

**CITY AND COUNTY OF SAN FRANCISCO**  
**BOARD OF SUPERVISORS**  
BUDGET AND LEGISLATIVE ANALYST

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**POLICY ANALYSIS REPORT**

**To:** Supervisor Campos  
**From:** Budget and Legislative Analyst's Office   
**Date:** September 2, 2014  
**Re:** Estimated Cost of Providing Legal Representation to Unaccompanied Juveniles and Families in San Francisco Immigration Court

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**SUMMARY OF REQUESTED ACTION**

Pursuant to your request, the Budget and Legislative Analyst has conducted an analysis of the cost of providing legal representation to juveniles in San Francisco Immigration Court proceedings, many of whom are there as a result of the recent influx of Unaccompanied Alien Children and families from Central America who are entering the U.S. and being apprehended by federal authorities.

*For further information about this report, please contact Fred Brousseau at the Budget and Legislative Analyst's Office.*

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**EXECUTIVE SUMMARY**

- The number of unaccompanied juveniles apprehended by federal authorities after crossing in to the U.S. along the southwest border has increased from 15,949 in federal Fiscal Year 2010-11<sup>1</sup> to 62,998 in the first 10 months of federal Fiscal Year 2013-14. During the same time period, the number of family units (at least one parent with at least one child) apprehended along the southwest border increased from 6,902 to 62,856. Most of these juvenile immigrants come from four countries: Guatemala, Honduras, Mexico and El Salvador.
- Other than Mexicans, who under federal law can agree to be immediately returned to their home country without legal proceedings or penalties, removal proceedings are initiated against most apprehended unaccompanied minors and apprehended family units in U.S. immigration courts. This has led to a surge in immigration caseload in the immigration court in San Francisco as well in other cities throughout the country.

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<sup>1</sup> The federal fiscal year runs from October 1 to September 30.

- Mirroring the increase in unaccompanied minor apprehensions, the number of juvenile cases filed in San Francisco Immigration Court in federal Fiscal Year 2010-11 was 296; for only the first nine months of federal Fiscal Year 2013-14, that caseload had increased to 865.
- The percentage of juvenile cases with legal representation has decreased as the caseload has surged over the last two years. During federal Fiscal Years 2010-11 and 2012-13, an average of 304 cases had legal representation. Assuming that average is repeated for federal Fiscal Year 2013-14, at least 561 juvenile cases will not have legal representation.
- A study conducted by Syracuse University's TRAC Immigration Project found that unrepresented immigrant juveniles were ordered deported in nine out of ten cases nationally. In contrast, the court allowed the juvenile to remain in the United States in almost half of the cases when there was an attorney present and the case was considered represented.
- Immigration court cases for family units apprehended at the border are not separately tracked but the Budget and Legislative Analyst estimates that caseload is comparable to the juvenile caseload because the numbers of apprehensions are similar.
- The Budget and Legislative Analyst has projected that total San Francisco Immigration Court caseload for juveniles and family units apprehended at the border for a full year will be 2,533 based on federal Fiscal Year 2013-14 data and trends. Subtracting an estimated 403 of those cases that are or will receive legal representation from current legal services providers (304 juvenile cases and an estimated 99 family unit cases based on past levels of representation) leaves an estimated net of 2,130 cases per year that will not have legal representation.
- To provide legal representation for the estimated 2,130 cases without representation over a one year period would require 53.2 attorneys, based on an average of 40 cases per year per attorney as estimated by the Budget and Legislative Analyst, with input provided by legal services providers working in the San Francisco Immigration Court. The Budget and Legislative Analyst also assumes that 13.3 support staff positions such as paralegals and legal clerks would be needed to assist the 53.2 attorneys, based on a ratio of one support position for every four attorneys.
- Assuming average salary and benefits costs of \$100,000 per attorney and \$70,000 per support staff position, total annual costs for providing representation for the 2,130 cases would be \$6,251,000.
- Two alternative approaches to funding the full \$6,251,000 for the Board of Supervisors to consider are: 1) funding proportional to the number of cases in which the juvenile lives in San Francisco, estimated to be 20 percent of

