



Representation for Unaccompanied Children in Immigration Court

Unaccompanied children^[1] are represented by an attorney in only about one-third (32%) of 63,721 cases pending in Immigration Court as of October 31, 2014, according to the latest data. Some 43,030 juveniles have *not* as yet been able to hire an attorney to assist them or to find pro bono representation (see Figure 1). For the 21,588 children's cases filed and already decided since the surge of unaccompanied minors from Central America began three years ago, only 41 percent had representation.

Using a decade's worth of court records, a [previous TRAC report](#) found that whether or not an unaccompanied juvenile had an attorney was the single most important factor influencing the case's outcome. This report examines factors related to finding

TRAC Series on Juveniles and Families in Immigration Court

- I: [New Data on Unaccompanied Children](#)
 - II: [Representation for Unaccompanied Children](#)
 - III: [Representation for Women with Children](#)
 - IV: [Representation Makes 14-Fold Difference](#)
 - V: [Potential Impact of Targeted Raids](#)
 - VI: [Many Unrepresented Families Quickly Ordered Deported](#)
 - VII: [Children: Amid a Growing Court Backlog, Many Still Unrepresented](#)
- Tools: [Juvenile Deportation Proceedings and Women With Children](#)

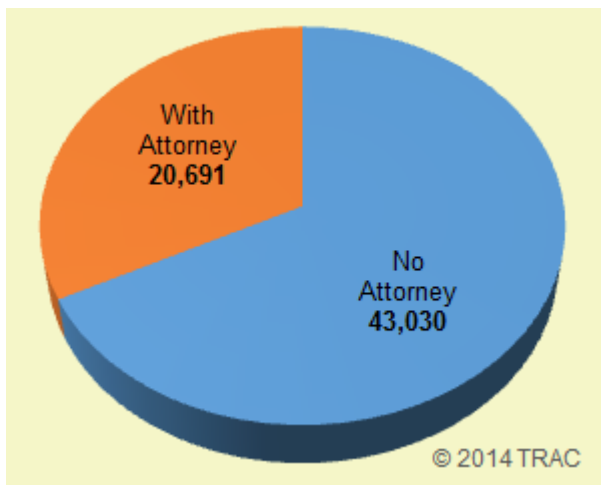


Figure 1. Pending Cases in Immigration Court Involving Unaccompanied Juveniles

representation and presents new results — using data updated through October 2014 — on outcome depending upon whether the unaccompanied juvenile was represented.

As before, these results are based on case-by-case Immigration Court records obtained by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University from the Executive Office for Immigration Review (EOIR) under the Freedom of Information Act.

The Impact of Representation on Outcome

Outcomes for unaccompanied children whose cases were filed and decided during the past three years were examined. The period from FY 2012 through FY 2014 was selected since it covers the recent surge in cases involving unaccompanied minors from Central America that began in FY 2012. With the updated data current through the end of October 2014, court records show that over twenty thousand of these cases have already been decided.

Here are the results for children arriving during this latest surge (see Figure 2):

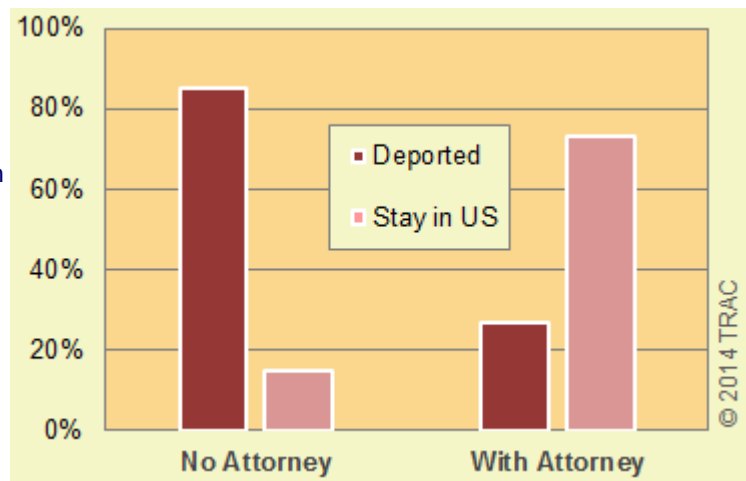


Figure 2. Decisions in Immigration Court Cases

Involving Unaccompanied Juveniles

- **Outcome if attorney present.** In almost three out of four (73%) of the cases in which the child was represented, the court allowed the child to remain in the United States. The child was ordered removed in slightly more than one in ten (12%) of these cases. And in the remaining 15 percent the judge entered a "voluntary departure" (VD) order. (While with a VD order the child is required to leave the country, the child avoids many of the more severe legal consequences of a removal order.)
- **Outcome if no attorney.** Where the child appeared alone without representation, only 15 percent were allowed to remain in the country. All the rest were ordered deported — 80 percent through the entry of a removal order, and 5 percent with a VD order.

