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# **Outcome Evaluation of the justice AmeriCorps Legal Services Program for Unaccompanied Children**

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## **Vera** Center on Immigration + Justice

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# Executive Summary

## Purpose

In September 2014, the Executive Office for Immigration Review (EOIR), U.S. Department of Justice (DOJ), contracted with the Vera Institute of Justice (Vera) to conduct a two-year evaluation of the justice AmeriCorps Legal Services for Unaccompanied Children (jAC) program,<sup>1</sup> which is a partnership between EOIR and the Corporation for National and Community Service (CNCS). The general purpose of the evaluation is to assess program effectiveness and progress towards meeting program goals. Whereas the aim of the first part of this work was to assess the design and early implementation of the jAC program, the purpose of the second part, the outcome evaluation, is to begin to track and analyze results of the program as it has become established. Thus, this outcome evaluation report presents findings from the first 17 months of the jAC program, January 1, 2015 to May 31, 2016.

## Background

Legal representation is widely recognized to be essential for improving efficiency and effectiveness in immigration court and for improving fairness, particularly for vulnerable respondents such as unaccompanied children (UC), the majority of whom are fleeing violence in Central America. Prior to 2011, the number of UC taken into the custody of the Office of Refugee Resettlement (ORR), U.S. Department of Health and Human Services, averaged between 7,000 and 8,000 annually. Since then, the numbers have risen exponentially.<sup>2</sup> While the federal government had been considering how to meet the growing need for legal representation for UC, the unprecedented increase prompted the creation of a legal services program, justice AmeriCorps. According to CNCS, which has sought to collaborate with other federal agencies to meet national needs, national service programs such as justice AmeriCorps may be cost effective solutions to critical challenges and can improve lives and strengthen communities.<sup>3</sup> Based on the AmeriCorps service model, jAC was intended to increase national service opportunities and enhance the effective and efficient adjudication of immigration proceedings while providing legal representation to those UC with pending immigration court cases who are released from federal custody into U.S. communities.

According to the *jAC Evaluation Statement of Work* (2014), the jAC program is intended to provide legal services to children under the age of 16 who:

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<sup>1</sup> A report on the first part, *The justice AmeriCorps Legal Services for Unaccompanied Children: Implementation Evaluation*, was submitted to EOIR and CNCS on September 30, 2015.

<sup>2</sup> The total number of children admitted into ORR custody for fiscal year 2011 (October 1, 2010 - September 30, 2011) was 13,625. By FY2014, the number of UC entering ORR custody rose to 57,496, and the number admitted remained high at 33,726 in FY2015, the most recent year for which complete data for detained UC are available. See ORR Fact Sheets updated January 2016 at [https://www.acf.hhs.gov/sites/default/files/orr/orr\\_uc\\_updated\\_fact\\_sheet\\_1416.pdf](https://www.acf.hhs.gov/sites/default/files/orr/orr_uc_updated_fact_sheet_1416.pdf)

<sup>3</sup> See: <https://www.nationalservice.gov/special-initiatives/task-force-expanding-national-service/justice-amicorps>

- (1) Are not in the custody of ORR or the Department of Homeland Security (DHS);
- (2) Have received a Notice to Appear (NTA) in removal proceedings before EOIR; and,
- (3) Have not had their cases consolidated with removal proceedings against a parent or legal guardian.

Additionally, as required by EOIR and CNCS, children must have an initial released Master Calendar Hearing (MCH) after January 1, 2015 in order to be eligible for the program (later modified to October 1, 2014).

## Findings from the Implementation Evaluation

As Vera noted in the jAC implementation evaluation report, the program was not optimally designed to increase representation of unaccompanied children because of age-related and other restrictions on the children's eligibility, according to experienced jAC managers in the grantee organizations. While EOIR and CNCS made changes to address the challenges brought to their attention by jAC members, and there were improvements from the first to the second year of the program as operations became clearer and more predictable, problems were only partially alleviated because eligibility restrictions remained in force and the evident need for representation still outstrips resources.