all cases by legal services providers now serving this population, and 2) funding proportional to percentage of non-profit legal service provider organizations based in San Francisco that are providing no or low cost representation to this population, estimated by the Budget and Legislative Analyst to be 62 percent of the providers. Funding at the 20 percent level consistent with juveniles and families residing in San Francisco would result in a funding level of \$1,250,200. Funding at the 62 percent level, reflecting the proportion of non-profit legal service providers serving the population of unaccompanied minors and families, would result in a funding level of \$3,875,620.

- The caseload projections prepared by the Budget and Legislative Analyst are based on federal FY 2013-14 data and trends and do not account for: 1) changes in caseload that may occur if Congress approves the Obama administration's proposed increase in funding for immigration court to further expedite unaccompanied minor and family unit cases, 2) further increases in apprehensions and immigration court cases that may occur in the coming months if more immigrants continue to enter the country, and 3) the hundreds of cases in San Francisco immigration courts that commenced in prior fiscal years but are still pending and are without legal representation.
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## INFLUX OF JUVENILES APPREHENDED AT THE U.S. BORDER AND IN IMMIGRATION COURT PROCEEDINGS

The number of Unaccompanied Alien Children and Family Units<sup>2</sup> apprehended by federal officials along the southwest border of the U.S. has dramatically increased over the last few years, leading to a corresponding increase in the number of juvenile and family cases in U.S. immigration court. Southwest border apprehensions of Unaccompanied Alien Children increased from 15,949 in federal Fiscal Year 2010-11 to 62,998 during the first ten months of federal Fiscal Year 2013-14,<sup>3</sup> according to the U.S. Customs and Border Protection unit of the Department of Homeland Security. Even greater, Family Unit apprehensions increased from 6,902 in federal Fiscal Year 2010-11 to 62,856 for federal Fiscal Year 2013-14 through July 31, 2014. Exhibit 1 presents the number of Unaccompanied Alien Children and Family Units apprehended by federal authorities between federal Fiscal Years 2010-11 and 2013-14 through July 31, 2014.

U.S. Customs and Border Protection predicts that the total number of apprehensions of Unaccompanied Alien Children (“unaccompanied minors”) could reach 90,000 for the full federal Fiscal Year 2013-14, which ends September 30, 2014.

### Exhibit 1: Apprehensions of Unaccompanied Minors and Family Units along the Southwest Border, Federal FYs 2010-11 – FY 2013-14

Federal Fiscal Year (October – September)	Total Unaccompanied Minors Apprehended	Total Family Units Apprehended <sup>2</sup>
2014 <sup>1</sup>	62,998	62,856
2013	38,759	11,001 <sup>1</sup>
2012	24,403	6,436
2011	15,949	6,902

Source: U.S. Customs and Border Protection

<sup>1</sup> Data for 10 months only, through July 31 of the fiscal year.

<sup>2</sup> Family Units are at least one child and one parent together.

Note: Southwest Boarder Sector only. In the prior three federal fiscal years, Southwest Border Sector apprehensions accounted for 99.6 percent of all unaccompanied minor apprehensions and 99.0 percent of family unit apprehensions.

Almost all of the unaccompanied minors and family units apprehended at the southwest border in the current federal fiscal year come from one of four countries: El Salvador, Guatemala, Honduras and Mexico, as shown in Exhibit 2.

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<sup>2</sup> Unaccompanied Alien Children are defined by the federal government as: 1) under 18 years of age, 2) have no lawful immigration status in the United States, and 3) have no parent or legal guardian in the country present or available to provide care and physical custody. Family Units are defined as a child or children accompanied by one or more parents.

<sup>3</sup> The federal fiscal year runs from October 1 to September 30.

