

Unaccompanied Child Migrants in U.S. Communities, Immigration Court, and Schools

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October 2015

Executive Summary

More than 102,000 unaccompanied children from Central America and Mexico were apprehended at the U.S.-Mexico border by U.S. Customs and Border Protection from the start of fiscal year (FY) 2014 through August 31, 2015. While steadily increasing numbers of unaccompanied minors had been arriving at the border for years, the surge that began in early 2014 caught the attention of a concerned public and policymakers after systems responsible for the processing and care of these children were briefly overwhelmed.

The majority of unaccompanied children (UACs) are from the Northern Triangle countries of El Salvador, Guatemala, and Honduras, which accounted for more than 76,000 of the 102,000 child migrants. While most of the Mexican children are quickly returned to Mexico, U.S. law provides for different treatment for unaccompanied minors from noncontiguous countries. These children are transferred by the Border Patrol into the custody of the Office of Refugee Resettlement (ORR), an agency of the U.S. Department of Health and Human Services (HHS) that is responsible for processing and sheltering the minors, who are simultaneously placed into removal proceedings. The vast majority are released by ORR into the care of a parent, relative, or family friend in the United States while they wait for their cases to progress slowly through the U.S. immigration court system. As a result, the children have tended to be placed in areas of the United States with already high levels of foreign-born populations from the Northern Triangle, presenting a unique challenge to local communities across the country.

The influx of unaccompanied minors has created a difficult situation for the country's already overburdened immigration court system. Despite having been placed on a "priority docket," the children's cases continue to lag. And other types of immigration cases are pushed even further back—individuals with immigration court cases now wait an average of 1,071 days for their first hearing.

For the unaccompanied children, even when their cases are finally heard, the immigration court system has resolved the status for relatively few of them. A review of immigration court data shows that the majority of children show up for their hearings and, of those who attend, 78 percent receive some form of immigration relief. However, 97 percent of children who receive immigration relief do not receive a simultaneous grant of immigration status, meaning they remain unauthorized. Meanwhile, the large majority of removal orders have gone to children who have not appeared for their hearings, and as a result many removal orders have gone unexecuted.

As these cases slowly make their way through the immigration system, the children become further engrained in communities and school districts across the country. While specific

school enrollment data are unavailable and it is not possible to map the policies that every school has put in place to deal with these child migrants, anecdotal evidence suggests that school districts have had disparate reactions to the influx of new students and associated costs. Some have created specialized programs to work with the newcomers, while others have come to different answers whether older students should be enrolled in K-12 classes or adult education, and yet others have pushed back against their enrollment entirely.

Because they are in unauthorized status, unaccompanied migrants are eligible for few public services other than public education. ORR offers some postrelease services, but these are limited to very few migrants. For services such as health care or legal representation, unaccompanied children must depend on proactive service providers, localities, states, or federal programs that create services to meet their specific requirements. The result is a patchwork of services that fails to address many of the extensive needs of this vulnerable population.

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I. Introduction

The large numbers of unaccompanied children (UACs) who have arrived at the U.S.-Mexico border over the past two years raise many difficult questions for U.S. communities. The children are released by the federal government to the care of family members or other sponsors in the United States pending their immigration court hearing, but the local communities in which they are placed become responsible for their education and certain other services, with minimal federal assistance. What is the impact of these arrivals on communities within the United States, and how are communities responding thus far?

U.S. Customs and Border Protection (CBP) apprehended 102,327 unaccompanied children at the U.S.-Mexico border from the start of fiscal year (FY) 2014 through August 31, 2015. This number included 76,572 minors from Central America's Northern Triangle (El Salvador, Guatemala, and Honduras)¹ and 25,755 from Mexico.² While unaccompanied children have been arriving at the southern border for years, the number of arrivals began surging in 2014, prompting increased attention from the public and policymakers during the spring and summer of 2014 as the numbers reached their peak.

Most Mexican unaccompanied minors are immediately deported, while Central Americans (and most other nationalities) have the right to contest their deportation and seek relief from removal in immigration court.³ This process can take two years or more, during which time children are typically placed with a parent or other adult relative already in the United States, a family friend, or in foster care.⁴ And while a small number of unaccompanied minors are granted formal relief, most ultimately remain in the United States, often foregoing appearance in immigration court and remaining in unauthorized status.

This brief summarizes the available data and qualitative research on where unaccompanied child migrants are being placed, how they are faring in immigration courts, what types of services are available to them, and how communities are adapting to their arrival.

II. Where Do Unaccompanied Children Settle within the United States?

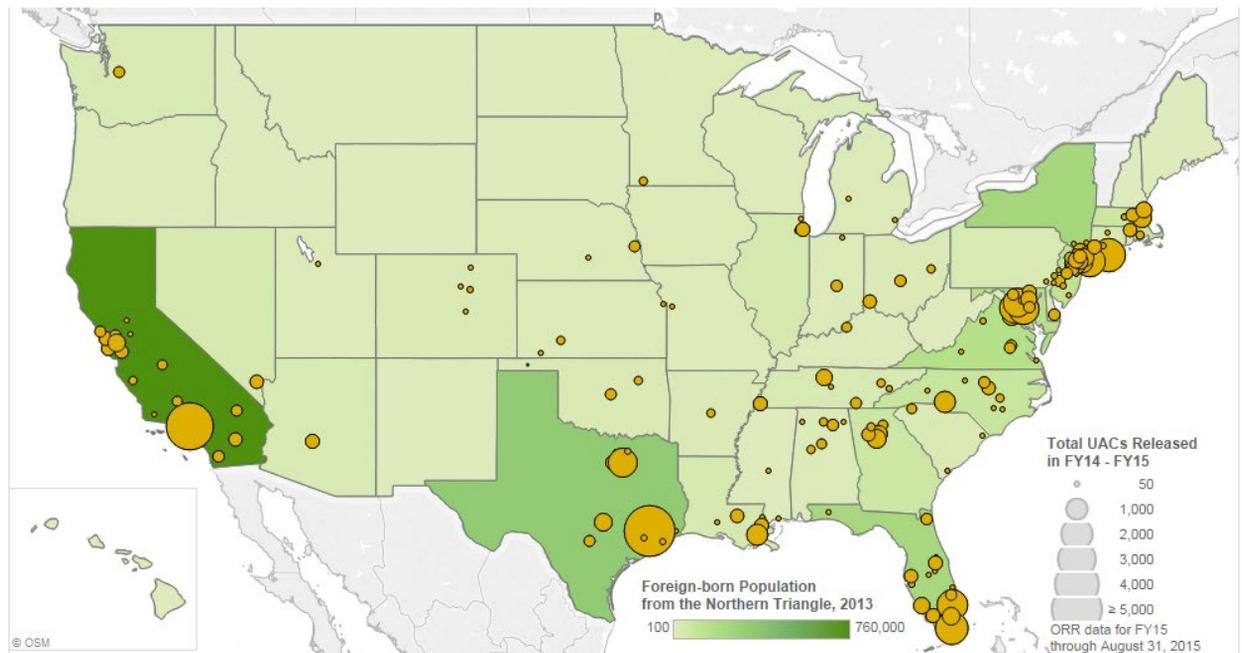
Figure 1 illustrates county-level populations of unaccompanied minors released to spon-

soring relatives since the beginning of FY 2014 (indicated by circles) and state-level concentrations of foreign-born Northern Triangle populations (indicated by shading). As the figure shows, these children have mostly been placed in states with large Central American immigrant communities: California, Texas, Florida, Virginia, Maryland, and New York. For the most part, unaccompanied minors have settled in the major metropolitan areas within these states: Los Angeles, the San Francisco Bay area, Houston, Dallas, Miami, Washington, DC, and New York. For a detailed list of the U.S. counties in which the largest numbers of unaccompanied children have been released to sponsors, see the Appendix.⁵

