g.: the claimant says at the hearing that there was a mistake in the BOC form, or says "I didn’t put everything in the BOC narrative because I thought I could add/explain at the hearing," and the member justifies rejecting this explanation on the above basis.  **[Information was missing from the BOC] At the start of the hearing, the claimant verified her signed declaration confirming that her allegations were complete, true and correct.**  **If the claimant felt that this missing information was important, the panel would have expected him to raise it before declaring under oath that that his BOC was complete, correct and true.**  **The panel cannot accept the claimant’s allegations. He declared at the outset that his BOC complete, true, exact and up-to-date.** | |
| **Manner, general quality or ‘texture’ of testimony**  These codes notionally lie at the intersection of the behaviour and testimony codes. It is often unclear to what extent the member is responding to what the claimant said and to what extent they are responding to how the claimant said it. A single finding may include either or both framings. | | |
|  | **Manner, general quality or 'texture' of testimony**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: 1) the manner in which the claimant gave their testimony - their demeanour, physical presentation, how they looked and sounded - or 2) the general quality of all or a portion of their testimony, a broad description of its 'feel' or 'texture.' | |
|  | | **Hesitancy**  The manner/general quality that the member identifies as undermining the claimant's credibility is: an observation about the pace of the claimant’s speech: that the claimant testified or answered questions slowly, hesitantly, with pauses, haltingly.  **The claimant paused before answering.**  **The claimant’s answers were hesitant.**  **The claimant took a long time to respond the panel’s questions.**  **The claimant responded haltingly.**  **There were long pauses in the claimant’s answers.**  **The claimant answered slowly.** |
|  | | **Lack of detail:**  The general quality that the member identifies as undermining the claimant's credibility is: observation that the claimant's testimony, or a portion of it, was generally lacking in detail. Member will use the phrase "lack of detail" or something very similar.  **The claimant’s testimony lacked detail.**  **The claimant’s testimony was very general with few particulars.**  **The claimant did not provide any examples or illustrations of X**  **The claimant could not elaborate.**  **For an event like X, the panel would have expected a more detailed description.**  **If the claimant were telling the truth, he would have been able to describe X in more detail/with more precision.**  **NOTE**: Where the member further specifies a particular 'detail' that they would have expected the claimant to recall, double code at "lack of particular specific knowledge." |
|  | | **Lack of spontaneity**  The manner/general quality that the member identifies as undermining the claimant's credibility is: the claimant's lack of spontaneity, i.e. their failure to offer details on their own initiative. Include within this node references to e.g. the 'laboured' or 'wooden' or 'rehearsed' quality of their testimony, or the member’s observation that the question had to be repeated.  **The claimant’s testimony was not spontaneous.**  **The claimant’s testimony was laboured.**  **The claimant’s answers sounded rehearsed.**  **The panel had to ask the question three times before the claimant finally provided an answer.**  **Throughout, the panel often had to repeat or stop to clarify the questions.**  **If X were true, the panel would have expected the claimant to mention it spontaneously.** |
|  | | **Vagueness and/or evasiveness**  The general quality that the member identifies as undermining the claimant's credibility is: the observation that the claimant's testimony was vague and/or evasive, using these or very similar words.  **The claimant’s testimony was vague and evasive.**  **The claimant avoided answering the question.** |
|  | | **Other suspicious behaviour or mannerisms**  The aspect of the testimony that the member identifies as undermining the claimant's credibility is: an observation about other behaviour or mannerisms that the member states or clearly implies are suspicious.  **E.g.:**  **The claimant was whispering to counsel**  **The claimant alternated between speaking every slowly and speaking very quickly**  **The claimant’s displays of emotion struck the panel as exaggerated**  **The claimant showed a puzzling lack of emotion** |
| **Content of testimony**  These codes capture inferences that focus on either the content or presentation of the claimant’s testimony about their experiences, other than those covered above. | | |
|  | **Implausible inconsistency**  In the codes below, a ‘statement’ is an instance of written or spoken testimony, including the provision of biographical data information, or any other sign or symbol used to convey information (e.g. stamp in a passport). All references to statements include ‘alleged’ statements:  E.g. The inconsistent statement codes include:  inferences where the member finds an inconsistency with an observed statement (e.g. in the hearing room) was inconsistent with another; and  inferences where the member finds an inconsistency with an alleged statement (e.g. a statement recorded in the Point of Entry officer’s notes but disputed by the claimant)  **NOTE**: in the risk context, members often find that “the claimant’s behaviour is “inconsistent with someone fearing persecution”: this should be coded to a ‘risk response’ code, not an ‘inconsistency’ code. | |