**Exhibit 2: Citizenship of Apprehended Unaccompanied Minors and Family Units,  
Federal Fiscal Year 2013-14**

<b>Country of Citizenship</b>	<b>Unaccompanied Minors</b>	<b>% Total</b>	<b>Family Units</b>	<b>% Total</b>
Honduras	17,582	27.9%	33,086	52.6%
Guatemala	15,733	25.0%	10,747	17.1%
El Salvador	14,951	23.7%	12,899	20.5%
Mexico	13,675	21.7%	4,893	7.8%
Other	1,057	1.7%	1,231	2.0%
Total	62,998	100.0%	62,856	100.0%

Source: U.S. Customs and Border Protection

Once unaccompanied minors who have illegally entered the United States are apprehended by Border Patrol or other federal authorities, pursuant to federal law<sup>4</sup>, they are given the option of voluntarily returning to their home country if they are from Mexico or Canada. For unaccompanied minors from other countries and those from Mexico or Canada that do not choose to voluntarily return to their country, the Department of Homeland Security initiates removal proceedings against them by filing a case with the U.S. Executive Office for Immigration Review, the administrative arm of the U.S. immigration court, a branch of the U.S. Department of Justice. While initially held in Department of Homeland Security facilities, custody of most detained unaccompanied minors is transferred to the U.S. Office of Refugee Resettlement (ORR), a division of the U.S. Department of Health and Human Services, simultaneous with filing for removal proceedings with the immigration court.

Federal law requires that ORR attempt to find housing and care for unaccompanied minors in the least restrictive environment<sup>5</sup>, preferably with a relative or family friend somewhere in the U.S. who can take custody of them, at least for the duration of their immigration court proceedings. If no family member or family friend is found, the unaccompanied minors may be transferred to an ORR shelter facility or to a foster care setting.

When ORR identifies facilities, relatives or family friends with whom the unaccompanied minors can stay in San Francisco or elsewhere in northern California, their immigration court case is assigned to the San Francisco Immigration Court.

Traditionally, facilities used for adult detainees have also been used for apprehended family units, but that policy changed in recent years and more families have been granted alternatives to detention such as being released to the community prior to their court dates or staying in housing run by non-profit organizations. Whichever type of arrangement is used, a portion of apprehended family units have ended up in San

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<sup>4</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008

<sup>5</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.

San Francisco and the Bay Area, with their immigration proceedings assigned to the San Francisco Immigration Court.<sup>6</sup>

Mirroring national juvenile migration and apprehension statistics, the juvenile caseload in San Francisco's Immigration Court has increased substantially over the last three years. Exhibit 3 presents the number of juvenile cases filed at the Immigration Court in San Francisco between federal Fiscal Years 2005-06 and 2013-14 (through June 30, 2014). As can be seen, the number of juvenile cases increased from 311 in federal Fiscal Year 2005-06 to 865 in just the first nine months of federal Fiscal Year 2013-14, though June 30, 2014. Since federal Fiscal Year 2011-12, the number of juvenile cases increased from 477 for the full fiscal year to 865 in the first nine months of federal Fiscal Year 2013-14, an 81 percent increase. These cases do not include juveniles apprehended as part of family units as they are not included in the juvenile caseload count.

For this report, juvenile caseload numbers for the San Francisco Immigration Court were obtained from Syracuse University's Transactional Records Access Clearinghouse (TRAC) Immigration Project. TRAC's Immigration Project is a multi-year effort to systematically review government data, check it for accuracy and present it to the public in an easily digestible manner.

**Exhibit 3: Number of Juvenile Cases Filed, Federal Fiscal Years 2005-06 – 2013-14  
San Francisco Immigration Court**

<b>Federal Fiscal Year<sup>1</sup></b>	<b>Total Juvenile Cases<sup>2</sup></b>
2013-14 (through June 30)	865
2012-13	837
2011-12	477
2010-11	296
2009-10	313
2008-09	251
2007-08	257
2006-07	289
2005-06	311

Source: Syracuse University TRAC Immigration Project

<sup>1</sup> The federal fiscal year runs from October 1 through September 30.

<sup>2</sup> Includes unaccompanied and other juvenile cases, but not family unit cases.