Table 1 provides additional details on the 20 states that received the largest number of child migrant placements since the beginning of FY 2014, along with these states' total foreign-born populations from El Salvador, Guatemala, and

Honduras. While the table confirms that the same states that are home to the largest Central American populations have received the most child placements, it also reveals a substantial degree of variation in the number of unaccompanied minors per state relative to its total Northern Triangle population. For example, California has the largest total Central American immigrant population and the second-highest number of unaccompanied minors (after Texas), but the lowest rate of child placements relative to its Northern Triangle population: 12 per 1,000. Alabama, on the other hand, has the 29th largest population of immigrants from El Salvador, Guatemala, and Honduras, but the largest share of child migrants per Central American foreign-born population: 116 per 1,000. Indiana, Tennessee, Louisiana, and Ohio have received moderate to low numbers of immigrants from the Northern Triangle, but comparatively large numbers of child placements, giving them the second-, third-, fourth-, and fifth-highest ratios of

Figure 1. Central American Immigrant Populations, by State (2013), and Unaccompanied Child Migrants Released to Family Sponsors, by County (October 1, 2013 - August 31, 2015)



Note: The 2015 Office of Refugee Resettlement data is provided through August 31, 2015.

Sources: Migration Policy Institute (MPI) analysis of data from U.S. Census Bureau, 2013 American Community Survey (ACS); U.S. Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR), "Unaccompanied Children Released to Sponsors by State," accessed October 7, 2015, www.acf.hhs.gov/programs/orr/unaccompanied-children-released-to-sponsors-by-county.

Table 1. Unaccompanied Minors Released to Family Sponsors (October 1, 2013 - August 31, 2015) and Northern Triangle Immigrant Populations, by State (2013)

State	Child Migrants Released to Sponsors	Rank for Number of Children Released to Family	Northern Triangle Immigrant Population	Rank for Foreign-Born Population	Unaccompanied Minors Released, per 1,000 Foreign Born
Texas	10,178	1	333,000	2	31
California	8,892	2	760,000	1	12
New York	8,184	3	230,000	3	36
Florida	7,930	4	214,000	4	37
Maryland	5,381	5	149,000	6	36
Virginia	5,262	6	150,000	5	35
New Jersey	3,879	7	114,000	7	34
Georgia	2,947	8	65,000	10	45
North Carolina	2,794	9	85,000	8	33
Louisiana	2,143	10	31,000	13	69
Massachusetts	2,003	11	76,000	9	26
Tennessee	1,935	12	27,000	15	72
Alabama	1,514	13	13,000	29	116
Ohio	1,066	14	16,000	24	67
Pennsylvania	946	15	26,000	16	36
South Carolina	837	16	18,000	20	47
Illinois	815	17	35,000	11	23
Connecticut	725	18	29,000	14	25
Kentucky	655	19	9,000	35	73
Indiana	654	20	14,000	28	31

Note: The 2015 Office of Refugee Resettlement data is provided through August 31, 2015. The data on unaccompanied child migrants are for all children registered as UAC by ORR, and are not restricted to children from the Northern Triangle, so could include small numbers from Mexico or other countries.

Sources: MPI analysis of U.S. Census Bureau 2013 ACS data; ORR, “Unaccompanied Children Released to Sponsors by State.”

such minors relative to their Central American populations. The relatively large child migrant populations of several Southern and Midwestern states may present challenges to their successful integration in these communities. As explained in Sections IV and V, the service needs of many of the child migrants are extensive and unique. Communities without strong Northern Triangle-origin populations may lack the cultural knowledge or language resources vital to their needs, and thus may be more easily overwhelmed compared to communities with a stronger presence of Central Americans.

III. Unaccompanied Minors and the Immigration Courts System

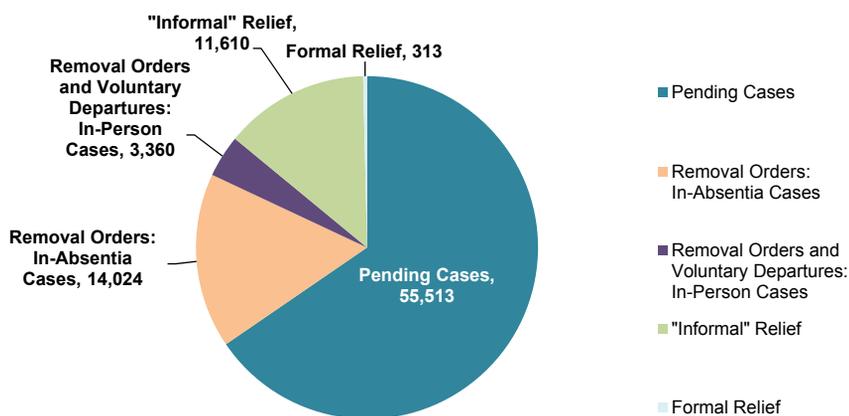
The recent surge in apprehensions of unaccompanied minors has created a difficult situation for the already overburdened U.S. immigration court system. To manage this increase, in July 2014 the Department of Justice (DOJ) implemented a “priority docket” to push the deportation cases of unaccompanied minors ahead of other cases in immigration courts.⁶ Officials have been instructed to ensure that the children appear before an

immigration judge for their first hearing (i.e., a master calendar hearing) within 21 days of being charged as unauthorized—a step that normally can take more than a year.⁷ Yet despite being afforded priority, many unaccompanied minors remain in the United States in unauthorized status, either because their cases are still pending, because they have been ordered deported in absentia, or because their cases have been closed or terminated without a simultaneous grant of immigration status. Whether the minors show up for their court hearing, whether they are represented by attorneys, and where their cases occur have strong effects on their case outcomes. As a review of data from the nation’s immigration court system, the Executive Office for Immigration Review (EOIR), indicates, the majority of the children appear in court, and most of those who show up receive some form of relief. However, of children who are not represented by attorneys, the vast majority fail to show up for their hearings and all but a fraction of their cases end in deportation, as will be discussed below.

