



U.S. Senate Committee on Homeland Security and Governmental Affairs Hearing
on “Securing the Border: Understanding and Addressing the Root Causes of
Central American Migration to the United States”

March 25, 2015

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Chairman Johnson, Ranking Member Carper, and members of the Committee, thank you for the opportunity to testify before you today on behalf of the Congressional Research Service. This testimony provides background on the circumstances leading up to the surge in unaccompanied alien children (UAC) apprehended in FY2014, discusses current policy regarding UAC treatment, and then addresses the following questions: 1) how many UAC and family units were apprehended at the Mexico-U.S. border in FY2014; 2) how many of the apprehended FY2014 UAC were transferred from the Department of Homeland Security (DHS) Customs and Border Protection (CBP) to the Department of Health and Human Services’ (HHS) Office of Refugee Resettlement (ORR) custody; 3) how many of the FY2014 apprehended UAC applied for asylum and how many UAC asylum cases in FY2014 were approved; 4) how many of the FY2014 apprehended UAC are awaiting court dates; 5) how many of the apprehended FY2014 UAC with scheduled court dates attended their court hearings; and 6) how many FY2014 apprehended UAC were returned to their countries of origin.

This analysis focuses almost entirely on unaccompanied alien children because CRS was not able to obtain data on family units except for the number of family units that were apprehended in FY2013 and FY2014. In several cases, CRS has augmented FY2014 data with data going back to FY2009 to provide context for the FY2014 UAC surge. Not all the data shown for a given year presented in this testimony correspond to children who were apprehended in the same year. In some cases, such as asylum adjudication outcomes, figures for one year may correspond to children who were apprehended in earlier years. Other data caveats are provided throughout the text.

Background

Unaccompanied alien¹ children are defined in statute as children who lack lawful immigration status in the United States,² are under the age of 18, and are without a parent or legal guardian in the United States or no parent or legal guardian in the United States is available to provide care and physical custody.³

The number of UAC apprehended at the Southwest border by CBP reached a peak of 68,541 in FY2014. During a June 2014 hearing, Some members of Congress and the Administration characterized the issue as a humanitarian crisis.⁴ At that time, DHS projected that FY2015 apprehensions would be more than double the FY2014 apprehensions.⁵

The reasons why unaccompanied children migrate to the United States are often multifaceted and difficult to measure analytically. CRS has analyzed several out-migration-related factors, such as violent crime rates, economic conditions, rates of poverty, and the presence of transnational gangs.⁶ CRS also analyzed in-migration related factors, such as the search for economic opportunity, the desire to reunite with family members, and U.S. immigration policies. These factors may have contributed to the surge in the number of UAC that were apprehended along the Southwest border in FY2014.

Current Policy

Two laws and a settlement, discussed below, most directly affect U.S. policy on the treatment and administrative processing of UAC: the Flores Settlement Agreement of 1997 (*Flores Agreement*); the Homeland Security Act of 2002 (HSA); and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA).

During the 1980s, allegations of UAC mistreatment by the former Immigration and Naturalization Service (INS)⁷ caused a series of lawsuits against the U.S. government that eventually resulted in the *Flores Settlement Agreement (Flores Agreement)* in 1997.⁸ The *Flores Agreement* established a nationwide policy for the detention, treatment, and release of UAC and recognized the particular vulnerability of UAC while detained without a parent or legal guardian present.⁹ It required that immigration officials detaining minors provide: (1) food and drinking water; (2) medical assistance in emergencies; (3) toilets and sinks; (4) adequate temperature control and ventilation; (5) adequate supervision to protect minors from others; and (6) separation from unrelated adults whenever possible.

Five years later, the Homeland Security Act of 2002 (HSA; P.L. 107-296) divided responsibilities for the processing and treatment of UAC between the newly created DHS and the Department of Health and

¹ *Alien*, a technical term appearing throughout the Immigration and Nationality Act (INA), refers to a foreign national who is not a citizen or national of the United States.

² The child may have illegally entered the country or been legally admitted but overstayed their length of admittance (i.e., a visa overstay.)