Unlike U.S. citizens, who are constitutionally entitled to legal representation in most criminal court proceedings even if they cannot afford to pay for it<sup>7</sup>, non-citizen adults

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<sup>6</sup> This may change in the future since the Obama administration proposed supplemental funding in the summer or 2014 to deal with the influx of apprehended juveniles. The proposed funding includes provisions for more detention facilities for family units, but, to date, the funding has not been approved by Congress and such facilities are not yet operating.

<sup>7</sup> Sixth Amendment to U.S. Constitution.

and juveniles in Immigration Court proceedings have no such rights. However, a number of legal service providers, including many nonprofit legal services firms based in San Francisco, offer their services for these cases at no or reduced cost.

The San Francisco Immigration Court provides information about the availability of such legal services providers at the court and, as a result, some of San Francisco's Immigration Court juvenile cases have received legal representation in past years at no- or reduced-cost. However, as the juvenile caseload has increased, particularly starting in federal Fiscal Year 2012-13, the percentage of cases with representation has declined, as shown in Exhibit 4. The level of representation for federal Fiscal Year 2013-14 may not be a reflection of what will end up being the full percentage of cases with representation because this data is only for the first nine months of the year and attorney providers report there are often lags between the time a case is filed and when an attorney is engaged.

**Exhibit 4: Number of Juvenile Cases with Legal Representation, Federal Fiscal Years 2005-06 – 2013-14, San Francisco Immigration Court**

Federal Fiscal Year	Total Represented Juvenile Cases	Total Unrepresented Juvenile Cases	Total Cases	% Represented
2013-14 (through June 30)	72	793	865	8.3%
2012-13	294	543	837	35.1%
2011-12	313	164	477	65.6%
2010-11	210	86	296	70.9%
2009-10	209	104	313	66.8%
2008-09	155	96	251	61.8%
2007-08	147	110	257	57.2%
2006-07	192	97	289	66.4%
2005-06	204	107	311	65.6%

Source: Syracuse University TRAC Immigration Project

Representation data for family unit cases is not available from either Syracuse University TRAC or the Executive Office for Immigration Review, the administrative arm of the federal immigration courts. However, for all case completions nationally in federal Fiscal Year 2012-13, 59 percent of cases represented had legal representation. The Budget and Legislative Analyst concludes that this may be a reasonable reflection of the percentage of family unit cases with legal representation in San Francisco Immigration Court.

**Outcomes Based on Representation Status**

The outcomes for juveniles in immigration court proceedings vary significantly based on whether they have legal representation or not. According to Syracuse University's TRAC Immigration Project data, unrepresented immigrant juveniles were ordered deported in

nine out of ten cases nationally. In contrast, the court allowed the juvenile to remain in the United States in almost half of the cases when there was an attorney present and the case was considered represented.<sup>8</sup>

### **Legal Outcomes for Unaccompanied Minors**

The most common forms of legal relief available for unaccompanied minors are Special Immigrant Juvenile Status (SIJS), asylum, U-visas (for crime victims) and T-visas (for trafficking victims).

According to Mr. Oren Root, the Director of the Center on Immigration and Justice at the Vera Institute of Justice, Special Immigrant Juvenile Status is the appropriate form of relief in 80-90 percent of the unaccompanied minor cases. SIJS is meant to assist juveniles who have been abused, neglected, or abandoned by one or both parents and it can lead to an assignment of permanent legal residence. Special Immigrant Juvenile Status (SIJS) is obtained via a two-step process. First, the juveniles must obtain an order from a state court declaring that they are dependent on the court; that they have been abused, abandoned or neglected; and that it is not in their best interest to return home. Once a state court issues such an order, the minor may petition the U.S. Citizenship and Immigration Services (USCIS) for special immigrant juvenile status, and simultaneously, for adjustment of status to legal permanent residency.