A. How the Cases Are Progressing Overall

As reflected in Figure 2, despite being on a priority docket, most UAC cases (61 percent) initiated since October 1, 2013 had not been resolved as of August 31, 2015 (see also Table 2). Indeed, more than 40 percent of UAC cases initiated in FY 2013 were still pending as of August 2015—between 1.5 and 2.5 years after these cases were initiated.⁸ The priority docket has failed to ensure speedier removal proceedings because it affects the timing only for initial master calendar hearings, which represent a small step in the overall immigration court process. The purpose of the master calendar hearing is to go through certain procedural checks, including informing migrants of their rights, taking pleadings, setting deadlines, and (for those migrants without an attorney) advising them of available free and low-cost legal service providers.⁹ It is common procedure for immigration judges to continue cases at this stage if a respondent wants more time to find an attorney, resulting in a second master calendar

Figure 2. Juvenile Immigration Case Outcomes, October 1, 2013 - August 31, 2015



Notes: The data in this figure are for unaccompanied migrants who were under the age of 18 at the time their case began and who appeared in court alone; the data are not restricted to children from the Northern Triangle, though they represent the majority of such cases. “Removal Orders—In Absentia” includes four voluntary departure orders that occurred in absentia. “Formal” relief refers to relief that comes with a grant of immigration status, such as asylum or Special Immigrant Juvenile Status. “Informal” relief refers to cases that have been administratively closed or terminated, meaning the child is no longer has an active removal case but has not received a simultaneous grant of immigration status.

Source: TRAC, “Juveniles—Immigration Court Deportation Proceedings,” accessed October 6, 2015, <http://trac.syr.edu/phptools/immigration/juvenile/>.

hearing.¹⁰ After this, judges may schedule longer individual calendar hearings, during which applications for relief and any challenges to removability may be heard; and these hearings also may be continued multiple times.¹¹ Thus, many unaccompanied minors appear before immigration judges three or more times—with each subsequent hearing possibly delayed by court backlogs—before their cases are completed, in effect limiting the impact of the priority docket.

Since the priority docket was implemented, the immigration court backlog for other types of cases has increased significantly, rising from a backlog of 344,230 cases in FY 2013 to 456,644 in FY 2015.¹² As of August 2015, the average length of time from case filing to hearing date is 1,071 days.¹³

Even at the end of proceedings in immigration court, most of the unaccompanied minors' cases remain unresolved to varying degrees.

The majority of children whose cases end in a removal order appear to remain in the United States in unauthorized status. For example, in FY 2014, although 13,204 minors were ordered removed, only 1,863 were actually deported.¹⁴ To a large degree, this discrepancy is likely due to the fact that most UAC removal orders are issued *in absentia*, after an individual fails to appear for his or her immigration court hearing. Specifically, 69 percent of all UAC removal orders since 2005 have been issued *in absentia*, including 81 percent of those issued between October 2013 and August 2015 (see Table 2).¹⁵

Meanwhile, 78 percent of unaccompanied minors who attended court proceedings between the start of FY 2014 and August 31, 2015 received some form of relief.¹⁶ And indeed, most unaccompanied minors attend their court proceedings: Overall, only about one in five UAC cases have resulted in *in absentia* orders since 2005, including just 18 percent of cases initiated in FY 2014 (see Table 2).¹⁷

Table 2. Removal Orders Ordered for Unaccompanied Child Migrants *in Absentia*, FY 2005-14

Fiscal Year	Total Unaccompanied Minor Court Cases	Cases Completed	Total Unaccompanied Minor Removal Orders	<i>Absentia</i> Removal Orders	Completed Cases as Share of Total (%)	<i>Absentia</i> Cases as Share of Total (%)	<i>Absentia</i> Cases as Share of Removals (%)
2005	8,912	8,824	5,536	3,650	99%	41%	66%
2006	7,909	7,829	4,678	2,621	99%	33%	56%
2007	7,052	6,954	4,092	1,801	99%	26%	44%
2008	6,250	6,104	3,573	1,409	98%	23%	39%
2009	5,728	5,453	2,215	1,173	95%	20%	53%
2010	7,176	6,526	2,429	1,630	91%	23%	67%
2011	6,435	5,553	2,073	1,324	86%	21%	64%
2012	11,472	8,780	3,584	2,731	77%	24%	76%
2013	22,253	13,337	5,180	4,360	60%	20%	84%
2014	62,456	24,638	13,204	11,470	39%	18%	87%
Total	145,643	93,998	46,564	32,169	65%	22%	69%

Note: The data are for unaccompanied migrants who were under the age of 18 at the time their case began and who appeared in court alone, and are not restricted to children from the Northern Triangle.

Source: TRAC, “Juveniles—Immigration Court Deportation Proceedings.”

Based on the high percentage of minors who attend hearings who go on to receive relief, there is a strong possibility that some of the minors who received removal orders *in absentia* would have qualified for either formal or informal relief had they appeared in court. Instead, many of these minors remain in the United States in unauthorized status and with a removal order in their record. *In Absentia* removal orders often do not result in actual deportations because individuals who fail to appear for their hearings are unlikely to know that they have been ordered removed and therefore do not appear for their removal. There are also individuals who knowingly fail to comply with the removal order. In all cases, U.S. Immigration and Customs Enforcement (ICE) has limited resources to apprehend and deport people whose whereabouts are unknown.

Child migrants may fail to appear before the court for several reasons. Anecdotal reports suggest that some court notices have arrived late, or not at all.¹⁸ Some minors may also avoid going to court due to weak cases. Regardless, under current law, as long as the judge is satisfied that the respondent is removable and that he or she was given proper notice of the proceedings, the judge must order *in absentia* respondents removed.¹⁹ Because of this, cases that end in *in absentia* orders tend to take significantly less time than cases that go through full adjudication and end in relief or even removal. Thus for recent years, *in absentia* orders will always make up a disproportionate share of adjudicated cases and a smaller share of total cases.

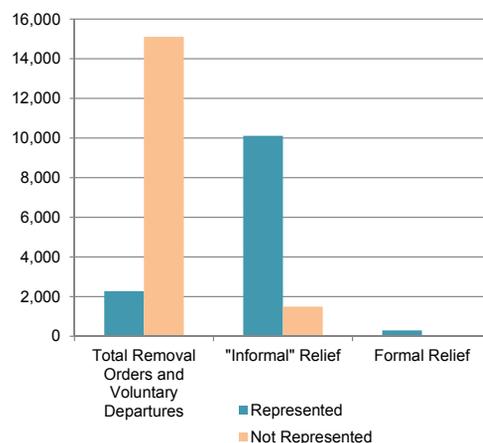
Table 2 shows that *in absentia* orders make up the overwhelming majority of UAC removal orders (87 percent); in other words, just 13 percent of removal orders are issued to unaccompanied minors who appear for court. In addition, since the beginning of FY 2014, 78 percent of unaccompanied minors who attended court proceedings received some form of relief.²⁰

UAC cases that do not result in a removal order rarely have a clear resolution. Few receive

formal relief that comes with a simultaneous grant of legal immigration status, such as a grant of asylum, Special Immigrant Juvenile Status (SIJ), U visa, or T visa.²¹ Instead, 97 percent of unaccompanied minors whose cases have ended without an order of removal or voluntary departure have received some type of informal relief, including having their cases administratively closed or terminated.²² When this occurs, the minor is no longer in active removal proceedings, but he or she is not granted any form of legal immigration status and continues to live in unauthorized status.