|  | | **Implausible inconsistency between two statements by the claimant**    The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: an inconsistency between any two or more statements made by the (same) claimant. Either or both of these may have been made by the claimant directly to the Canadian authorities (in hearings, interviews, in their written testimony (BOC narrative, amendments), on their written forms), or to someone other than the Canadian authorities (psychologists, police, other claimants), including statements reported by these third parties. This may be framed as an inconsistency or as an ‘omission’ from one of the two statements of information provided in the other statement.  **NOTE**: Here the member is expressly or implicitly finding that, if the claimant’s story were true, we would not see this kind of inconsistency. The underlying form of the reasoning is: If the claimant were telling the truth, I would not expect to see statement A, on the one hand, and statement B, on the other hand. Either statement on its own might not raise a concern – it is the inconsistency between them that is telling.  **The panel finds that there is an inconsistency between the claimant’s BOC form and his testimony.**  **The panel finds that the claimant’s answer to this question contradicts the information in his narrative at line 11.**  **The panel has identified a major omission from the claimant’s BOC narrative.**  **The claimant wrote X in his BOC narrative. At the hearing, for the first time, he mentioned Y. The addition of this new information for the first time at the hearing undermines his credibility.**  **In the hearing, the claimant testified that X. This information (X) is nowhere to be found in the claimant’s BOC narrative or IMM forms.**  **In answer to the panel’s question, the claimant testified X. But earlier in the hearing, the claimant had said Y.**  **In the IMM Form, the claimant wrote X. The claimant has not provided a credible explanation for why he did not mention X when the panel asked him about Y.**  **In the claimant’s narrative, the claimant wrote that X happened. The psychologist’s report, however, notes that the claimant had explained to the psychologist that Y happened.**  **The claimant testified that X happened. His statement to the police in the police report, however, makes no mention of X.** |
|  | | **Implausible inconsistency between a claimant statement and a statement by another contributor**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: an inconsistency between a statement made by the claimant and a statement made by a third-party contributor, i.e.: the testimony of another claimant; a psychologist’s report or police report, where the relevant statement gives the author’s own observations rather than citing the claimant’s words; country conditions documents; INTERPOL reports; ‘statements’ in the claimant’s travel documents (stamps, etc.); expert reports; the member’s own “specialized knowledge” or “taking special notice of notorious facts [when expressly framed as such]; other documentary evidence.  **NOTE:** With regard to general information about the situation in the country, which may form the backdrop to many inferences, what triggers this code is the specific finding that this information has been provided by a third party. It is often accompanied by a footnote reference.  **NOTE**: As in the previous code, the underlying form of the reasoning may focus on the inconsistency: If the claimant were telling the truth, I would not expect to see statement A, on the one hand, and statement B, on the other hand. Or, where the member accepts the other contributor’s statement as trustworthy (e.g. a country conditions report, an expert witness), this reasoning may instead treat this trustworthy statement as undermining or disproving the claimant’s account: Since I accept statement A (in the country documents, an export report, etc.), I find that claimant’s (inconsistent) statement B is unlikely to be true.  **The claimant testified that the conditions in the country were X. From the country conditions documents, it seems clear that the conditions in the country were not X.**  **The claimant testified that something happened that could only have happened if the conditions in the country were X. From the country conditions documents, it seems clear that the conditions in the country were not X.**  **The claimant testified that X happened. The officer’s statement in the police report, however, makes no mention of X.**  **The principal claimant’s allegations were contradicted by the testimony of the female claimant [his spouse].** |
|  | **Lack of appropriate knowledge**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: the claimant's lack of appropriate knowledge about a specific aspect of particular subject, e.g. about agents of persecution, religion, political platform, the appearance of common objects, the duration or frequency of events, etc. Here, what’s bothering the member is that if the claimant’s story was true, they would have been able to provide this information.  **NOTE**: Where the member further finds that, in addition to having specified gaps, the testimony generally lacked detail, double code to "lack of detail."  **The claimant was not able to name any of the twelve disciples of Jesus, any of the file pillars of Islam, etc.**  **Asked about his party’s political platform, the claimant’s answers were vague and hesitant [code also at vagueness, hesitancy]**  **The claimant could not remember the name of the ship that brought him to Hamburg.**  **The claimant could not say how long he travelled in the cargo container.**  **The claimant testified that the trip took about 10 hours. According to the country conditions documents, this trip would have taken at least 25 hours [code also at inconsistency with external statements].**  **The claimant alleges that X was his hometown, but could not accurately describe any of its major intersections or landmarks.** | |