Juveniles may seek asylum defensively before an immigration judge or affirmatively through the USCIS Asylum Office. As a result of the Trafficking Victims Protection Reauthorization Act of 2008, the procedure for unaccompanied minors seeking asylum is for their case to first be reviewed by USCIS, and then for it to be referred to immigration court if USCIS denies the application. For juveniles to successfully apply for asylum, they must be able to show that they have suffered persecution or will suffer persecution as a result of their race, religion, nationality, membership in a particular social group, or political opinion.

U-visas and t-visas are for juveniles who are victims of certain crimes, including physical and mental abuse, and human trafficking. Both types of visa recipients are eligible to obtain lawful permanent residency status if certain conditions are met, and they can also petition for the benefits of the visas to be applied to certain members of their extended nuclear family.

The majority of unaccompanied minors who return to their country of origin do so through voluntary departure. This allows individuals who are otherwise removable to leave the United States without the consequences associated with an order of removal. Unaccompanied minors who are eligible for this form of relief do not have to pay for transportation back to their country of origin.

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<sup>8</sup> New Data on Unaccompanied Children in Immigration Court, Syracuse University, Transactional Records Access Clearinghouse. July 15, 2014.

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## NUMBER OF CASES NEEDING LEGAL REPRESENTATION IN SAN FRANCISCO

To derive an estimate of the number of cases that are currently or will be unrepresented in approximately the coming year given the surge in unaccompanied minor and family unit cases, the following calculations and assumptions were made.

As of June 30, 2014, 56,547 unaccompanied minors had been apprehended at the southwestern border for federal Fiscal Year 2013-14 according to U.S Customs and Border Protection. As of the same date, 19,671 juvenile immigration removal cases had been filed in immigration courts nationally, or 34.8 percent of the apprehensions.<sup>9</sup> The difference between the number of apprehensions and case filings can be explained by the unaccompanied Mexican juveniles apprehended who agree to voluntarily return to their country and are thus relieved of court proceedings and by lags in filings due to the surge in cases.

Of the 19,671 juvenile cases filed nationally in immigration court in the first nine months of federal Fiscal Year 2013-14, 4.4 percent were assigned to the San Francisco Immigration Court, for a total of 865 cases as of June 30, 2014.

As mentioned above, the U.S. Customs and Border Protection agency estimates that a total of 90,000 unaccompanied minors will arrive and be apprehended by the end of federal FY 2013-14, which will mean 27,002 apprehensions by the end of the current federal fiscal year in addition to the 62,998 unaccompanied minor apprehensions as of July 31, 2014. Since the number of apprehensions will affect the number of juvenile cases in immigration court, the federal forecast of the rate of increase in apprehensions was applied by the Budget and Legislative Analyst to the juvenile caseload as of June 30, 2014 to estimate a full year's worth of unaccompanied minor cases that will assigned to the San Francisco Immigration Court.

U.S. Customs and Border Protection has not prepared a forecast of family unit apprehensions through federal fiscal year-end so to estimate one year's worth of family unit cases in San Francisco Immigration Court needing legal representation, the Budget and Legislative Analyst assumed that the number of apprehensions through September 30, 2014 would be 75,427, based on the actual 6,285.6 average number of actual apprehensions per month during the first ten months of federal Fiscal Year 2013-14 applied to the full year ( $6,285.6 \times 12 = 75,427$ ).

Combining the 90,000 unaccompanied juvenile apprehensions estimated by U.S. Customs and Border Protection and the 75,427 family unit apprehensions estimated by

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<sup>9</sup> Unaccompanied minors from Mexico and Canada are subject to a different set of processes and procedures than children from Central America and other countries under the William Wilberforce Human Trafficking Act of 2008. Upon apprehension, unaccompanied minors from Mexico and Canada are given the option of voluntarily returning to their home countries, which many Mexican juveniles reportedly accept.

the Budget and Legislative Analyst for federal Fiscal Year 2013-14, a total of 165,427 apprehensions are assumed for the year. Assuming removal proceedings are initiated for 34.8 percent of these 165,427 unaccompanied minor and family unit southwest border apprehensions and that 4.4 percent of those filings end up in San Francisco Immigration Court (the same as the actual unaccompanied minor rates for apprehensions through July 31, 2014 and for juvenile case court filings as of June 30, 2014), there will be a total of 2,533 cases in the court system through the end of federal FY 2014-15 ( $165,427 \times 34.8$  percent case filing rate  $\times$  4.4 percent cases assigned to San Francisco Immigration Court = 2,533 cases).