Table 1 compares outcome for unaccompanied children whose cases were filed and decided during the past three years with all cases from the last ten years.

Table 1. Decisions in Immigration Court Cases Involving Unaccompanied Juveniles

Fiscal Year Case Filed	No Attorney				With Attorney			
	Cases Decided	Removal Order	Voluntary Departure	Stay in U.S.	Cases Decided	Removal Order	Voluntary Departure	Stay in U.S.
Ten Year Total*	34,263	79%	11%	10%	33,694	27%	24%	49%
<i>Since Surge Began</i>								
FY 2014	4,778	88%	2%	11%	1,208	16%	15%	69%
FY 2013	4,623	74%	4%	22%	3,710	9%	11%	80%
FY 2012	3,416	79%	10%	10%	3,843	14%	19%	67%
FY 2012 through FY 2014	12,817	80%	5%	15%	8,761	12%	15%	73%

* Covers FY 2005 - FY 2014 plus first month of FY 2015 (October 2014)

Representation Rates and the Volume of Juvenile Cases

The surge in juvenile cases before the Immigration Courts is graphically displayed month-by-month in Figure 3 and its supporting [detail table](#). The rise that began in FY 2012 was fairly gradual at first. In March 2012 the number of new juvenile cases filed each month passed 1,000. In March 2013 the number exceeded 2,000 for the first time, and 3,000 cases were filed in December 2013. Three months later in March 2014 the number of new juvenile cases filed surpassed 5,000, and by May filings had reached 8,000 cases. The peak was reached during June 2014 with 8,571 cases filed and then fell rapidly. By September 2014 the number had fallen below the 1,000 mark, declining to 886. (Because of delays in court recording, the numbers for the last few months may understate actual filings.)

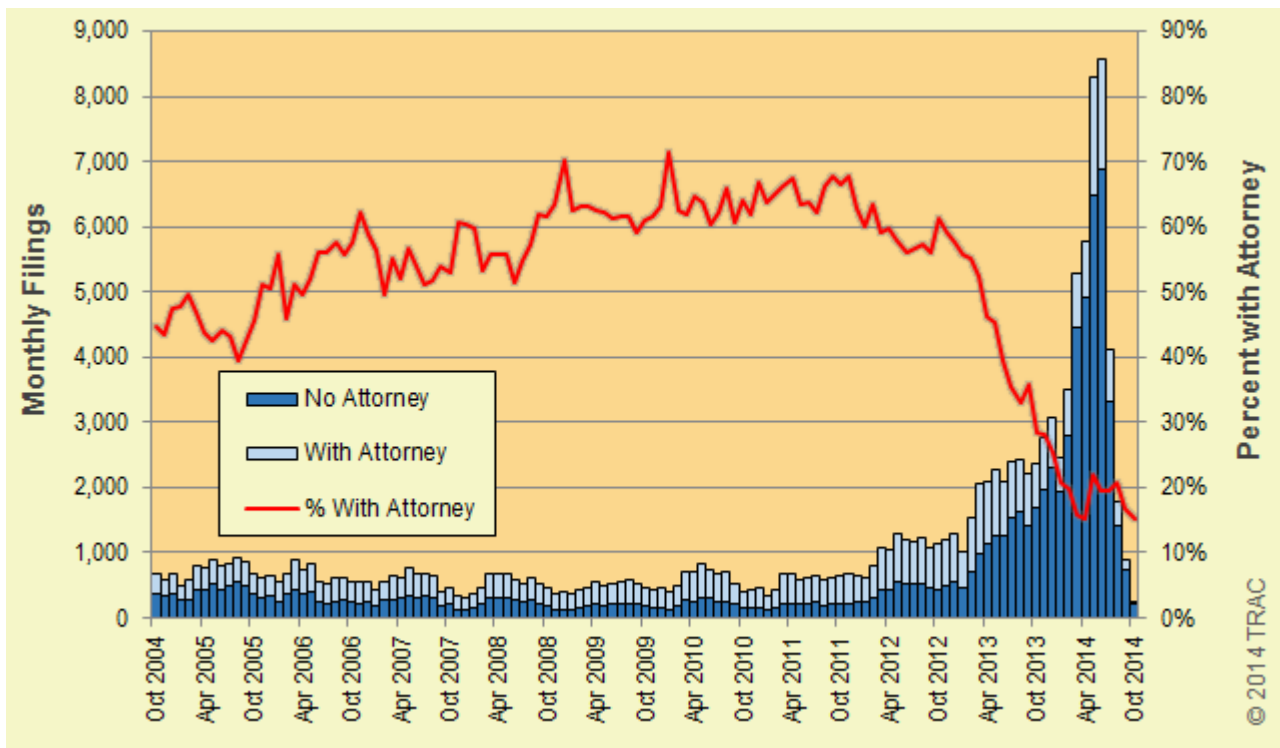


Figure 3. Immigration Court Cases Involving Unaccompanied Juveniles Filed by Month ([See data](#))