|  | **Otherwise illogical or unlikely**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: the finding that, OTHER THAN for the reasons covered in any of the other nodes, the claimant's allegations are simply illogical or unlikely.  **The panel simply cannot accept that X occurred.**  **It seems too farfetched to believe that…**  **The panel finds this allegation too implausible.**  **This kind of finding is sometimes put in sarcastic terms that imply disbelief rather than stating outright, e.g.**  **The panel finds it surprising/convenient/quite the coincidence that…** | |
| **Supporting evidence**  This code captures inferences drawn from the documents that the claimant has provided, other than those covered above in the implausible inconsistency nodes (e.g. other than those responding to statements in the documents by the claimants or by third parties) | | |
|  | **Non-probative supporting documents**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: the finding that some or all of the claimant's supporting documents are fraudulent, suspicious, untrustworthy, unreliable, or non-probative.  **The panel does not accept that this document establishes X.**  **In light of the credibility concerns, the panel does not accept that this document establishes X [double code at previous finding of deception].**  **The panel puts no weight on this document.**  **That panel finds that this document is not genuine.**  **The panel has serious doubts about the authenticity of this document.**  **The panel accepts that this document is genuine and that it establishes X. It does not, however, help the claimant to establish Y. NOTE: here the document is probative for one purpose and not probative for a second purpose. We would still code it at this code because of the latter.**  NOTE: Where the member says something like “I find that you didn’t provide evidence of X because you only gave me document Y and document Y is sketchy” – we would code this at the “non-probative documents” code. The member’s point is that the documents do not establish X.  Where the member is saying something like “You provided other documents on point, but you didn’t provide document Z – and I find that the lack of document Z is telling” – even though the claimant did provide other evidence, we would code this at “lack of evidence,” because the fact that the document is missing is what’s bothering the member. | |
|  | **Non-probative supporting witness testimony**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: the finding that the (live) testimony offered by a 3rd party on behalf of the claimant is not credible, is untrustworthy, or is non-probative.  **Mr. X testified on the claimant’s behalf. The panel did not believe Mr. X’s testimony for the following reasons.**  **The expert testimony of Ms. X, while it establishes that the claimant suffers from PTSD, does not establish that the PTSD was brought about by the alleged incidents.** | |
|  | **Lack of supporting evidence**  The member justifies the conclusion that the claimant has invented some or all of their allegations with reference to: the fact that the claimant has not provided the Board with 1) any supporting documentation or other supporting evidence (including witness testimony) or 2) a particular piece of any supporting documentation or other supporting evidence.  **NOTE**: If the member also expressly draws an inference from the claimant’s lack of efforts in trying to find supporting evidence, double-code at “lack of diligence” code.  **The claimant has not submitted any evidence to corroborate X**  **The claimant made no effort to obtain document Y [and the implication is that this document would have been helpful] [code also at “lack of diligence”]**  **Given how easily the claimant could have been obtained document X, its absence reflects poorly on the claimant’s credibility.**  **The tribunal has seen no evidence to establish X.**  **In light of the credibility problems outlined above, without some corroborating evidence, the panel is not prepared to accept this allegation. [code also at “previous finding of deception”]** | |
| **Other** | | |
|  | **Other**  This code includes any credibility findings not covered by the above. It includes credibility findings imported from other analytical contexts, e.g.: where the member previously made a negative credibility assessment in the context of an exclusion finding, or a finding about identity, and now relies on this in the context of their inclusion finding (e.g. "as I found above in the context of my identity analysis").  **For the reasons discussed above in my analysis of the claimant’s identity, I find that the claimant was not forthright with Canadian officials. I draw a negative inference about his credibility.**  **As noted above in the context of the exclusion analysis, the claimant’s allegations about X are implausible. I therefore find that he does not face a risk of persecution because of X.** | |