To determine the net number of attorneys needed to cover the unaccompanied minor and family unit caseload in the San Francisco Immigration Court, the Budget and Legislative Analyst first determined the number of cases likely to receive legal representation without any additional attorney resources, assuming that the attorneys and organizations currently providing such services will continue to do so at the same level as provided in recent years.

According to Syracuse University TRAC data, an average of 304 juvenile cases at San Francisco Immigration Court was represented by existing legal service providers for the two federal fiscal years ending September 30, 2013. These providers would include non-profit legal services organizations, pro bono lawyers and possibly some privately paid attorneys. The number of represented juvenile cases for federal Fiscal Years 2011-12 and 2012-13 is presented in Exhibit 5.

**Exhibit 5: Average Number of Represented Juvenile Cases  
San Francisco Immigration Court, Federal Fiscal Years 2011-12 and 2012-13**

<b>Federal Fiscal Year</b>	<b>Represented Juvenile Cases</b>
2012-13	294
2011-12	313
<i>Average</i>	<i>304</i>

Source: Budget and Legislative Analyst calculations. Number of represented cases is based on average number of represented juvenile cases for four previous federal fiscal years.

The number of represented family unit cases is not separately reported by Syracuse University's TRAC project or the court. To estimate the number of such cases that are represented, the Budget and Legislative Analyst applied the average 59 percent of all completed immigration court cases with legal representation for federal Fiscal Year 2012-13 to an estimated 168 family unit cases in San Francisco Immigration Court that

year to derive 99 cases that will be represented with existing resources (59% x 168 cases<sup>10</sup> = 99 cases).

Combining the estimated 304 juvenile and 99 family unit cases assumed to be receiving legal representation results in a reduction of 403 cases from the 2,533 total juvenile and family unit cases assumed for San Francisco Immigration Court, or a net need for legal representation for 2,130 cases per year (2,533 – 403).

While there are other unrepresented juvenile and adult cases in the San Francisco Immigration Court currently pending from Federal Fiscal Year 2012-13 and prior, the Budget and Legislative Analyst's estimate of attorney need does not include those cases since it is not possible to determine from existing data how far along in the process those cases are and which of them already have legal representation.

The caseload number estimate for San Francisco Immigration Court may be an underestimate depending on potential changes in federal funding for border apprehensions and immigration courts. In July of 2014, the Obama administration issued a request for an emergency supplemental appropriation to address the influx of unaccompanied children. The request included \$45.4 million to hire 40 additional immigration judge teams in FY 2014. This request, when combined with the FY 2015 budget request for 35 additional judge teams, would provide sufficient capacity to process an additional 55,000 to 75,000 cases annually, which would address a significant portion of the anticipated caseload. The supplemental appropriation passed out of the House; the Senate did not vote on the legislation prior to leaving for the August recess, and it seems unlikely that the funding will be approved.

Further, separate from the pending federal supplemental appropriation, immigration courts nationally were directed by the Department of Justice (DOJ) in July 2014 to expedite the processing of the surge in juvenile cases. Known as the "rocket docket," the courts are currently hearing up to 50 cases a day in an effort to more quickly determine whether the juveniles will be allowed to stay. The courts have not received additional funding to implement the rocket docket. Instead, they are delaying the hearing of other immigration cases, both juvenile and adult, that have been pending for several months or years already.

The presence of the rocket docket in San Francisco Immigration Court will not necessarily increase the total number of cases filed in San Francisco, however, unless resources are provided to the Department of Homeland Security and the Executive Office of Immigration Review (EOIR) at the federal level. Expediting case processing in the San Francisco Immigration Court could potentially impact the number of cases that attorneys can handle on average as they will have less time to perform the same services that are typically stretched out over one to two years.