## Outcome Evaluation Questions

The evaluation is intended to answer these questions, which are derived directly from the jAC program objectives:

- Is there evidence that justice AmeriCorps increases the level of representation for unaccompanied children in immigration proceedings?
- Is there evidence that justice AmeriCorps increases the effectiveness and efficiencies of the immigration court system through the mechanism of representation?
- Is there evidence that justice AmeriCorps increases identification of UC who have been victims of human trafficking or abuse?
- Is there evidence that justice AmeriCorps increases pro bono capacity to support and represent the population of unaccompanied children in the immigration court locations the members serve?
- Is there evidence that justice AmeriCorps members find measurable satisfaction, meaning, and opportunity through their national service?

## Key Findings

### Representation

The program is achieving its primary goal of increasing levels of representation for unaccompanied children in removal proceedings by funding attorneys to represent them. In its first 17 months of operation, jAC has initiated representation for 2,309 children and, through networks of pro bono referrals, contributed to the representation of many more. However, it

must be cautioned that only 535 cases represented by jAC members, or only 23 percent of these represented cases, were completed at the time of data analysis; therefore, all findings related to case outcomes must be interpreted as preliminary rather than conclusive trends.

- The program is successfully matching attorneys with children who may not have otherwise had access to counsel. Since unaccompanied children in general have insufficient access to counsel, but do have high rates of eligibility for relief, it is not surprising that increased representation translates into some increase in successful legal outcomes. However, qualitative data strongly suggest that the implementation of the “universal representation” model, where representation is offered regardless of likelihood of a successful outcome, is especially valuable and innovative. In contrast to the usual “triage” approach, in which only certain cases are selected for representation, the universal representation model provides all children with an opportunity for legal counsel, and therefore, increases the chance to identify forms of relief that only become apparent through the representation process.
- There is evidence that courts with the jAC program (“jAC courts”) have significantly different representation rates than courts without the program (“non-jAC courts”). The relationship differs depending upon the population of cases analyzed:
  - Representation rates for children matching the jAC eligibility criteria were significantly *lower* at jAC courts than non-jAC courts for children whose NTAs were filed both prior to and during implementation of the jAC program. Reasons for this difference may include the presence of similar legal services programs at non-jAC court locations, which drive up the representation rate in those courts, and the relatively high volume of UC cases in jAC court locations. These factors likely led to the selection of the jAC courts, where legal resources are still insufficient to meet the high demand.
- Finally, fundamental problems with jAC program requirements, which exclude the majority of unaccompanied children because of age restrictions, work against the desired increase in representation rates. Moreover, the jAC program continues to face that ongoing challenge that there are far more unaccompanied children who need representation than there are attorneys available to serve them.

### **Effectiveness and Efficiency**

The evaluation provides evidence that jAC increased many aspects of effectiveness as measured by legal outcomes and the ability of a child to present his or her case. The program has also positively affected the efficiency of hearings and the appearance rates of children. However, the interaction between effectiveness and efficiency is complex since longer case durations are often necessary for obtaining legal relief.

- Vera found evidence that representation has significant impact on children’s outcomes. The evaluation also found that the jAC program was associated with an equally high probability of successful legal outcomes as cases with other (non-jAC) representation.

Therefore, these results are not indicative of the jAC program specifically; but rather, are a testament to the impact of legal representation in any form.

- jAC cases are 71 percent more likely to have a successful outcome, defined as administrative closure, termination or relief, than unrepresented cases; of completed jAC cases, 88 percent were successful (as were 88 percent of other represented cases), as compared with 18 percent of unrepresented cases.<sup>4</sup>
- The in absentia rate for jAC and other represented cases was 7 percent, whereas the in absentia rate for unrepresented cases was 77 percent.

### **Identification of Child Victims of Trafficking and Abuse**

The evaluation suggests that the jAC model is beneficial for increasing victim identification, because it allows the one-on-one attention required for building rapport with vulnerable unaccompanied children who are at high risk for trafficking and abuse; however, more training and resources are needed, because the level of victim-identification is still low.