Judges provide informal relief either as a form of prosecutorial discretion, so as to avoid ordering the removal of a child who is ineligible for formal relief but may still have a sympathetic

Figure 3. Outcomes of Resolved Juvenile Immigration Cases, October 1, 2013 – August 31, 2015



Notes: The data are for unaccompanied migrants who were under age 18 at the time their case began and who appeared in court alone. The data are not restricted to children from the Northern Triangle. "Formal" relief refers to relief that comes with a grant of immigration status, such as asylum or Special Immigrant Juvenile (SIJ) status. "Informal" relief refers to cases that have been administratively closed or terminated, meaning the child is no longer has an active removal case but has not received a simultaneous grant of immigration status.

Source: TRAC, "Juveniles—Immigration Court Deportation Proceedings."

case, or to close or terminate the proceedings while the minor applies for formal relief through an agency outside the court system: U.S. Citizenship and Immigration Services (USCIS).²³ In the latter case, the child remains unauthorized when the immigration proceedings conclude, but is in the process of applying for immigration status.

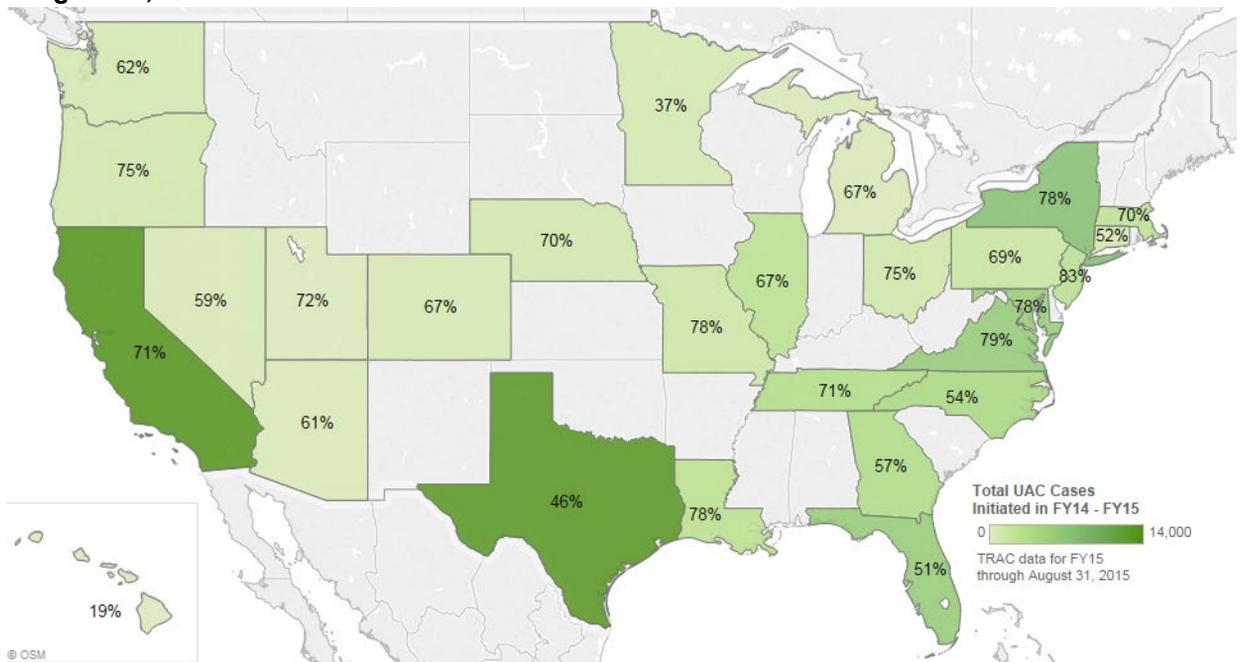
In sum, the immigration court system has not resolved the unauthorized status of the vast majority of unaccompanied children. Most cases are still pending in the courts, while the children wait in the United States in unauthorized status. For those cases that have been resolved, the ones that ended in an order of deportation have largely been unexecuted; and of those ending in some form of relief, many children have not received lawful immigration status. The end result is similar: The children become more fully settled in the United States—while remaining unauthorized.

B. Variation in Case Outcomes

Two factors that have a significant impact on case outcomes are the child’s access to counsel and the location of his or her case. Arguably, having an attorney is the single-most important factor in whether or not unaccompanied children receive a deportation order. Figure 3 illustrates more than 90 percent of unrepresented children were ordered deported—either through formal removal orders or informally through voluntary departure—a result that occurred for just 18 percent of children with legal representation.²⁴

Access to an attorney is important because unaccompanied child migrants are unlikely to know about the existence of or requirements for forms of relief. Some types of relief, such as the U visa for victims of crime, entail complicated application processes that require at least partial adjudication by other government and local agencies. Being represented by counsel also appears to increase the probability that

Figure 4. UAC Immigration Court Cases Initiated and Percent Pending, by State, October 1, 2013 - August 31, 2015



Source: TRAC, “Juveniles—Immigration Court Deportation Proceedings,” accessed October 6, 2015.

an unaccompanied child will show up for court and therefore for actual removal, if so ordered. Of unaccompanied minors who were ordered removed between FY 2014 and August 31, 2015, 93 percent of those not represented by counsel failed to appear in court, compared with only 23 percent of those with representation.²⁵

Figure 4 illustrates that case outcomes vary by location. It identifies the number of cases initiated in each state since the beginning of FY 2014 (indicated by shading) and the portion of cases that are still pending (indicated by percentages). Immigration courts in different states take varying amounts of time to process UAC cases. Even though these courts are part of a uniform federal system, practices vary across individual courts and judges; some grant continuances (or schedule cases for further hearings) more often than others. Also, prior to the recent surge in child migrant arrivals, immigration courts in some states were burdened by larger backlogs than others, resulting in delays for subsequent cases. Varying levels of access to counsel across states may also affect processing times and case outcomes.²⁶

In addition, only some immigration judges are designated to hear unaccompanied minor cases, and the number of these present in certain courts can cause variation in case outcomes. For example, just one immigration judge hears all unaccompanied minor cases in Illinois.²⁷

Visas that require at least partial adjudication by state and local agencies and courts also create differences in processing times and the treatment of cases across states. SIJ status is a program to grant permanent residence to certain unauthorized children who have been abused, abandoned, or neglected, and who cannot be reunified with one or both parents. SIJ status has been one of the most popular immigration avenues for unaccompanied minors; by May 2015, USCIS had received more SIJ petitions in FY 2015 than were received in all of FY 2014.²⁸ SIJ relief involves a complicated two-tiered process in which a state juvenile or family court must first investigate the child's familial situation and decide his or her best interests

according to state law. USCIS then uses the state court findings to determine the child's eligibility for SIJ status.

Because they involve state juvenile courts, SIJ adjudications vary considerably across states. While the majority of states maintain that SIJ applicants need only prove that they cannot reunify with one parent, Nebraska, for example, has interpreted the statutory language to mean that the court must find that reunification with *both* parents is not viable.²⁹ Other states meanwhile have introduced legislation to facilitate and streamline the SIJ process. California in 2014 adopted legislation (SB 873) that created an affirmative responsibility in state courts to issue SIJ findings and clarified the type of evidence courts may accept in support of such findings.³⁰ Previously, some California state courts were refusing to issue SIJ findings or created barriers.