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<sup>10</sup> The 168 family cases is based on 11,001 family unit apprehensions in FY 2012-13 x 34.8 percent case filing rate x 4.4 percent cases assigned to the San Francisco Immigration Court (the same rates as for unaccompanied minor case filings and San Francisco Immigration Court case assignments).

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## ESTIMATE OF THE COST OF PROVIDING LEGAL REPRESENTATION

To determine the number of attorneys needed to provide legal representation to all of the estimated unaccompanied minor and family unit cases in San Francisco Immigration Court through federal Fiscal Year 2014-15, the Budget and Legislative Analyst surveyed legal providers in the Bay Area that currently provide legal representation to juveniles in San Francisco Immigration Court proceedings. Providers were asked to report the average number of cases that a full-time attorney who provides full-scope representation, namely representation from the beginning to the end of the case, could reasonably be expected to work on over the course of a year. This average figure takes into account that many cases will not start and terminate within a single calendar or fiscal year and that the level of effort on individual cases will vary depending on whether or not the juvenile is seeking asylum, Special Immigrant Juvenile Status, or another outcome.

Legal service organization survey respondents reported that, on average, an attorney could provide representation for 38 juvenile cases per year. These estimates were made based on the typical caseload level processed annually prior to the introduction of the rocket docket in July 2014. Some of the non-profits estimated that each attorney may take on fewer cases given the “rocket docket” compressions of case timelines. However, the Budget and Legislative Analyst has adjusted the assumed average cases per attorney per year number from 38 to 40 since the costs estimated below would also cover some support staff, allowing the attorneys to use their time more efficiently.

Exhibit 6 presents the estimated number of attorneys needed to provide full-scope representation to the estimated 2,130 juvenile and family unit cases in the San Francisco Immigration Court, as explained above, that would not otherwise have legal representation.. As can be seen, using the average of 40 cases per attorney, the 2,130 estimated cases would require an additional 53.2attorneys.

### **Exhibit 6: Number of Attorneys Needed to Cover Unrepresented Juvenile Cases Given Current Rates of Case Filing**

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Estimated Number of Annual Juvenile and Family Unit Cases Due to Apprehensions in Federal FY 2013-14	2,533
Less Number of Cases Receiving Representation from Existing Legal Resources	403
Net Number of Cases Needing Representation	2,130
Average Caseload per Attorney	40
Number of Additional Lawyers Needed	53.2

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Source: Budget and Legislative Analyst calculations

In addition to attorneys, non-profit legal services organizations surveyed by the Budget and Legislative Analyst identified the need for paralegals and administrative support staff to provide assistance to the attorneys and help them provide their services more efficiently. Based on input from these organizations and a review of some public law office’s staffing, the Budget and Legislative Analyst assumed that the cost of providing services would include .25 support staff positions such as paralegals, clerks and others for each full-time attorney (or approximately one support staff position for every four attorneys) These support staff positions would be particularly helpful in assisting with processing the “rocket docket” caseload with its expedited timelines. Based on assumed average salary and benefits cost for attorneys and the support positions detailed in Exhibit 7, total costs for providing legal representation to the 2,130 cases would be \$6,251,000.

**Exhibit 7: Cost of Covering Unrepresented Juvenile and Family Unit Cases**

	<b>Number/ \$ Amount</b>	<b>Cumulative Costs</b>
Total Lawyers Needed for 2,130 cases	53.2	
Annual Cost per Attorney	\$100,000	
Subtotal Attorney Salaries & Benefits	\$5,320,000	\$5,320,000
Total Support Staff Needed (@ .25/attorney)	13.3	
Annual Cost per Support Staff Position	\$70,000	
Subtotal Support Staff Salaries & Benefits	\$931,000	\$6,251,000
Total Costs		\$6,251,000

Source: Budget and Legislative Analyst calculations

Depending on how quickly the estimated attorney and related staffing becomes available, it could also be used to provide representation for juvenile cases already filed in the current and prior federal fiscal years that are currently unrepresented and in “pending” status, meaning that at least some initiation proceedings such as a first hearing have already occurred.<sup>11</sup>