- 99 percent of the 2,309 unaccompanied children served by the program during the evaluation period were screened in some manner for trafficking and abuse.
- 35 children were identified as victims (29 children) or potential victims (6 children), representing 1.5 percent of the children served.
- Qualitative data suggest that under-identification still occurs because of uncertainties about what constitutes trafficking and abuse. Attorneys are not sufficiently familiar with indicators of trafficking and abuse, nor are children necessarily aware when they are victims of crime. As well, victim identification requires a longer period of time to build rapport with child victims, and there are inherent difficulties of working with traumatized children.
- Overall, jAC members felt that they needed more specific training and more internal and external resources, particularly mental health and social services expertise for working effectively with victims once they are identified.

### **Pro Bono Capacity Building and Other Legal Activities**

Another goal of the jAC program is to build pro bono capacity to support and represent the population of unaccompanied children in the immigration court locations where program grantees operate. Overall, the jAC program has contributed to increased pro bono activity, as well as additional legal activities that are not related to pro bono capacity building, but which jAC members have taken on in order to move children's cases forward, such as screening for jAC eligibility and legal rights presentations. However, questions remain about the appropriate use of pro bono resources, as there are significant strains reported in fulfilling this program objective. While pro bono activities have increased, the evaluation demonstrates that jAC members have had to rely on pro bono capacity to fill gaps created by the program design,

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<sup>4</sup> See Appendix G for Glossary of Common Immigration Legal Terms.

raising questions about the appropriate allocation of resources. Pro bonos have been shown to provide limited assistance with cases at a cost to program efficiency, without greatly increasing numbers of children represented. Often, jAC members have found themselves supporting pro bono attorneys, many of them internal to the jAC organization, by doing interpretation, research and other ancillary activities, rather than increasing the number of children's cases placed with pro bono attorneys or directly meeting the need to represent unaccompanied children. As well, the program places the burden of pro bono capacity building on the individual jAC members, who lack sufficient experience to mentor pro bono attorneys, especially in state court proceedings that are vital to many cases.

- Grantees reported matching 1,340 children with a pro bono attorney; 72 percent of these were matched inside the grantee's organization with in-house attorneys not funded through jAC.
- Grantees also reported offering children 3,268 generalized pro bono referrals and providing trainings to 875 pro bono attorneys.
- Grantees engaged in additional supportive legal services, including providing legal rights presentations to more than 6,500 children and their adult caregivers and more than 4,500 eligibility screenings.
- Many interviewees noted that pro-bono capacity building is a difficult task for both members and grantee organizations; they report the time-consuming nature of pro bono recruitment, a lack of pro bono culture in certain locations, lack of experience and networks of jAC members, and language barriers for pro bono attorneys.
- Those member organizations with pre-existing pro bono networks reported being better equipped to bolster pro bono capacity building.

### **jAC Member Satisfaction**

One of the stated goals of the justice AmeriCorps program is to “strengthen national service so that participants engaged in CNCS-supported programs consistently find satisfaction, meaning and opportunity.” The initial successes in achieving member satisfaction have continued to hold true after almost two years of the justice AmeriCorps program, despite some ongoing issues related to program design, which undermine program stability, such as the limitations of one-year term of service.

- Many members and their managers perceived the one-year term of service to be highly problematic for the children and the organizations, because the term is often too short to see children's cases through. The one-year terms affect not only member satisfaction and staff retention, but also can impact the children's cases and organizational stability.
- The top three motivations for members to join the program were: “to gain direct experience in a specific career and/or future profession,” (96 percent); “to help in solving a community need or challenge” (95 percent); and “to have a chance to work with people who share your ideals” (93 percent).
- Results from the member satisfaction survey demonstrate that jAC members believe the program provides important work experience and generally believe they have developed their professional skills.

- jAC members expressed high satisfaction with the on-the-job training afforded by the program, but were less satisfied with the formal training offered by EOIR and CNCS. Interestingly, members working in average- or high-volume courts are significantly happier with on-the-job training than members working in low-volume courts.
- As most members are recent graduates with little immigration law experience, they felt pleased to learn from the program; however, the members' lack of experience was also seen as a drawback by some supervisors and Judges.
- While many members found the work highly meaningful, many were dissatisfied with the program because the narrow eligibility requirements impede the goal of representing the larger number of children in need of counsel.
- Many jAC members keenly felt the stress of working with vulnerable children, and expressed the need for more support for associated emotional stress and for locating social services, which they are not professionally prepared to do.