³ 6 U.S.C. §279(g)(2).

⁴ Senate Judiciary Committee hearing on *Oversight of the Department of Homeland Security*, June 11, 2014.

⁵ House Report 113-481 included a projection of 145,000 UAC apprehensions anticipated for FY2015.

⁶ See CRS Report R43628, *Unaccompanied Alien Children: Potential Factors Contributing to Recent Immigration*, coordinated by William A. Kandel.

⁷ The Homeland Security Act of 2002 abolished the Immigration and Naturalization Service (INS) and its functions were split in the Departments of Homeland Security, Justice, and Health and Human Services.

⁸ *Flores v. Meese—Stipulated Settlement Agreement* (U.S. District Court, Central District of California, 1997).

⁹ See DHS Office of Inspector General, *CBP's Handling of Unaccompanied Alien Children*, OIG-10-117, Washington, DC, September 2010.

Human Services' (HHS) Office of Refugee Resettlement (ORR). The HSA assigned apprehension, transfer, and repatriation responsibilities to DHS. The law assigned responsibility to HHS for: coordinating and implementing the care and placement of UAC in appropriate custody; reunifying UAC with their parents abroad if appropriate; maintaining and publishing a list of legal services available to UAC; and collecting statistical information on UAC, among other things.¹⁰ The HSA also established a statutory definition of UAC.

In 2008, Congress passed the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA, P.L. 110-457). The TVPRA requires that children from contiguous countries be screened by CBP within 48 hours of being apprehended to determine: 1) that the child has not been a victim of a severe form of trafficking in persons and that there is no credible evidence that the minor is at risk of being trafficked should the minor be returned to his country of nationality or of last habitual residence; 2) that the child does not have a possible claim to asylum; and 3) that the child is able to make an independent decision to voluntarily return to his country of nationality or of last habitual residence.¹¹

Although the TVPRA sets forth screening requirements for unaccompanied children from contiguous countries, in March 2009, DHS issued a policy that, in essence, made the screening provisions applicable to all unaccompanied alien children.¹² Those UAC who opt not to return voluntarily as well as UAC from noncontiguous countries are transferred to the care and custody of HHS while they go through formal removal proceedings.¹³ During this time, UAC may seek various forms of immigration relief described below, including asylum. If denied asylum by USCIS, a UAC may request asylum a second time during the formal removal hearing with EOIR.

The TVPRA also directs the Secretary of DHS, in conjunction with other federal agencies, to develop policies and procedures to ensure that, if and when they return voluntarily or are removed from the United States, UAC are safely repatriated to their country of nationality or of last habitual residence.

Analysis of UAC Statistics

Several agencies in DHS and HHS Office of Refugee Resettlement share responsibility for the processing, treatment, and placement of UAC. DHS's CBP apprehends and temporarily detains UAC arrested at the border while DHS's Immigration and Customs Enforcement (ICE) handles custody transfer, removal and repatriation responsibilities. ICE also apprehends UAC in the interior of the country and represents the U.S. government in removal proceedings. Among its UAC responsibilities, HHS coordinates and implements the care and placement of UAC in appropriate custody, typically in shelters initially and subsequently with family members living in the United States.

DHS's U.S. Citizenship and Immigration Services (USCIS) is responsible for the initial adjudication of asylum applications filed by UAC. The Executive Office for Immigration Review (EOIR) in the Department of Justice (DOJ) conducts immigration proceedings that determine whether UAC may be allowed to remain in the United States or must be deported to their home countries.

¹⁰ P.L. 107-296, Section 462. ORR assumed care of UAC on March 1, 2003. It subsequently created the Division of Unaccompanied Children's Services (DUCS) for addressing the requirements of this population.

¹¹ P.L. 110-457, §235(a)(2)(A).

¹² 8 U.S.C. §1101 et seq. U.S. Congress, Senate Committee on the Judiciary hearing on *The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking*, testimony of Acting Deputy Assistant Secretary Kelly Ryan, September 14, 2011.