Notes

# Approaches to the coding

## Coding for the inference rather than trying to make sense of the countertheory

In some cases, the member will reject the claimant’s allegation without a consistent countertheory.

E.g. The claimant explains that they were not able to obtain a copy of a hospital report. The member finds, based on country conditions information, that the hospital “would not likely have produced such a report.” The member also finds that the claimant’s “failure to produce the report” undermines their credibility because the claimant “would likely have been able to obtain it if they had made more of an effort.”

Is the member concluding that the report does not exist? Or are they concluding that it does and that the claimant was not diligent? The member is reaching both conclusions (read most charitably, the member is drawing the second inference “in the alternative,” without making this clear). The three kinds of inferences that the member is drawing here – inconsistency with country documents, lack of diligence and lack of evidence – can coexist at the level of the coding, even though they are incoherent at the level of the countertheory.

## Burden and standard of proof – the metrics codes

Nov. 18, 21

Where the claimant asks the member to accept a statement or to draw an inference – e.g. the police are after me, I’m perceived as an opposition activist – the member may reject this allegation without clearly stating that the claimant has attempted to deceive them. They may reject the allegation because they conclude that the claimant is mistaken, or they may leave open the question of whether the claimant is mistaken or is being deceptive. If it is not clear that the member has concluded that the claimant has attempted to deceive, code at the “no finding of deception” code.

In short, we will code at “finding of deception” in two circumstances: 1) where the member says overtly that the claimant is not credible or 2) where the member rejects a statement about which the claimant could not possibly be mistaken, such that the only reasonable inference is that the member has concluded that the claimant is lying.

## Burden and standard of proof – the inference codes

Nov. 18, 21

The member may word their finding in a way that suggests but leaves some doubt about what kind of inference they are drawing. The standard of proof is proof on a balance of probabilities: we will code a passage at a particular code if it is more likely than not that the member was drawing this inference. The burden of proof is on the code: if at the end of the day the coder simply cannot decide whether or not the member was likely drawing the inference then they will not code the passage at that code.

# Clarifications about the codes

## Otherwise illogical or unlikely

Nov. 30, 21

When the member draws an inference for a reason captured in a code (e.g. the claimant has delayed in leaving), they will often put their concern to the claimant, who will give an explanation (e.g. I delayed because I thought the situation was improving). If the member concludes that they do not accept this explanation because it is illogical or unlikely (e.g. the claimant had no reason to think that the situation was improving), this is only coded at the primary code (delay in leaving).

The member is rejecting the claimant’s explanation for the same reason that they drew the primary inference: both the claimant’s delay, and their explanation for the delay, violate the member’s expectations about how people at risk will respond.

If, however, in rejecting the claimant’s explanation, the member identifies a separate implausibility that is unrelated to the primary issue – e.g. the claimant explains that they delayed in leaving because the agent of persecution left town; the member finds it unlikely that the agent of persecution would have left town – then this second finding would be coded at “otherwise illogical or unlikely.” Here the member is drawing a second implausibility inference for reasons related to the agent of persecution’s conduct rather than to the claimant’s risk response.

## Finding of deception metrics code

Nov. 30, 21

In every decision, the member will be rejecting the claimant’s allegation that they are at risk. They may do this without making a finding of deception if e.g. they find that the agent of persecution is not as interested in the claimant as the claimant has suggested, or that, contrary to the claimant’s claims, the police will do an adequate job of protection the claimant. In reaching these kinds of conclusions, the member may simply be disagreeing with the claimant’s (sincerely held) opinion without finding that the claimant is exaggerating or misrepresenting. As noted above (“burden and standard of proof”), unless the member indicates clearly that they believe that the claimant is lying, this code should only be used if member is rejecting a statement about which the claimant could not possibly be mistaken, such that the only reasonable inference is that the member has concluded that the claimant is lying.