## Conclusions

Although only a small proportion of the jAC cases have been completed, the observed trends suggest that the jAC program has made some progress in meeting its primary goals:

The program is achieving its primary goal of increasing levels of representation for unaccompanied children in removal proceedings by funding attorneys to represent them. Universal representation provides many benefits to the court system; most importantly, it increases effectiveness of the proceedings and improves due process. Universal representation is advantageous, but requires a culture shift in immigration courts, in that attorneys and Judges must acclimate to the ethical obligations entailed in pursuing all legal avenues for all clients.

The program also contributes to greater efficiency in that represented children are more likely to appear in court with a well-prepared attorney. The program does not, and should not be expected to, improve efficiency simply by reducing case times because, among represented cases, longer case times tend to improve the child's legal outcomes.

Despite the jAC program members' efforts to identify abuse and trafficking victims, the evaluation demonstrated that there is inadequate focus on abuse and trafficking victim identification, on training for members, and on follow-up services for child victims.

The jAC program has contributed to increased pro bono activity. However, as currently designed, the use of pro bonos is inefficient and lacking quality control. Many interviewees noted that pro-bono capacity building is a difficult, labor- and time-consuming task for grantee organizations and members due to their inexperience, the paucity of pro bono attorneys and their lack of immigration law experience and lack of linguistic proficiency. Members in the jAC program have had to rely on pro bono capacity to fill gaps created by the program design, raising questions about the appropriate allocation of resources. In addition, jAC members have supported pro bono attorneys through ancillary activities, rather than increasing the number of children's cases placed with pro bono or directly meeting the need to represent unaccompanied children.



While jAC members express a high level of satisfaction with this meaningful service opportunity, and are pleased with the on-the-job training it provides, they are critical of the program eligibility restrictions that they feel impedes the representation of greater numbers of unaccompanied children. Thus, while the jAC program makes an important contribution to the justice system, improvements and more resources are desirable.

Finally, fundamental challenges related to program design persist due to eligibility requirements that unduly restrict the population of children who can be represented because of age. As the program has become established, however, problems noted in Vera's program implementation findings caused by eligibility restrictions on NTA filing and MCH dates have receded, due to the passage of time.

## Recommendations

In brief, Vera's recommendations fall into four main categories:

- 1) *Representation*: Restrictions on representation should be lifted to enable attorneys to represent unaccompanied children regardless of age. Representation of parents or guardians where required to benefit the child's case, as well as representation of siblings, should be allowed to meet program goals of effectiveness and efficiency. Member organizations should also be encouraged to demonstrate how they will support the universal representation approach through mentoring of jAC members on professional obligations, legal and court room practices. In addition, funding should be provided for interpretation services that are essential to the good communication, which in turn enables effective representation and compliance with civil rights obligations.
- 2) *Holistic legal services*: The jAC legal services model should incorporate best practices of holistic legal services by having social worker funding built into the program structure so as to increase the effectiveness and efficiency of the representation of vulnerable children and to better realize the program's child protection goal.
- 3) *Pro bono capacity building*: The evaluation results suggest that it would be beneficial to reconsider whether engaging pro bonos is an appropriate part of the jAC program. If pro bono capacity building continues as part of the program, requirements should be changed to improve efficiency and effectiveness and enhance high quality representation by making the grantee organizations rather than the jAC members responsible.
- 4) *Member requirements*: To ensure effective legal representation and to improve outcomes, jAC members should be required to enlist for two terms, to demonstrate fluency in Spanish, and to be admitted to the bar in the state in which they work.