¹³ If, after assessing the unaccompanied child, CBP personnel determine the minor to be inadmissible under the INA, they can allow "voluntary departure" of the child from a contiguous country. In this case, the unaccompanied child is permitted to return immediately to Mexico or Canada, and does not face administrative or other penalties. 8 U.S.C. §1225(a)(4).

UAC and Family Unit Apprehensions by CBP

In FY2014, CBP apprehended more UAC than in any of the previous five years and more than three times as many as in FY2009 (**Table 1**). The majority of UAC apprehensions in FY2014 occurred within the Rio Grande (73%) and Tucson (12%) Border Patrol sectors.¹⁴ Nationals of Guatemala, Honduras, El Salvador, and Mexico accounted for almost all UAC apprehended at the Mexico-U.S. border.

Table 1. UAC Apprehensions by Country of Origin, FY2009-FY2014

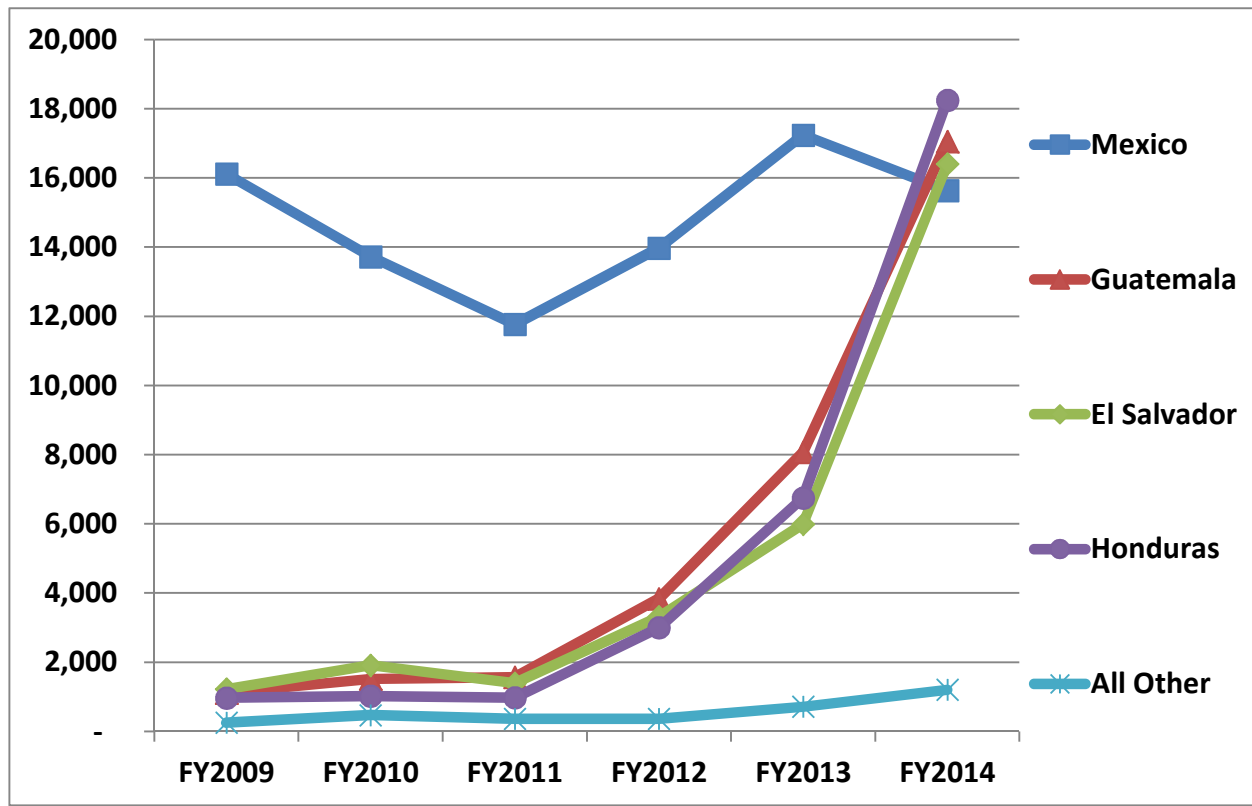
	Mexico	Guatemala	El Salvador	Honduras	All Other	Total
FY2009	16,114	1,115	1,221	968	250	19,668
FY2010	13,724	1,517	1,910	1,017	466	18,634
FY2011	11,768	1,565	1,397	974	363	16,067
FY2012	13,974	3,835	3,314	2,997	361	24,481
FY2013	17,240	8,068	5,990	6,747	714	38,759
FY2014	15,634	17,057	16,404	18,244	1,202	68,541

Source: Customs and Border Protection, *Southwest Border Unaccompanied Alien Children*, <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children>.