SIJ adjudications also vary based on differing ages of majority in state juvenile court systems. Under federal requirements, a petitioner is eligible for SIJ so long as he or she is under the age of 21. However in many states, including Colorado and Virginia, and the District of Columbia, juvenile courts lose jurisdiction over children when they turn 18.³¹ Because the state court dependency order is required for the SIJ application, individuals in these states who are 18 or older and have not yet received the state court dependency order cannot apply for SIJ, even if they still qualify under federal guidelines. In other states, including California, Massachusetts, and New York, state juvenile courts maintain jurisdiction over children up to age 21.³²

IV. The Impact of Unaccompanied Minors on Local School Districts

The most visible and immediate impact of this new child population is felt by local school districts, which are serving growing volumes of new students, often with little time to prepare.

From the beginning of FY 2014 through August 31, 2015, 77,194 unaccompanied minors were released by ORR to communities throughout the United States.³³ All of these minors are entitled to public education. The child migrants have an array of particular needs, and school districts have had to balance addressing these needs along with those of other students, within resource limitations. Anecdotal reports suggest school districts are reacting in significantly different ways, some creating service programs that address the children's particular needs, while others have exercised policies that make school enrollment more difficult. Because information on unaccompanied children released into particular school districts is not shared with the school districts themselves nor publicly, it is difficult to make broad conclusions on their impact.

Some counties have developed creative approaches to addressing the diverse needs of unaccompanied children, while others have resisted their arrival.

A. Federal Costs

U.S. law guarantees education for all youth, regardless of immigration status; thus, unaccompanied children are entitled to free public elementary and secondary education.³⁴ In general, the costs of educating these children (like other public school spending) fall on local school districts, though several federal programs permit states and local educational agencies to receive additional funds to support the new arrivals.³⁵ For example, Title I, Part A of the *Elementary and Secondary Education Act* (ESEA) provides assistance to schools with large native and foreign-born low-income populations—more than \$14.4 billion has been allocated to this purpose in 2015.³⁶ These funds are provided for the education of about 21 million children, of whom unaccompanied child migrants make up about 0.2 percent.³⁷ Congressional appropriations for FY 2015 provided an additional

\$14 million for local education agencies to provide services targeted specifically to unaccompanied minors in 35 states that received significant such arrivals.³⁸ However, based on the assumption that about 60,000 unaccompanied child migrants have been placed in U.S. schools since the start of FY 2014, this grant amounts to about \$233 per student—leaving most of the cost to be borne by the local school district.

Immigration status is not a condition of eligibility for the National School Lunch Program and the School Breakfast Program, so qualifying unaccompanied minors may receive free or reduced-price meals.³⁹ Apart from these programs, however, the costs associated with the specific service needs of unaccompanied children are borne by local counties and school districts.

B. Local Costs

Some counties have developed creative approaches to addressing the diverse needs of unaccompanied children, while others have resisted their arrival. Montgomery County, Maryland, for example, has one of the largest concentrations of unaccompanied child migrants: 1,571 such children were released there between October 2013 and August 2015 (see Appendix). The Montgomery County Public Schools (MCPS) had an enrollment of 153,852 students in 2015,⁴⁰ and has seen Central American student enrollment increase 44.7 percent between the 2013-14 and 2014-15 school years.⁴¹

Montgomery County officials have identified several challenges in meeting the needs of the school district's unaccompanied minor students, including issues related to family reunification, interrupted formal education, acculturation, and trauma.

In order to accommodate the needs of this large and growing population, MCPS has tapped into a number of new and existing programs⁴² that include:

- A specialized program of instructional and emotional support for students with limited schooling and English skills
- Bilingual parent volunteers to help families navigate the school system
- An entry-level job skills program for Spanish-speaking students who will not receive a diploma by the time they are 21
- Professional development courses and resources that train teachers and staff in skills specifically related to the needs of UACs
- Working groups to review the school district response to the needs of unaccompanied minors.

The broader Montgomery County government also has several new and ongoing initiatives to address the needs of these children, including a mental health support program operating in the most affected schools, a cross-sector committee to coordinate the county's response to UAC arrivals, and an agreement with local colleges to support certain at-risk college students.⁴³ The county's Care for Kids program provides affordable primary and specialty health care for children from low-income families who are not eligible for other state or federal health insurance programs.⁴⁴

Some cities and school districts have created or utilized existing transitional programs or "newcomer academies" to ease the transitional process. In San Francisco, the Mission Educa-

tion Center serves newly arrived, Spanish-speaking elementary school students,⁴⁵ and provides one- and two-year programs to help students transfer into mainstream classes. The program is more than 40 years old, but in 2014 its class sizes doubled after the arrival of unaccompanied minors.⁴⁶

Prior to the increase in UAC arrivals, Sussex County, Delaware, had a large Guatemalan population and had established several bilingual programs for students who spoke little English, directed at those of elementary-school age or younger.⁴⁷ In response to the influx of UAC students, teachers in the county's Indian River School District quickly put together a newcomer program for high school students.⁴⁸ During fall 2014, 46 students enrolled in the program.

Similarly, Dalton Public Schools in Whitfield County, Georgia, created a Newcomer Academy, to transition new students to mainstream schools within six months to a year.⁴⁹ The academy is housed on an existing high school campus, and provides classes focused on English literacy, reading, and mathematics.

Other counties and school districts have pushed back against the arrival of unaccompanied children.

Although some districts have utilized specialized programs to work with newcomers, others have struggled with how to serve older, middle- and high school-age students who have limited or interrupted formal education and students who are over the traditional high-school age. New arrivals are a particular challenge, as they may not be able to accrue enough high school credits to graduate by the time they reach the maximum age to be enrolled (usually 20 or 21, but as low as 17 or 19 in certain localities).⁵⁰ Many schools and districts struggle with whether high schools in the K-12 system or adult education are the appropriate placement for these youth.

Other counties and school districts have pushed back against the arrival of unaccompanied children. Several public schools in

New York's Nassau County, home to the fifth-largest population of unaccompanied minors, attempted to bar some children from enrolling for failure to present certain documents related to immigration status⁵¹—even as the New York State Education Department advised that these documents were not required.⁵² This prompted a state compliance review and, eventually, agreements with more than 20 districts (including ones in Nassau County, which is on Long Island) that compelled the districts to stop asking for these documents. An emergency state regulation also clarified the list of permissible documentation that could be used to determine a student's age and residency.⁵³

Several counties in North Carolina have similarly resisted UAC arrivals in the face of rising school costs. In July 2014, the Brunswick County Board of Commissioners, recognizing the county's lack of "excess resources necessary for relief," passed a resolution calling for the immediate removal of unaccompanied children and asked the government to refrain from releasing them in Brunswick County.⁵⁴ Following this, several other North Carolina counties considered and passed identical or similar resolutions.⁵⁵

V. General Assistance for Unaccompanied Minors

Given the outcomes of immigration court hearings to date, most unaccompanied children are likely to remain in unauthorized status in the United States for a long time, and many will experience substantial economic hardship.⁵⁶ While unauthorized immigrant mothers and children are eligible for the Supplemental Nutrition Assistance for Women, Infants, and Children (WIC) program, which can provide important support for pregnant and parenting adolescents, and for the national subsidized school lunch

program, they are ineligible for all other major means-tested federal benefit programs, including Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, the Children's Health Insurance Program (CHIP), the Child Care and Development Fund, and direct services from the Developmental Disabilities Councils.⁵⁷

Most unaccompanied children are likely to remain in unauthorized status in the United States for a long time.