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# I. Introduction

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In September 2014, the U.S. Department of Justice’s (DOJ) Executive Office for Immigration Review (EOIR) contracted with the Vera Institute of Justice (Vera) to conduct implementation and outcome evaluations of the justice AmeriCorps Legal Services for Unaccompanied Children (jAC) program, which is a partnership between EOIR and the Corporation for National and Community Service (CNCS). The purpose of the overall evaluation is to assess program effectiveness and progress towards meeting program goals. This report presents findings of the outcome evaluation, which incorporates performance measurement data collected for the 2,309 children served by the jAC program as of May 31, 2016, as well as data collected from site visits, interviews, and surveys with 152 program participants and stakeholders.

## Background

Unaccompanied immigrant children—defined under federal law as individuals under the age of 18 without lawful immigration status in the United States and for whom a parent or legal guardian is not available in the U.S. to provide care and custody<sup>5</sup>—are a growing and vulnerable population. Once a child is apprehended by Department of Homeland Security (DHS) enforcement officers, and classified as an “unaccompanied alien child,”<sup>6</sup> DHS has 72 hours to transfer the child to the care and custody of the U.S. Department of Health and Human Services’ Office of Refugee Resettlement (ORR).<sup>7</sup>

For several years preceding 2011, the number of unaccompanied children (UC) taken into the custody of ORR averaged between 7,000 and 8,000 annually. In 2013, the numbers rose dramatically, and in FY2014, the number of unaccompanied immigrant children entering ORR custody rose to 57,496,<sup>8</sup> and remained high at 33, 726 in FY2015, the most recent year for which complete data are available from ORR. (As of August 2016, DHS reported apprehending 54,052 children at the U.S. southwest border in FY2016.)<sup>9</sup> ORR conducts an assessment to determine whether the child may safely be released to a “sponsor” living in the United States, usually a close relative or family friend.<sup>10</sup> ORR reports that “some 85 percent” of unaccompanied

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<sup>5</sup> See 6 U.S.C. § 279(g)(2).

<sup>6</sup> DHS is responsible for classifying an individual as an “unaccompanied alien child.” 6 U.S.C. § 279(g)(2).

<sup>7</sup> 8 U.S.C. § 1232(b)(3).

<sup>8</sup> See ORR Fact Sheets updated January 2016 at

[https://www.acf.hhs.gov/sites/default/files/orr/orr\\_uc\\_updated\\_fact\\_sheet\\_1416.pdf](https://www.acf.hhs.gov/sites/default/files/orr/orr_uc_updated_fact_sheet_1416.pdf)

<sup>9</sup> See <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016#>

<sup>10</sup> *Ibid.*

immigrant children who have been apprehended by federal immigration authorities are released from ORR custody to live with a sponsor while their deportation proceedings are pending.<sup>11</sup>

See Figure 1.1 below for the number of children released from ORR custody by month, punctuated by a substantial increases in 2014 and 2015.

**Figure 1.1**  
**Unaccompanied Children Released from ORR Custody, by Month (October 2011 – April 2016)**



Source: ORR data

Unaccompanied children, the majority of whom are 15 to 17 years of age, are often fleeing dangerous or abusive situations in their home countries, such as gang violence, domestic abuse, and other forms of persecution, conflict or exploitation. Many are eligible for forms of immigration relief to remain in the United States.<sup>12</sup> These unaccompanied children are taken into federal custody and placed in immigration removal proceedings. DHS files a charging document called a Notice to Appear (NTA) with the immigration court. In May 2014, DHS implemented a new policy, under which NTAs are not filed until a child has either been released

<sup>11</sup> ORR Fact Sheet, August 2015  
[https://www.acf.hhs.gov/sites/default/files/orr/unaccompanied\\_childrens\\_services\\_fact\\_sheet\\_o.pdf](https://www.acf.hhs.gov/sites/default/files/orr/unaccompanied_childrens_services_fact_sheet_o.pdf)

<sup>12</sup> See Byrne and Miller (2012). The Flow of Unaccompanied Children through the Immigration System, available at <http://www.vera.org/sites/default/files/resources/downloads/the-flow-of-unaccompanied-children-through-the-immigration-system.pdf>.