Notes: All figures are only for the Southwest border.

Flows of UAC from Mexico remained relatively steady through FY2014 (**Figure 1**). In contrast, the numbers of UAC from Guatemala, Honduras, and El Salvador increased starting in FY2012. In FY2009, Mexican UAC accounted for 82% of the total 19,668 UAC apprehensions in that year, while the three Central American countries accounted for 17%. By FY2014, those proportions had almost reversed, with Mexican UAC comprising only 23% of the total 68,541 UAC apprehensions that year and UAC from the three Central American countries comprising 75%.

¹⁴ Customs and Border Protection, *Southwest Border Unaccompanied Alien Children*, <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children>.

Figure I. UAC Apprehensions by Country of Origin, FY2009-FY2014

Source: Customs and Border Protection, *Southwest Border Unaccompanied Alien Children*, <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children>.

Notes: All figures are only for the Southwest border.

Apprehensions of family units (unaccompanied minors with a related adult) also increased considerably, from 14,855 in FY2013 to 68,445 in FY2014.¹⁵ Of these apprehended family units, 90% originated from Guatemala, El Salvador, or Honduras.

UAC Transfer to HHS-ORR

The Unaccompanied Alien Children Program in HHS-ORR provides for the custody and care of unaccompanied alien minors. Not all UAC are transferred to ORR; some UAC from contiguous countries voluntarily return home. HHS-ORR has not publically released data on how many UAC returned home voluntarily in FY2014.

Table 2 shows overall increases in UAC in ORR custody starting in FY2012, when the total doubled to 13,625 from 6,854 in the previous year. Between FY2012 and FY2013, the number of UAC that were transferred to ORR roughly doubled again to 24,915; and in FY2014, the number was 57,496.

¹⁵ Ibid. CRS was unable to get apprehension data for families prior to FY2013.

Table 2. UAC Referrals to HHS-ORR, FY2009-FY2014

	Mexico	Guatemala	El Salvador	Honduras	All Other	Total
FY2009	1,067	1,674	1,528	1,378	445	6,092
FY2010	1,490	1,932	2,157	1,277	1,354	8,210
FY2011	1,392	2,051	1,622	1,201	588	6,854
FY2012	1,090	4,633	3,679	3,679	545	13,625
FY2013	740	9,127	6,414	7,400	1,233	24,915
FY2014	1,150	18,399	16,674	19,549	1,725	57,496

Source: FY2009-FY2011: ORR, Division of Children's Services, nonofficial data provided to Women's Refugee Services and cited in Women's Refugee Commission, *Forced from Home: The Lost Boys and Girls of Central America*, October 2012, Chart 1; **FY2012-FY2014:** U.S. Department of Human Services, Administration for Children and Families, Office of Refugee Resettlement, Unaccompanied Alien Children Program, *Fact Sheet*, November 2014 and ORR, *About Unaccompanied Children's Services*, accessed by CRS on March 16, 2015, <http://www.acf.hhs.gov/programs/orr/programs/ucs/about#facts>.