Yet the needs of unaccompanied child migrants are extensive. Many have little formal education, are not proficient in English, and have suffered socioeconomic hardship and trauma.

The unique service needs of these children stem from their experiences prior to, during, and after traveling to the United States. The basic needs of many—including for proper nutrition, shelter, safety, stability, and education—went unmet in their home countries.⁵⁸ Many were exposed to or directly threatened by gang violence.⁵⁹ While on their journey to the United States, many endured traumatic experiences, including violence, theft, assault, and extortion.⁶⁰ Upon arriving in the country, unaccompanied minors experience the challenges of living in an unfamiliar culture and reuniting with relatives they have not lived with in years, if ever, or in a smaller number of cases, entering the U.S. foster care system. Many find themselves amid unfamiliar faces; even those reuniting with parents and family members do so after long periods of separation.⁶¹

The high levels of physical and psychological stress place these children at a relatively higher risk for emotional and behavioral consequences, such as depression, hypervigilance, low self-esteem, eating and sleeping disorders, and problems regulating emotions and moods.⁶² If left untreated, unaccompanied children could be at risk for long-term, more serious illnesses, including psychotic disorders.⁶³ Yet the particular needs of unaccompanied children are difficult to address not only because they are unique, but also because culturally competent mental health services are difficult to find.⁶⁴ Even more pressing is the fact that many children do not

qualify for services until they receive immigration status.

A. Short-Term Services Offered by the Office of Refugee Resettlement

Before they are released to sponsors, child migrants are housed in ORR-funded shelters. At these shelters, children receive classroom education, mental and medical health services, help in case management, and access to social opportunities and recreational facilities.⁶⁵ All children also receive family reunification services to facilitate their safe and timely release to family members or other sponsors, if available. For a small number of at-risk children, including those who are victims of trafficking or have disabilities, ORR funds a home study of potential sponsors.⁶⁶ A home study consists of an in-depth investigation of the potential sponsor's ability to ensure the child's safety and well-being. The process includes background checks of the adult members of the household, at least one home visit, and a face-to-face interview.⁶⁷ However, home studies are conducted in less than 5 percent of cases, and the rest of sponsors receive little screening.⁶⁸ Children released to sponsors who have not been thoroughly screened are at risk of neglect, abuse, and trafficking.⁶⁹

ORR also funds limited follow-up, in which a social worker conducts home visits and helps families obtain appropriate resources and services.⁷⁰ This is done in all cases that involved a prerelease home study and a limited number of others seen to require additional assistance postrelease.⁷¹ These services end when the children turn 18, when their immigration cases end in removal, or, for cases that did not involve a prerelease home study, when the services are determined to be no longer warranted. Reportedly, fewer than 10 percent of children receive postrelease services, even

though studies have shown the benefits of these services, including that the "vast majority" of child migrants who receive the services show up to immigration court.⁷²

ORR is also authorized to appoint child advocates for children in immigration court proceedings.⁷³ These advocates are not attorneys, but are intended to represent the child's best interests within immigration custody and proceedings. However, child advocates are only available in certain metropolitan areas and are appointed to only the most vulnerable children, thus they serve only a small percentage of unaccompanied minors.⁷⁴

ORR does not have a system in place to track and release data on outcomes once the children are released from ORR custody and are no longer receiving ORR services.⁷⁵ This lack of publicly accessible information hinders efforts to identify problems and potential solutions related to these children's subsequent treatment in the United States.

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B. Health Care

Unauthorized immigrants, including children, are ineligible for Medicaid, though states may be reimbursed for emergency health services offered to them. Under the *Affordable Care Act*, unauthorized immigrants are ineligible for federal health insurance coverage, and may not purchase health insurance on state insurance exchanges. However, California, Illinois, Massachusetts, New Jersey, New York, Washington, and the District of Columbia have expanded some health-care coverage and services to include income-eligible children (including unaccompanied minors), regardless of their immigration status.⁷⁶ For example, income-eligible UACs in Illinois can receive All Kids comprehensive health insurance, which is valid for any health-care provider who has enrolled with the Illinois Healthcare and Family Services.⁷⁷

While unauthorized pregnant women are ineligible for federally funded prenatal care, federal regulations permit states to provide prenatal care to them by extending CHIP coverage to the fetus.⁷⁸ The states listed above, as well as Arkansas, Rhode Island, Tennessee, and Texas, have extended this benefit to female unauthorized immigrants.⁷⁹ States may also choose whether or not to limit the WIC program to immigrants in the United States legally.⁸⁰

C. Legal Representation

Individuals in immigration court proceedings in the United States are not entitled to free legal counsel, leaving many unaccompanied minors to navigate immigration courts alone. Many UAC caregivers receive presentations on the court system through the EOIR Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC).⁸¹ This program is designed to inform the custodians of their responsibilities related to the immigration court proceedings; the program does not guarantee legal representation, however.

Since being unrepresented can negatively affect case outcomes, several public and private institutions are stepping in to provide unaccompanied children with access to legal services. In 2014 the federal government granted approximately \$9 million to fund legal services for child migrants.⁸² The program is expected to provide representation for 2,600 unaccompanied children, a small fraction of the nearly 70,000 cases pending.⁸³ The Corporation for National and Community Service and the Department of Justice created justice AmeriCorps, which provides unaccompanied children with free legal assistance from lawyers and paralegals.⁸⁴ As of July 2015, the justice Americorps program has provided counsel to more than 1,000 unaccompanied children across 23 immigration courts.⁸⁵

U.S. communities face significant challenges in meeting the needs of these children.

Many states and localities are also providing similar funding. The state of California has extended \$3 million to nonprofit organizations offering legal services to children in immigration proceedings,⁸⁶ and the New York City Council and two philanthropic groups announced a \$1.9 million grant to increase legal representation for unaccompanied minors in removal proceedings.⁸⁷ As of July 2015, the New York City Council's Unaccompanied Minors Initiative had provided legal support for nearly 650 UAC cases.⁸⁸ New York City representatives in immigration courts also advise families on how to connect children to relevant educational, health, and social services,⁸⁹ which include Child Health Plus, a public health insurance system, and English Language Learner (ELL) programs. In addition, many nonprofit organizations provide free or low-cost legal services, including Kids in Need of Defense (KIND), the National Immigrant Justice Center, Catholic Charities, and the Florence Project. Despite these programs, however, nearly 70 percent of unaccompanied child migrants still lack access to legal services.

VI. Conclusion

Unaccompanied child migrants have been entering the United States for years, but the recent spike in their arrivals has made the issue more pressing. Unaccompanied minors wait months, even years, for their cases to be decided in immigration court, and those ultimate decisions may be heavily influenced by whether they have legal representation. Even when their cases are decided, many minors are given informal relief but no proper legal status, while others fail to appear for removal proceedings and instead blend into the larger unauthorized population. Also, those ordered removed *in absentia* never have their cases fully adjudicated. Though the unaccompanied child population has been characterized as temporary in nature, it is likely that a large number of these children will live in the United States for a long period, perhaps even permanently.