from ORR custody or has been in custody for 60 days, whichever occurs sooner (unless the child requests an earlier hearing). The result of this policy has been that UC generally attend court for the first time after they have been released to their sponsors, where they move forward with their legal cases. In July 2014, EOIR implemented expedited docketing procedures where immigration courts schedule UC cases for a first Master Calendar Hearing (MCH) within 21 days of the filing of the NTA with the immigration court where the child is reunified.<sup>13</sup> Beginning February 8, 2016, the 21-day time frame for a UC's first MCH has now be expanded to no earlier than 30 days and no later than 90 days from the immigration court's receipt of the NTA.<sup>14</sup>

To ensure that immigration courts function efficiently and that the children obtain the legal outcomes to which they are entitled, children need to know their rights and be able to present their cases effectively; for this, legal representation is critical. While the government has begun to respond by creating more programs to provide legal representation to unaccompanied children, the need for legal representation in immigration proceedings has perennially outstripped available resources.

### justice AmeriCorps Legal Services for Unaccompanied Children

The federal government had been slowly working toward solutions to the lack of representation for vulnerable unaccompanied children in deportation proceedings, but the increasing need compelled an accelerated response. A part of their response was the creation of a program to provide legal representation to unaccompanied immigrant children who are released from federal custody into U.S. communities. For this purpose, EOIR entered into a partnership with CNCS.<sup>15</sup>

The primary purpose of the justice AmeriCorps Program is to use the AmeriCorps service model to provide legal representation to unaccompanied children in order to increase the

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<sup>13</sup> EOIR Memorandum: "Docketing Practices Relating to Unaccompanied Children's Cases in Light of the New Priorities," <http://www.justice.gov/eoir/pages/attachments/2015/03/26/docketing-practices-related-to-uacs-and-awcatd-march2015.pdf>; <http://aila.org/infonet/eoir-new-priorities-to-address-migrants-sw-border>; <http://aila.org/infonet/eoir-fact-sheet-priorities-addressing-border-surge>;

<sup>14</sup> Feb 3, 2016: EOIR Memo, "[Revised Docketing Practices Relating to Certain EOIR Priority Cases](#)," (Maggard)

<sup>15</sup> Under delegated authority from the Attorney General, EOIR interprets and administers federal immigration laws by conducting immigration court proceedings, appellate reviews, and administrative hearings. EOIR is committed to providing fair, expeditious, and uniform application of the nation's immigration laws while ensuring the standards of due process and fair treatment for all parties involved. CNCS's mission is to improve lives, strengthen communities, and foster civic participation through service and volunteering. CNCS—through its AmeriCorps and Senior Corps programs—has helped to engage millions of citizens in meeting community and national challenges through service and volunteer action.

efficiency and effectiveness of immigration court proceedings. According to the Notice of Funding Opportunity, the stated objectives of the justice AmeriCorps Program are to:

1. Provide legal services to unaccompanied children in immigration proceedings;
2. Increase the effectiveness and efficiency of immigration court cases involving unaccompanied children;
3. Facilitate the identification of unaccompanied children who have been victims of abuse, trafficking, or trauma or who may be abused, trafficked, or traumatized upon return to their country of nationality or last habitual residence;
4. Refer suspected cases of abuse, trafficking, and trauma to appropriate law enforcement authorities and/or appropriate support services;
5. Build pro bono capacity to support and represent the population of unaccompanied children in the immigration court location(s) in which grantees serve; and
6. Strengthen national service so that AmeriCorps members engaged in supported programs consistently find satisfaction, meaning, and opportunity to continue to serve this population at other times in their legal careers.

The program originally contracted with seven primary grantees, including three grantees which act as “umbrella organizations” by including multiple smaller organizations, known as subgrantees. After the program’s first year, membership fluctuated: some grantee organizations left, while subgrantee organizations both joined and left the program at various times (see Appendix 1.1 for a list of current grantees as of May 2016).<sup>16</sup> Grantees and subgrantees are required to hire lawyers and paralegals to serve one-year terms as AmeriCorps members (“AmeriCorps members” or “members”) providing legal services to unaccompanied children. CNCS program officers oversee the activities of all grantees. In the first year, there were 89 jAC members as compared to 76 in the second year; throughout the course of this program there have been 137 unique jAC members with 28 members serving in both the first and second years. See Figure 1.2 for a depiction of the program’s organizational structure.