ORR arranges to house the child in either one of its shelters or foster care; or the UAC program reunites the child with a sponsoring family member.¹⁶ According to ORR, the majority of the youth are initially cared for through a network of state-licensed, ORR-funded care providers.¹⁷ Between FY2008 and FY2010, UAC remained in ORR care an average of 61 days. Total time in custody ranged from less than one day to 710 days.¹⁸ In May 2014 ORR reported that the average length of stay in the program was about 35 days.¹⁹

UAC Family Reunification

ORR is required to place unaccompanied minors in the least restrictive setting that is in the best interest of the child. In FY2014, ninety-six percent of discharged UAC were released to a sponsoring family member. Of this group 58% were parents or legal guardians, 29% were other relatives, and 9% were non-relatives. The remaining 4% of UAC were discharged for other reasons, such as a transfer to DHS due to aging-out of UAC status.²⁰ It is important to note that removal proceedings continue even when UAC are placed with parents or other relatives.

Family reunification is often cited as a primary reason for the UAC surge.²¹ Demographic and survey data provide evidence of linkages between the three UAC surge countries and their foreign-born populations living in the United States. U.S. Census data from 2012 indicate that U.S. residents born in El Salvador

¹⁶ The *Flores Agreement* outlines the following preference ranking for sponsor types: (1) a parent, (2) a legal guardian, (3) an adult relative, (4) an adult individual or entity designated by the child's parent or legal guardian, (5) a licensed program willing to accept legal custody, or (6) an adult or entity approved by ORR. *Flores v. Reno Stipulated Settlement Agreement*, 1997, p.10.

¹⁷ Olga Byrne and Elise Miller, *The Flow of Unaccompanied Children Through the Immigration System*, Vera Institute of Justice, Washington, DC, March 2012, p. 17.

¹⁸ *Ibid.*

¹⁹ *ORR UAC Fact Sheet*, May 2014.

²⁰ Unpublished data provided to CRS by Office of Legislative Affairs, Administration for Children and Families, Office of Refugee Resettlement, U.S. Department of Health and Human Services, March 20, 2015.

²¹ See Muzaffar Chishti and Faye Hipsman, "Dramatic Surge in the Arrival of Unaccompanied Children Has Deep Roots and No Simple Solutions," *Migration Information Source*, June 13, 2014; "Under-age and on the move: A wave of unaccompanied children swamps the debate over immigration," *The Economist*, June 28, 2014; U.N. High Commissioner for Refugees (UNHCR), *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, March 12, 2014 (hereinafter, UNHCR, *Children on the Run*).

(1,254,501), Guatemala (880,869), and Honduras (535,725) ranked, respectively, as the 6th, 10th, and 16th largest foreign-born groups living in the United States.²² U.N. survey data indicate that sizable percentages of children residing in El Salvador, Guatemala, and Honduras, have at least one parent living in the United States.²³ If similar data were available on other U.S.-based relatives, such as siblings or extended relatives, these percentages would be higher.

Sizable proportions of these family members in the United States are estimated to be unauthorized aliens.²⁴ According to 2012 DHS estimates, unauthorized Salvadorans, Guatemalans, and Hondurans living in the United States numbered 690,000, 560,000, and 360,000, respectively, representing 55%, 64%, and 67% of all foreign-born residents from those three countries living in the United States.²⁵

Options for Immigration Relief

The Immigration and Nationality Act provides for immigration relief for foreign nationals (and in some cases classes of foreign nationals) for a variety of reasons. For unaccompanied alien children, such relief include special immigrant status for juveniles (SIJ),²⁶ relief for trafficking victims (T nonimmigrant status), and asylum.²⁷ An in-depth analysis of SIJ status and T nonimmigrant status are beyond the scope of this testimony, however, in FY2014, ORR reported that up to 208 UAC in its custody may have received SIJ status.²⁸ With respect to T nonimmigrant visas, immigration judges generally issue a relatively small number of them overall.²⁹

UAC Granted Asylum³⁰

The TVPRA of 2008 revised the procedures and policies for those unaccompanied children who file for asylum, most notably requiring that unaccompanied children from contiguous countries (i.e., Canada and Mexico) be screened for possible asylum claims. DHS subsequently opted to screen all unaccompanied children for possible asylum claims.

²² Other Central American countries ranked considerably lower: Nicaraguans were 31st, Panamanians were 55th, Costa Ricans were 67th, and Belizeans were 86th. Mexicans represent the largest foreign-born population residing in the United States. For El Salvador, the population residing in the United States is one fifth the size of population living in El Salvador (6.3 million). Source: 2012 American Community Survey (ACS) Public Use Micro Sample (PUMS).