In the meantime, U.S. communities face significant challenges in meeting the needs of these children. This is particularly true of local school districts, which must meet an array of student needs within resource limitations. As the primary institution that unaccompanied minors are entitled to access under U.S. law, schools offer a venue for offering needed services to unaccompanied minors, such as mental health care. But schools must bear this responsibility with very little federal support.

As the population of unaccompanied child migrants grows and becomes further ingrained in U.S. society, it would be helpful for communities and service providers to know more about

their arrival and stay. The unpredictable nature of the arrivals makes it difficult for local schools and communities to allocate resources appropriately. This problem could be mitigated, to some degree, if ORR forewarned districts before releasing unaccompanied children to families in local communities. This would also help schools and other service providers ensure that the rights of minors are respected and any available resources used efficiently. Meanwhile, information on the lives of child migrants is sparse and anecdotal. ORR would do well to establish a system for collecting long-term data on these child migrants that include the outcomes of their immigration proceedings and their experiences in U.S. communities.

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Appendix

Table A-1. Counties with the Largest Number of UACs, October 1, 2013 – August 31, 2015

State	County	Total Number of Unaccompanied Minors Released to Sponsors
TX	Harris	5,472
CA	Los Angeles	4,311
NY	Suffolk	2,127
FL	Miami-Dade	2,065
MD	Prince George's	1,883
NY	Nassau	1,861
VA	Fairfax	1,819
FL	Palm Beach	1,791
TX	Dallas	1,621
MD	Montgomery	1,571
NY	Queens	1,343
NY	Union	920
LA	Jefferson	879
NC	Mecklenburg	870
NY	Kings	782
MA	Suffolk	736
VA	Prince William	698
GA	DeKalb	696
FL	Broward	686
NY	Bronx	653
CA	Alameda	618
TX	Travis	613
FL	Lee	586
GA	Gwinnett	539
TN	Davidson	521

Source: Department of Health and Human Services, Office of Refugee Resettlement (ORR), "Unaccompanied Children Released to Sponsors by County," accessed October 6, 2015, www.acf.hhs.gov/programs/orr/unaccompanied-children-released-to-sponsors-by-county.

Endnotes

- 1 This brief uses the terms “Northern Triangle” and “Central America” interchangeably to refer to El Salvador, Guatemala, and Honduras, which are the three countries in Central America that have significant migration flows to the United States.
- 2 U.S. Customs and Border Protection, “Southwest Border Unaccompanied Alien Children,” accessed October 6, 2015, www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children.
- 3 *William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008* (TVPRA), Public Law 110–457, 49 *U.S. Statutes at Large* 651, sec. 235. Removal and removal proceedings refer to the administrative processes used to determine whether an individual is eligible for removal or deportation under U.S. immigration law. Individuals who are removable may apply during these proceedings for relief from removal, or for eligibility to stay in the United States.
- 4 Under long-standing policies codified by TVPRA (sec. 235[c][2]), children awaiting the resolution of their removal proceedings must be held in the “least restrictive setting” that is “in the best interest of the child.” In addition, a settlement agreement that followed several 1980s lawsuits on the mistreatment of unaccompanied children (UACs), the *Flores* Settlement Agreement in 1997, dictates policies regarding their detention, treatment, and release. See *Flores v. Meese-Stipulated Settlement Agreement* (U.S. District Court, Central District of California, 1997).
- 5 These data include only children who have been resettled by the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS), and exclude, for example, children from the Northern Triangle region who entered with family members or through other means. Thus the total number of recently arrived immigrant youth in each county and state is somewhat larger.
- 6 The Department of Justice (DOJ) also hired new and temporary immigration judges, and funded legal access programs described below in Section V. DOJ, “Department of Justice Announces New Priorities to Address Surge of Migrants Crossing into the U.S.,” (news release, July 9, 2014), www.justice.gov/opa/pr/department-justice-announces-new-priorities-address-surge-migrants-crossing-us.
- 7 Kirk Semple, “In Court, Immigrant Children Are Moved to Head of Line,” *New York Times*, August 14, 2014, www.nytimes.com/2014/08/15/nyregion/in-court-children-lead-line-of-migrants.html?_r=0. However figures from the Executive Office for Immigration Review (EOIR), the nation’s immigration courts system, indicate that many master calendar hearings are not being scheduled within the prescribed 21-day period. At the end of July 2015, in a general call with stakeholders, EOIR reported that 32,000 new charging documents had been issued from July 18, 2014 through June 30, 2015, but only 27,000 master calendar hearings had occurred, meaning at least 5,000 hearings had not occurred within the required 21 days. This issue was corroborated by immigration lawyers and other practitioners who indicated that some of their clients had not been scheduled for initial hearings for long periods of time, beyond 21 days; EOIR phone call with stakeholders, July 31, 2015.
- 8 Migration Policy Institute (MPI) calculation of EOIR data from FY 2014 – August 31, 2015, available from Transactional Records Access Clearinghouse (TRAC), Syracuse University, “Juveniles—Immigration Court Deportation Proceedings,” accessed October 6, 2015, <http://trac.syr.edu/phptools/immigration/juvenile>.
- 9 DOJ, *Immigration Court Practice Manual* (Washington, DC: DOJ, 2008), www.justice.gov/eoir/vll/OCIJPracManual/Chap%204.pdf.
- 10 DOJ, “Master Calendar Checklist for the Immigration Judge: The Pro Se Respondent,” accessed October 7, 2015, www.justice.gov/eoir/vll/benchbook/tools/Script_MC_Checklist.pdf.
- 11 DOJ, *Immigration Court Practice Manual*.
- 12 TRAC, “Immigration Court Backlog Tool,” accessed October 7, 2015, http://trac.syr.edu/phptools/immigration/court_backlog.
- 13 TRAC, “Ballooning Wait Times for Hearing Dates in Overworked Immigration Courts” (Syracuse, NY: TRAC, September 21, 2015), <http://trac.syr.edu/immigration/reports/405>.
- 14 MPI analysis of unpublished U.S. Immigration and Customs Enforcement (ICE) data on ICE removals of unaccompanied minors, and EOIR data from TRAC, “Juveniles—Immigration Court Deportation Proceedings,” accessed October 6, 2015. Data on actual child deportations exclude Mexican and Canadian unaccompanied minors who were voluntarily returned to their home countries by the Border Patrol. The number of minors ordered removed represents cases initiated in FY 2014, thus the orders may have come down during FY 2014 or later, while the number actually deported represents removals actually executed in FY 2014. Similarly in FY 2013, 5,180 unaccompanied children were ordered removed, but only 1,868 removals occurred; for FY 2012, these numbers were 3,584 orders and 1,809 actual removals; in FY 2011, 2,073 orders and 1,695 removals; in FY 2010, 2,429 and 1,690; and in FY 2009, 2,215 and 1,361. See TRAC, “Juveniles—Immigration Court Deportation Proceedings;” testimony of William Kandel, Immigration Policy Analyst, Congressional Research Service, “Securing the Border: Understanding and Addressing the Root Causes of Central American Migration to the United States,” before the U.S. Senate Committee on Homeland Security and Governmental Affairs, 114th Cong., 1st sess., March 25, 2015, www.hsgac.senate.gov/download/?id=dd88040a-b1e6-405f-a71b-1a86c6ba2599.