## Implausible inconsistency between two claimant statements

Nov. 30, 21

The Schedule A to the claimant’s BOC Form, the IMM-0008 Form, and visa application forms are all completed by the claimant, so they are all ‘claimant statements’ for the purposes of this code.

## Implausible inconsistency between a claimant statement and a statement by another contributor

Nov. 18, 21

Where the member finds that the claimant’s documents are fraudulent or suspicious based on evidence in the country conditions documents – e.g. the country documents make clear that I should expect to see X on this document instead of Y – this is a “non-probative documents” finding but is not double-coded at the ‘inconsistency’ code. This is because, in the ‘inconsistency’ code, the member is treating a “trustworthy [3rd party] statement as undermining or disproving the claimant’s account.” Here the member’s focus is not on the claimant’s account, but rather on their documents: the member draws a “non-probative documents” inference from their read of the country conditions documents.

## Previous deception

Nov. 30, 21

This code captures the situation where one inference is made because of another: where the member infers that the claimant is lying about an allegation based on separate finding (or on separate findings) that the claimant was lying.

This code should be renamed to “Secondary finding of deception” to reflect the fact that the other finding upon which the inference rests is not necessarily a finding about “previous” deception, in that, e.g., it many not have occurred earlier in the claimant’s narrative.

This will arise in three kinds of circumstances:

1) the member’s finding that the claimant had attempted to deceive someone other than the Board about that same allegation 2) the member’s finding that the claimant had attempted to deceive someone about some other allegation 3) the member’s earlier finding in the decision that the claimant had deceived or attempted to deceive someone.

## Lack of diligence

Jan 18, 21

Further to the below, the inference that the member is drawing here is that the claimant’s carelessness – their negligence – is implausible: if they were really at risk, they would have taken more care.

Nov. 30, 21

When the member makes a ‘lack of diligence’ finding, their reasons will suggest a concern about the claimant’s failure to act properly. It will imply that the claimant has been careless – there is at least an undercurrent of blame, the sense that the claimant was at fault. If this element is missing, this code is not triggered. E.g., in some cases, in response to the member’s challenge about a suspicious omission from the narrative, the claimant will explain that they did not realize that the missing information was important. In dismissing this explanation, the member will write something like “the claimant is an intelligent, educated person who had plenty of time to fill out the form.” Here the implication is not that the claimant was careless in omitting the information (which would be consistent with the information being true). Rather, the implication is that, if the information were true, the intelligent, educated claimant would have thought to include it.

## Delay in leaving

Nov. 18, 21

This code applies when the member has made “the finding that the claimant delayed in leaving their country after the danger allegedly arose [emphasis added].” Where the member draws an inference from the claimant’s delay in moving from one area within the country to another, we will not apply this code, but rather the ‘other risky conduct’ code.

## Lack of supporting evidence

Nov. 18, 21

This code captures a situation where the member “justifies the conclusion that the claimant has invented some or all of their allegations with reference to…the fact that the claimant has not provided the Board with 1) any supporting documentation or other supporting evidence.”

This is distinct from a situation where the member first rejects the claimant’s testimony as not credible and then concludes that, since they do not believe the claimant, the claimant has not provided sufficient evidence to establish their claim. Here, the ‘insufficient evidence’ finding is supporting the inference that the claim has no legal basis, rather than supporting the inference that the claimant is lying.

## Fraudulent, suspicious, or non-probative documents

Nov. 24, 21

There are two ways that a member might conclude that a claimant is lying “with reference to” their fraudulent, suspicious, or non-probative documents. In some cases, the inference is that the sketchiness of the documents suggests that the claimant is lying. In other cases, the member is already suspicious of the claimant and the claimant tries to explain themselves with reference to a document (e.g. psych report). In rejecting the claimant’s explanation, the member refers to the fact that they are not convinced by this document – either because it is sketchy or because it simply does not help the claimant to prove the point that they hoped to make.

## Other implausibly risky behaviour

Nov. 30, 21

This code applies to risky behaviour in any setting (in the claimant’s country, in a third country, in Canada).