²³ The figure is 49% for El Salvador, 27% for Guatemala and 47% for Honduras. By comparison, the figure for Mexico is 22%. UNHCR, *Children on the Run*.

²⁴ As a policy, ORR does not inquire as to the legal status of the family member sponsoring the unaccompanied child.

²⁵ Bryan Baker and Nancy Rytina, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2012*, Department of Homeland Security, Office of Immigration Statistics, March 2013. For comparison, the unauthorized proportion of the total foreign-born population for Mexico is 58%. For more on the demography of legal status among the foreign-born, see CRS Report R41592, *The U.S. Foreign-Born Population: Trends and Selected Characteristics*, by William A. Kandel.

²⁶ The provision was initially aimed at children of unauthorized aliens who had been abused, neglected or abandoned. For USCIS legal guidance on SIJ status, see Letter from Donald Neufeld, Acting Associate Director, Domestic Operations, and Pearl Chang, Acting Chief, Office of Policy, to USCIS Field Leadership, March 9, 2009.

²⁷ Another possible form of relief, Temporary Protected Status (TPS), is not discussed in this testimony because it currently does not apply to unaccompanied children arriving from the northern triangle. For information on TPS, see CRS Report RS20844, *Temporary Protected Status: Current Immigration Policy and Issues*, by Ruth Ellen Wasem and Karma Ester.

²⁸ Data received from HHS-ORR Legislative Affairs, September 2, 2014 and March 16, 2015. The figures do not include unaccompanied children who received SIJ status through state social welfare agencies.

²⁹ In FY2013, there were 856 T nonimmigrant visas issued, however, the number of UAC among these is unknown.

³⁰ All statistics, unless otherwise noted, in this paper are taken from the USCIS Asylum Division's case management system, Refugees, Asylum, and Parole System (RAPS). Some statistics are taken from summary annual reports and other statistics are taken from more specific agency data requests.

USCIS is responsible for the initial adjudication of asylum applications filed by UAC.³¹

For the first three quarters of FY2014, USCIS reported it had received 1,532 asylum petitions. During the same period, USCIS adjudicated 167 cases and granted asylum to 108 unaccompanied alien children.³² Two of these approved cases were for unaccompanied children apprehended in FY2014. All other approved cases were for unaccompanied children apprehended in prior years.³³ It is important to note that when a UAC decides to make an asylum claim and when the adjudication of such application occurs may not all take place in the same year. Hence the asylum data described above are not necessarily comparable.

Unlike adult asylum seekers, UAC may, after being denied asylum following a USCIS asylum hearing, request asylum again before an EOIR immigration judge during removal proceedings. Data presented below in “**Hearing Outcomes**” suggest that immigration judges approve few UAC asylum requests.

Removal hearings

DOJ’s Executive Office for Immigration Review (EOIR) is responsible for adjudicating immigration cases, including removal proceedings. EOIR has specific policies for conducting UAC removal hearings to ensure that UAC understand the nature of the proceedings, can effectively present evidence about their cases, and have appropriate assistance.

Waiting Period for Hearing

As of March 2014, the average wait time nationwide for all immigration hearings was 19 months.³⁴ However, this figure is an average for all immigration courts, and comprises a range of periods, some of which extend far beyond 19 months. The length of time until an immigration judge renders a final decision varies widely depending on appeals, adjournments, and other case circumstances. Surges in caseloads, such as that caused by the recent influx of unaccompanied children, tax the limited resources of the immigration court system, further extending wait times for removal hearings.³⁵

In addition, children in detention (on the *detained* docket) receive priority for a removal hearing over those on the *undetained* docket. Because most UAC fall in the undetained docket, the average time for UAC could be longer than 19 months.