- 15 MPI analysis of EOIR data from TRAC, “Juvéniles—Immigration Court Deportation Proceedings,” accessed October 6, 2015.
- 16 TRAC, “Juvéniles—Immigration Court Deportation Proceedings,” accessed October 6, 2015.
- 17 *In absentia* orders of juveniles remain higher as a percentage of total orders than for all immigration decisions rendered. Of immigration judge decisions rendered overall, 19 percent in FY 2014 involved *in absentia* orders, 15 percent in FY 2013, 11 percent in FY 2012, 11 percent in FY 2011, and 12 percent in FY 2010. In comparison, of immigration judge decisions rendered on juvenile cases, 47 percent in FY 2014 involved *in absentia* orders, 33 percent in FY 2013, 31 percent in FY 2012, 24 percent in FY 2011, and 25 percent in FY 2010. *Ibid*; U.S. Department of Homeland Security (DHS), *Yearbook of Immigration Statistics* (Washington, DC: DHS, Office of Immigration Statistics, 2015), www.justice.gov/eoir/pages/attachments/2015/03/16/fy14syb.pdf.
- 18 Kate Linthicum, “7,000 Immigrant Children Ordered Deported without Going to Court,” *Los Angeles Times*, March 6, 2015, www.latimes.com/local/california/la-me-children-deported-20150306-story.html#page=1.
- 19 8 C.F.R. §1003.26(c).
- 20 TRAC, “Juvéniles—Immigration Court Deportation Proceedings,” accessed October 6, 2015.
- 21 Asylum is a grant of immigration status to individuals who have come to the United States seeking protection because they have suffered persecution, or fear they will suffer persecution, due to race, religion, nationality, membership in a particular social group, or political opinion. Special Immigrant Juvenile (SIJ) status is a grant of immigration status for certain children in the United States who have been abused, abandoned, or neglected. The U visa is reserved for victims of certain crimes who have suffered mental or physical abuse and are helpful to government officials in the investigation or prosecution of criminal activity. The T visa is for victims of human trafficking.
- 22 Calculated out of EOIR results from FY 2014 – August 31, 2015; see TRAC, “Juvéniles—Immigration Court Deportation Proceedings.” Administrative closure temporarily stops removal proceedings by taking the case off the court calendar; this procedural mechanism does not terminate the case. See, for example, *Matter of Avetisyan*, 25 I&N Dec. 688 (Bureau of Immigration Appeal, 2012). On the other hand, termination completely concludes proceedings and is equivalent to a final order. See, for example, *Matter of Sanchez-Herbert*, 26 I&N Dec. 43 (Bureau of Immigration Appeal, 2012).
- 23 Children in removal proceedings who are applying for SIJ status typically do so through an immigration court; however, some judges may terminate the child’s removal proceedings upon the filing or approval of the initial SIJ application with U.S. Citizenship and Immigration Services (USCIS). Thus, some grants of informal relief may be intended as short-term measures with the expectation that the unaccompanied minor will eventually be granted a formal immigration status.
- 24 TRAC, “Juvéniles—Immigration Court Deportation Proceedings,” accessed October 7, 2015. A grant of voluntary departure allows a foreign national to depart the United States without an order of removal, and has fewer negative legal consequences. See 8 C.F.R. § 1240.26.
- 25 MPI analysis of EOIR data from TRAC, “Juvéniles—Immigration Court Deportation Proceedings,” accessed October 7, 2015.
- 26 David Rogers, “Child Migrants Face New Crisis: Uneven Justice,” *Politico*, March 5, 2015, www.politico.com/story/2015/03/child-migrants-face-new-crisis-uneven-justice-115790.html.
- 27 Jonah Newman, “Finding a Lawyer a Huge Obstacle for Asylum Seekers in Chicago,” *The Chicago Reporter*, May 20, 2015, <http://chicagoreporter.com/finding-a-lawyer-a-huge-obstacle-for-asylum-seekers-in-chicago>.
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- 32 *Ibid*. The jurisdiction of juvenile courts in California was limited to children younger than 18 until October 9, 2015, when the

- California Governor Edmund Brown signed a bill extending the jurisdiction until children reach the age of 21. Assembly Bill No. 900 (2015).
- 33 ORR, “Unaccompanied Children Released to Sponsors by State,” accessed October 7, 2015, www.acf.hhs.gov/programs/orr/programs/ucs/state-by-state-uc-placed-sponsors.
- 34 The U.S. Supreme Court in *Plyler v. Doe*, 457 U.S. 202 (1982), clarified that under the Constitution every child in the United States, irrespective of immigration status, has a constitutional right to free public elementary and secondary education.
- 35 U.S. Department of Education, “Educational Services for Immigrant Children and Those Recently Arrived to the United States,” last modified September 19, 2014, www2.ed.gov/policy/rights/guid/unaccompanied-children.html.
- 36 U.S. Department of Education, “Department of Education Fiscal Year 2015 Congressional Action Table,” April 20, 2015, www2.ed.gov/about/overview/budget/budget15/15action.pdf.
- 37 This is based on the assumption that about 60,000 unaccompanied minors have been placed in schools since the start of FY 2014, and that all of these schools qualify under Title I. ORR does not release data on UAC placements by school districts, nor are the children required to reveal their status upon enrollment, meaning there are no exact numbers to show how many unaccompanied minors are enrolled in public schools. Overall, there were an estimated 21 million low-income students enrolled in the 2009-10 school year, which is the most recent school year for which the U.S. Department of Education has data. See U.S. Department of Education, “Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A),” June 2014, www2.ed.gov/programs/titleiparta/index.html.
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Acknowledgments

The author would like to thank Marc Rosenblum, Deputy Director of MPI's U.S. Immigration Policy Program, who provided invaluable guidance. Thanks also go to Dr. Jodi Berger Cardoso, Assistant Professor of Social Work at the University of Houston; Aryah Sommers of Kids in Need of Defense (KIND); and Elisabeth Carlson, Attorney at Kempster, Corcoran, Quiceno & Lenz-Calvo, Ltd. The author also thanks attendees of the MPI roundtable "Regional Solutions for Unaccompanied Children: Practical Strategies for Governments and Civil Society in North and Central America" held in Washington DC, April 30 and May 1, 2015; a draft of this brief was presented at the roundtable.

Doris Meissner, Director of MPI's U.S. Immigration Policy Program; Randy Capps, Director of Research for U.S. Programs at MPI; Margie McHugh, Director of MPI's National Center on Immigrant Integration Policy; MPI Policy Analysts Julie Sugarman and Faye Hipsman; Research Assistants Jie Zong and Ariel G. Ruiz Soto; and intern Gloriana Sojo-Lara all made indispensable contributions to this brief.

This research has been made possible through the generous support of the John D. and Catherine T. MacArthur Foundation, the Open Society Foundations (OSF), and the Central America and Mexico Migration Alliance (CAMMINA).

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Cover Design: April Siruno, MPI
Layout: Marissa Esthimer, MPI

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Suggested citation: Pierce, Sarah. 2015. *Unaccompanied Child Migrants in U.S. Communities, Immigration Court, and Schools*. Washington, DC: Migration Policy Institute.

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