Figure 3 also graphs how the proportion of unaccompanied children's cases with representation has been impacted by the surge. For several years starting about September 2008, representation rates had ranged generally between 60 and 70 percent. But as the volume of cases began to rise during FY 2012, representation rates immediately started falling. While the *number* of represented cases rose, they did not keep up with the rising tide of cases, so that the *proportion* of represented children fell. Because these children are not entitled to a court-appointed attorney, and many unaccompanied children are without resources to hire one, the supply of attorneys with the necessary expertise, willingness and ability to provide their services without compensation clearly appears to have been inadequate to meet the growing need.

These filing dates reflect when the case was first filed, and many of these cases end up being transferred to a different city's Immigration Court when the children themselves move. Thus several months can pass before a juvenile case reaches its latest court. One would therefore expect recent months to have the lowest rates of representation, but this has not been the case. Representation rates hit their low point for cases filed six months ago in March 2014 (16%) and April 2014 (15%). These rates actually rebounded for cases filed in May (22%) and June (20%) when the peak of filings occurred, perhaps due to the mobilization of community legal resources in response to the media attention this issue was then receiving (see [detail table](#) to Figure 3).

Pending Cases by Nationality

As for the representation of unaccompanied children in the 63,721 court cases still pending as of October 31, 2014, Table 2 shows that most of these cases (67%) were filed during FY 2014. We also see that because cases without attorneys tend to move through the court system more quickly, cases that have been pending longer tend to be those where the unaccompanied juvenile had an attorney.

Table 3 provides details on representation for pending cases involving unaccompanied children by nationality. Over 9 out of 10 (92%) of these juveniles are from the Central American countries of Honduras, El Salvador, and Guatemala. While these three countries dominate, two more countries have at least 1,000 pending cases — Mexico and Ecuador. These five countries accounted for 97 percent of all pending juvenile cases.

While there are differences in representation rates by nationality, these differences appear to be at least partially explained by when their cases were filed. The more recent their arrival, the lower their representation rates. For example, three out of four (74%) of those from Honduras and two out of three from El Salvador (65%) and Guatemala (67%) arrived just last year (FY 2014). In contrast, the number

of those who arrived last year was 60 percent for Mexicans and only 49 percent for children from Ecuador.

Table 2. Pending Immigration Court Cases Involving Unaccompanied Juveniles

Fiscal Year Case Filed	Pending Cases	No Attorney	With Attorney	Percent With Attorney
Total	63,721	43,030	20,691	32%
FY 2015	229	198	31	14%
FY 2014	42,857	34,130	8,727	20%
FY 2013	13,373	7,183	6,190	46%
FY 2012	4,182	1,226	2,956	71%
before FY 2012	3,080	293	2,787	90%

Table 3. Nationality and Representation

Nationality	Pending Cases	No Attorney	With Attorney	Percent With Attorney
All	63,721	43,030	20,691	32%
Honduras	20,965	15,843	5,122	24%
El Salvador	19,352	12,400	6,952	36%
Guatemala	18,074	12,017	6,057	34%
Mexico	2,698	1,663	1,035	38%
Ecuador	1,030	425	605	59%
Other	1,602	682	920	57%

Pending Cases by Court Location

Pending cases involving unaccompanied children are not distributed evenly across the country. Half of these pending cases can be found in just six of the more than 50 Immigration Courts. New York City heads the list with one out of every eight (12.3%) or 7,865 cases. Houston has the second largest number of pending cases (5,964), following by Arlington, Virginia (5,178) in third place. Los Angeles (4,920), Baltimore (3,949) and San Francisco (3,698) make up the remaining six with the largest number of pending cases with unaccompanied juveniles.

Fifteen percent (15%) of the Immigration Court's backlog as of October 31, 2014 was composed of cases involving unaccompanied children, but this percentage varied sharply by court. For those courts with at least 10,000 cases in their overall backlog, only 3 percent of these involved unaccompanied children in Phoenix, while in Arlington the proportion was 29 percent — nearly twice the national average. For the Immigration Courts with sizable backlogs of under 10,000 cases, the highest concentration of juvenile cases could be found in Charlotte, North Carolina and Baltimore, Maryland. For each of these, unaccompanied children's cases made up fully 44 percent of their backlog. Table 4 provides comparable figures for all of the Immigration Court locations.