Percentage of UAC Waiting for a Hearing

Prior to FY2014, EOIR did not track UAC separately from other juveniles, making it difficult to determine their removal hearing outcomes. However, on July 18, 2014, EOIR initiated a new case recording system that coincided with its announcement of revised adjudication priorities in response to

³¹ For information on UAC asylum policy, see CRS Report R43664, *Asylum Policies for Unaccompanied Children Compared with Expedited Removal Policies for Unauthorized Adults: In Brief*, by Ruth Ellen Wasem.

³² Asylum data provided by USCIS Office of Legislative Affairs, July 2014.

³³ Ibid.

³⁴ Figures are based upon an analysis by the Transactional Records Access Clearinghouse (TRAC) of data obtained from the U.S. Department of Justice’s Executive Office for Immigration Review (EOIR) for all immigration cases, not just those involving unaccompanied children. See TRAC Immigration data, http://trac.syr.edu/phptools/immigration/court_backlog, accessed June 2014. The figure as of January 2015 is 19.8 months.

³⁵ The length of time unaccompanied children can expect to wait until their removal hearing may play a role in their migration to the United States by fostering a perception among foreign nationals that an opportunity exists to exploit this administrative backlog. See CRS Report R43628, *Unaccompanied Alien Children: Potential Factors Contributing to Recent Immigration*, coordinated by William A. Kandel.

the UAC surge.³⁶ As of this writing, data from this system were available for seven months, from July 18, 2014 through February 24, 2015.³⁷ The following figures reflect this seven-month period that spans FY2014 and FY2015.

During the seven months described, 25,091 UAC were given a *Notice to Appear* (NTA) by DHS following their apprehension.³⁸ Upon the issuance of an NTA, DHS also notifies EOIR, which, as of February 24, 2015, had arranged for 23,760 UAC (95%) to appear for their first master calendar hearing.³⁹ Of those scheduled, 15,633 UAC were adjourned (typically postponed to allow UAC to obtain legal counsel or for other reasons) and 1,453 had changes of venues or transfers.

Hearing Outcomes

For 6,090 cases, immigration judges rendered a decision.⁴⁰ In 4,265 (70%) of the cases decided, the UAC were ordered removed. According to EOIR, the remaining 1,825 cases were resolved as follows: administrative closings and completions⁴¹ (1,199); terminations⁴² (372); voluntary departure (246); other (7);⁴³ and immigration relief granted (1).⁴⁴ CRS does not know what form of immigration relief was granted for the single individual who received it.

Percentage of UAC Present at Hearing

³⁶ The four priority categories are: unaccompanied child, adults with a child or children detained, adults with a child or children released on alternatives to detention, and recent border crossers detained by DHS. See Statement of Juan P. Osuna, Director of Executive Office of Immigration Review, U.S. Department of Justice, *The President's Emergency Supplemental Request for Unaccompanied Children and Related Matters*, hearing by the Senate Committee on Appropriations, 113th Cong., 2nd sess., July 10, 2014.

³⁷ Executive Office for Immigration Review, Unaccompanied Children Priority Code Adjudication, July 18, 2014 – February 24, 2015, unpublished data provided to CRS, March 17, 2015. All figures presented in this section derive from this source.

³⁸ A *Notice to Appear* (NTA) is the charging document that signals the initiation of removal proceedings against an individual. It indicates the individual must appear in immigration court on the date specified or at a date to be determined in the future.

³⁹ EOIR has 21 days from receipt of an NTA from DHS to arrange for the master calendar hearing. The difference between the 25,091 NTAs issued by DHS and the 23,760 master calendar hearings represents the lag period for the most recent NTAs issued by DHS for which EOIR had not yet scheduled a master calendar hearing. A master calendar hearing involves meeting with the unaccompanied minor, the immigration judge, and possibly a legal representative to establish how the case will proceed. Typically, it results in scheduled dates for the submission of documentation and for a formal removal hearing when the immigration judge is expected to render a final decision.

⁴⁰ There are 584 cases missing from the 23,760 that are not accounted for by adjournments, transfers, and decisions. According to EOIR, at the time the data provided to CRS were compiled, the 584 cases had their hearing scheduled, but the results had not yet been entered into the database. Phone conversation with EOIR legislative affairs, March 19, 2015.