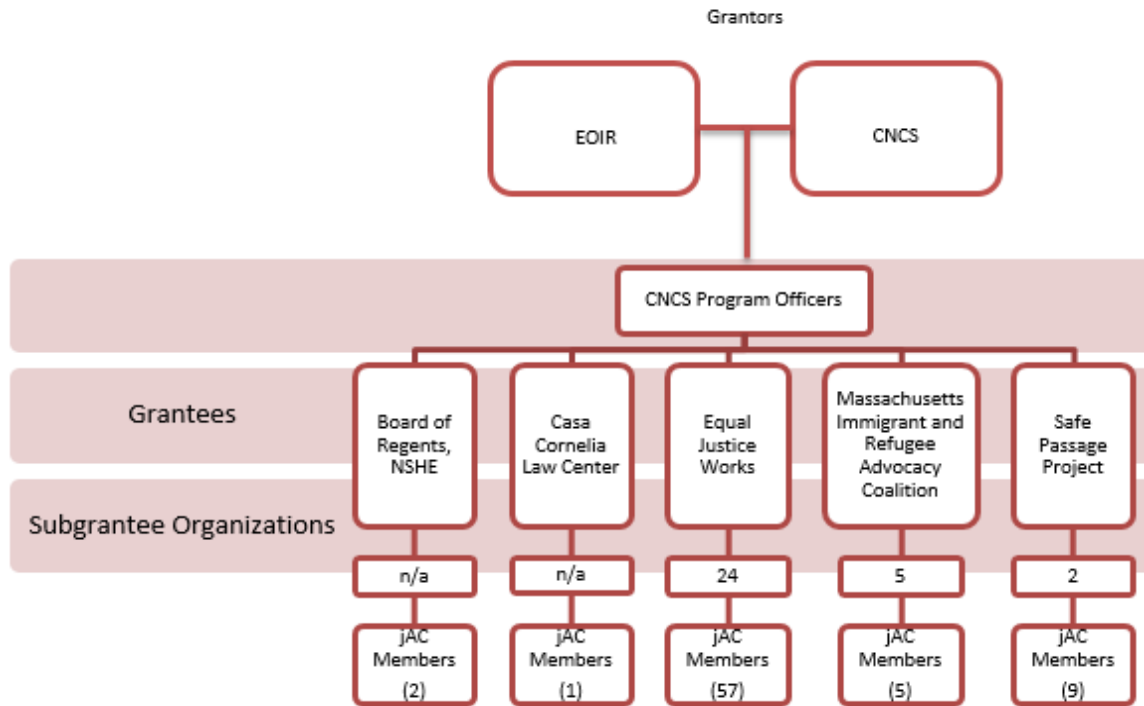
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<sup>16</sup> General implementation challenges occurring in the first year of the program, including concerns with restricted eligibility criteria and sustainability, were documented in the implementation evaluation report submitted in September 2015; however, Vera is not in a position to know precise reasons for internal organizational decisions to remain in or leave the jAC program.



Figure 1.2

**justice AmeriCorps Organizational Structure as of August 2016**



Source: The jAC Members’ Directory (provided by CNCS in August 2016).

**The jAC Program Model and Eligibility Requirements**

Under jAC’s universal representation model, all children who meet the program’s criteria are eligible for representation, as capacity allows, regardless of the child’s probability of obtaining legal relief. This stands in contrast to the “triage” model of selective legal representation, whereby attorneys choose cases to represent based in part upon the apparent strength of the child’s case.