Table 4. Immigration Court Backlog by Location

Immigration Court	Current Backlog		
	Total	Unaccompanied Children	Percent
All Courts	421,972	63,721	15%
Charlotte	4,745	2,094	44%
Baltimore	8,953	3,949	44%
Arlington	17,575	5,178	29%
New Orleans	8,039	2,350	29%
Memphis	8,248	2,189	27%
Harlingen	8,386	1,968	23%
Kansas City	3,805	857	23%
Dallas	7,291	1,616	22%
Hartford	2,201	474	22%
Houston	29,273	5,964	20%

Boston	11,289	2,022	18%
Miami	18,348	3,247	18%
Philadelphia	5,456	952	17%
Atlanta	13,012	2,257	17%
Orlando	6,376	1,104	17%
Cleveland	5,551	898	16%
Bloomington	3,217	456	14%
New York	56,837	7,865	14%
Omaha	5,344	703	13%
Newark	19,678	2,559	13%
San Francisco	28,569	3,698	13%
Portland	2,635	328	12%
West Valley	1,679	182	11%
Chicago	17,996	1,783	10%
Las Vegas	4,032	398	10%
Los Angeles	50,545	4,920	10%
Detroit	3,934	377	10%
San Diego	3,240	307	9%
Seattle	5,009	445	9%
Denver	8,826	712	8%
York	475	37	8%
San Antonio	18,892	1,168	6%
Saipan	23	1	4%
Honolulu	136	5	4%
Phoenix	11,334	377	3%
Buffalo	3,344	110	3%
Imperial	1,564	29	2%
Tucson	1,650	26	2%
Napanoch	254	3	1%
El Paso	7,160	73	1%
New York — DET	506	5	1%
Guaynabo	243	2	1%
Houston — Detained	1,541	11	1%
Florence	421	3	1%
Eloy	990	7	1%
Adelanto	675	4	1%
Oakdale	354	2	1%
Los Fresnos	384	2	1%
Lumpkin	400	2	1%
Miami — Krome	513	1	0%
Tacoma	730	1	0%
Elizabeth	277	0	0%
Hagatna	17	0	0%

Courts also varied in terms of the proportion of their pending cases in which unaccompanied children were represented by attorneys. While the national average, as noted above, was that one-third (32%) of pending cases were represented, among the six courts with the largest number of these cases, representation rates varied from a low of 19 percent in the Arlington, Virginia court to a high of 43 percent in New York City.

Table 5 provides representation rates for all courts with at least 25 pending cases involving unaccompanied juveniles. Courts in Texas captured both the top and bottom spots. For the El Paso Immigration Court, over three out of four of its 73 pending cases had attorneys, while only 6 percent of the 1,968 children's cases pending before the Harlingen Immigration Court were represented.

Table 5. Pending Cases Involving Unaccompanied Juveniles, by Immigration Court*

Immigration Court	Unaccompanied Children	With Attorney	
		Number	Percent
All Courts	63,721	20,691	32%
El Paso	73	56	77%
Omaha	703	499	71%
York	37	26	70%
Hartford	474	263	55%
Cleveland	898	498	55%
Tucson	26	14	54%
Boston	2,022	1,056	52%
Imperial	29	14	48%
Philadelphia	952	447	47%
Bloomington	456	209	46%
Denver	712	313	44%
New York	7,865	3,392	43%
Orlando	1,104	475	43%
Las Vegas	398	168	42%
Detroit	377	157	42%
Los Angeles	4,920	1,958	40%
Kansas City	857	337	39%
Newark	2,559	999	39%
San Francisco	3,698	1,423	38%
Portland	328	122	37%
San Diego	307	114	37%
Seattle	445	164	37%
Buffalo	110	40	36%
Miami	3,247	1,117	34%
San Antonio	1,168	391	33%
West Valley	182	53	29%
Phoenix	377	109	29%
Memphis	2,189	626	29%
Baltimore	3,949	1,084	27%
Houston	5,964	1,532	26%
Atlanta	2,257	506	22%
Charlotte	2,094	469	22%
Chicago	1,783	378	21%
Arlington	5,178	968	19%
New Orleans	2,350	394	17%
Dallas	1,616	185	11%
Harlingen	1,968	113	6%

* Courts with at least 25 pending cases involving unaccompanied juveniles.

Further Details

TRAC has compiled results (updated through October 31, 2014) on many additional factors with respect to representation as well as outcome by state, Immigration Court, hearing location, nationality and custody status. Details by juvenile type and whether juveniles were present or absent at the court hearing when their cases were decided are also available. These data are accessible through TRAC's free [web-based data access tool](#).

Footnotes

[1] *For this report, we use the term unaccompanied children to refer to juveniles who were unaccompanied when they were apprehended. The Immigration Court, including its priority docket, restricts the term to those unaccompanied children who have not been later reunited with a parent or legal guardian. TRAC's web-based data tool allows users to examine the data as well for cases meeting this more restrictive definition. See [About the Data](#) where these distinctions are discussed in more detail.*

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