⁴¹ An administrative closing refers to a temporary removal of a case from an immigration judge's calendar or from the BIA docket. If DHS chooses to pursue the case, the case may ultimately be placed back on the judge's calendar or on the BIA docket.

⁴² A case termination refers to a decision by an immigration judge to dismiss the case related to a particular charging document. The charging document for UAC is the Notice to Appear. If a case is terminated in this situation, the child is not subject to removal related to the dismissed charging document. If DHS chooses to pursue the case, it must issue a new charging document.

⁴³ According to EOIR, the "Other" category refers to "administrative closure for reasons other than prosecutorial discretion, by joint motion or otherwise in accordance with applicable precedent decisions of the Board of Immigration Appeals (BIA)." An example could include a change of venue at a more advanced stage of the case.

⁴⁴ "Immigration relief" refers to adjudication outcomes that grant a foreign national to remain legally in the United States. In the case of UAC, the most common forms of immigration relief include special immigrant juvenile status, T-nonimmigrant status, and asylum.

Of the 6,090 cases in which decisions were rendered by immigration judges during this period, 3,775 (62%) were rendered *in absentia*, meaning that the UAC had not shown up to the hearing.⁴⁵ All decisions rendered *in absentia* were removals.

ICE Returns

ICE is responsible for the physical removal of all foreign nationals, including UAC, who have final orders of removal or who have elected voluntary departure while in removal proceedings.⁴⁶ To safeguard the welfare of all UAC, ICE has established specific policies for repatriating UAC.⁴⁷

Effecting a final order of removal requires the U.S. government to secure travel documents from the country in question for the alien being removed.⁴⁸ Obtaining travel documents can sometimes become problematic because countries may change their documentary requirements or raise objections to the juvenile's return.⁴⁹

Once the foreign country has issued travel documents, ICE arranges transport of the UAC and, if flying, accompanies the UAC on the flight to his/her home country. Mexican UAC are repatriated in accordance with Local Repatriation Agreements (LRA), which require notification of the Mexican Consulate for each UAC repatriated. Additional specific requirements may apply to each LRA.⁵⁰

Table 3. ICE Removals of UAC by Country of Citizenship, FY2009-FY2014*

	Mexico	Guatemala	El Salvador	Honduras	All Other	Total
FY2009	350	534	96	352	29	1,361
FY2010	690	520	117	326	37	1,690
FY2011	696	515	136	297	51	1,695
FY2012	574	626	136	430	43	1,809
FY2013	548	661	159	461	39	1,868
FY2014*	335	554	146	392	30	1,457

Source: Data provided to CRS from ICE Legislative Affairs on October 20, 2014.

Notes: * FY2014 Removal data are through 07/19/2014, representing 9.5 months of FY2014. Removal counts are based on designation of UAC at time of initial book-in and may not be under the age of 18 at the time of removal. ICE data include voluntary departures in their removal.

ICE data presented in **Table 4** indicate that the number of UAC removals by that agency has remained between 1,500 and 2,000 each year between FY2009 and FY2013. CRS was unable to obtain an updated figure for FY2014 as of this writing; that shown in **Table 4** represents ICE removals of UAC for the first 9.5 months of FY2014.

⁴⁵ If a UAC does not appear at the removal hearing, he or she is automatically removed, providing that the following two conditions are met: 1) DHS establishes removability to the satisfaction of an immigration judge, and 2) DHS demonstrates that it properly served the *Notice of Hearing* (indicating the specific details of the hearing).

⁴⁶ A UAC may elect to depart voluntarily at any point during his or her removal proceedings.

⁴⁷ Email from ICE Congressional Relations, May 16, 2014.

⁴⁸ Conversation with Doug Henkel, Associate Director, ICE Removal and Management Division, February 20, 2012.

⁴⁹ Olga Byrne and Elise Miller, *The Flow of Unaccompanied Children Through the Immigration System*, Vera Institute of Justice, Washington, DC, March 2012, p. 27.

⁵⁰ *Ibid.*

Returns at the border

CRS was not able to obtain data on the number of UAC who were returned to Mexico from CBP.