**Alternative approaches to cost estimate**

For comparison with the Budget and Legislative Analyst’s costs estimates above, the Vera Institute of Justice estimates that the average cost of providing non-profit legal representation in juvenile cases is between \$3,000 and \$5,000 per case. This estimate assumes that the provider accepts all cases, regardless of the likelihood that a child will be granted relief. Cases in which the child does not have a high likelihood of relief are actually less expensive than other cases, and thus lower the average cost. This estimate also assumes that the outcome sought in the vast majority of cases (80-90%) is Special Immigrant Juvenile Status (SIJS), rather than asylum. Mr. Oren Root of the Vera Institute

<sup>11</sup> Syracuse University’s TRAC project reports 1,143 juvenile cases pending from prior fiscal years as of June 30, 2014. These cases could be anywhere in the process from a first hearing to near disposition.

informed the Budget and Legislative Analyst that the average cost of providing coverage in juvenile cases in San Francisco Immigration Court is likely closer to \$4,500 per case, given the fact that many of the juveniles do not live within the city and that attorneys will be required to travel to the counties where the children are located to file initial paperwork for SIJS cases in family or probate courts.

Exhibit 8 below presents the total cost of covering unrepresented cases using the range of per case average costs estimated by the Vera Institute of between \$3,000 and \$5,000 per case. On the lower end, the estimates are close to those independently calculated by the Budget and Legislative Analyst above.

**Exhibit 8: Range of Costs of Covering 2,130 Unrepresented Juveniles Using Vera Institute's Cost per Case Estimates**

@ \$3,000/case	\$6,390,000
@ \$4,500/case	\$9,585,000
@ \$5,000/case	\$10,650,000
BLA estimated costs	\$6,251,000

Source: Budget and Legislative Analyst calculations using Vera Institute's estimated average costs per case.

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## FUNDING APPROACH OPTIONS

The Budget and Legislative Analyst presents two funding approach options for consideration by the Board of Supervisors in the event that full funding of the estimated approximately \$6,251,000 needed to provide full-scope legal representation for juvenile cases at the San Francisco Immigration Court is not feasible. One approach is to adjust the funding level to reflect the number of juveniles residing in San Francisco. A second approach is to adjust the funding level to reflect the proportion of non-profit legal service provider organizations based in San Francisco.

The non-profit legal service providers surveyed by the Budget and Legislative Analyst estimate that roughly 20 percent of the new cases filed thus far in 2014 are for children currently living in the City. The rest of the children live in other communities in the Bay Area or northern California though their case is being processed at the San Francisco Immigration Court since it is nearest to their place of residence.

Of the non-profit legal provider organizations in the Bay Area identified by the Budget and Legislative Analyst that provide legal representation to juveniles, or other types of free or reduced cost immigration related legal services such as referrals, administrative relief services, information and training, 62 percent are located within City limits. Many of the communities where the children are living do not have organizations that provide these specific services, or the services offered are extremely limited.

Exhibit 9 presents the percentage of total estimated costs to provide legal representation to the juvenile cases at the San Francisco Immigration Court proportional

to: 1) the percentage of juveniles residing in the City (20 percent), and 2) proportional to the percentage of providers based in San Francisco (62 percent). If the Board of Supervisors were to fund 20 percent of the estimated total costs of providing legal representation to juveniles, the cost would be \$1,250,200. If the Board of Supervisors were to fund 62 percent of the estimated total costs, the total cost would be \$3,875,620.

**Exhibit 9: Alternatives to Determining San Francisco's Share of \$6,251,000 in Estimated Costs for Legal Services for Unrepresented Juvenile Cases in San Francisco Immigration Court**

20%: proportional to percentage of juveniles residing in San Francisco	\$1,250,200
62%: proportional to legal services providers based in San Francisco that now represent juveniles in Immigration Court	\$3,875,620

Source: Budget and Legislative Analyst calculations