The jAC program has several requirements. Specifically, as outlined in the *jAC Evaluation Statement of Work* (2014), the program is intended to provide legal services to children under the age of 16 who: (1) are not in the custody of ORR or DHS; (2) have received a NTA in removal proceedings before EOIR; and, (3) have not had their cases consolidated with removal proceedings against a parent or legal guardian. According to the *justice AmeriCorps Frequently Asked Questions* guidance document issued May 19, 2015, a child must meet all of the following program restrictions to be eligible for justice AmeriCorps:

- *Master Calendar Hearing* – The child must have an initial released MCH after January 1, 2015. Sites may apply for an exception to represent children with an initial MCH between October 1 and December 31, 2014, provided the child meets the other program requirements.
- *Notice to Appear* – The child must have had an NTA filed with the immigration court. If an NTA has not yet been filed, the child is not in removal proceedings and is ineligible.
- *Age* – The child must be under 16 years of age as of the date the NTA is filed with the court.

A jAC member is not permitted to represent the sibling of a jAC-eligible client if that sibling is not also under the age of 16 or is otherwise ineligible for the jAC program, even if their cases are consolidated. Members are also not permitted to represent a child's parent or custodian if the parent or custodian is required to be the petitioner in the state court part of a child's Special Immigrant Juvenile Status (SIJS) case.

Legal representation provided under jAC includes the following categories of legal proceedings: proceedings before immigration courts; appellate proceedings before the Board of Immigration Appeals (BIA); proceedings before U.S. Citizenship and Immigration Services (USCIS); and state court proceedings seeking orders necessary to support applications for SIJS. Proceedings before federal district courts, circuit courts of appeals, or the Supreme Court are not permitted under the grant.

Initially, the program accepted children who were under 16 years of age as of the date the NTA was filed with the immigration court, as evidenced by the date stamp on the NTA, and whose first MCH was scheduled after January 1, 2015, the official start date of the jAC program. Thus, in the early months of the program, far greater numbers of unaccompanied children were excluded from the program than were included. Because of these restrictions, insufficient numbers of otherwise eligible children had their first MCH scheduled after January 1 to fulfill anticipated caseloads. Therefore, after consultations with the grantees, EOIR modified the NTA date eligibility criterion to allow intake of children whose first MCH had occurred after October 1, 2014, although members were required to continue to prioritize children whose NTAs were filed after January 1, 2015.

## Legal Representation Rates for Unaccompanied Children

Recent data analysis shows how the rates of representation for unaccompanied children's cases has been impacted by the increase in the number of children who came across the border in

2014.<sup>17</sup> As programs that provide legal representation to unaccompanied children have expanded and new programs such as the jAC program have become established, the total *number* of represented unaccompanied children has increased. However, the *proportion* of unaccompanied children who have representation has not increased in recent years, demonstrating an ongoing need to expand such programs.

As beneficial as an overall increase in programs serving the children may be, the need for unaccompanied children's legal services has clearly outpaced the availability of such services. While the growth of legal representation programs only begins to fill the obvious need, it also poses an analytical challenge for evaluation because the existence of other legal programs, often in the same courts and cities, makes isolating the unique effects of the jAC program problematic. In this context, it becomes difficult in evaluating the program to control for the effects of other legal information or services that the children may have received. In only four of the 22 immigration court locations in which the jAC program is operating is jAC the sole government-funded provider of immigration representation or legal information to unaccompanied children; the four are Denver, Las Vegas, Minneapolis, and Cleveland (see Appendix 1.2 for court locations and programs). Legal representation programs for unaccompanied children co-exist in many courts, though the model of legal representation (universal vs. non-universal) and eligibility criteria vary.<sup>18</sup>

### Important Changes During the jAC Evaluation Period

Several legal, policy, and funding stream changes since 2014 relating to unaccompanied children are worth noting. Although Vera cannot be certain of the extent to which these changes influenced jAC program outcomes, they did impact the environment of the representation of unaccompanied children. One major policy change occurred in the summer of 2014 with the creation of expedited dockets for unaccompanied children and the requirement of scheduling children for their first MCH within 21 days of the filing of the child's NTA with the local immigration court. The MCH scheduling policy was then amended on February 3, 2016 to require the scheduling of the first MCH between 30 to 90 days of the NTA filing. After this change, courts have had additional time to schedule the first MCH; therefore, UC eligible for the jAC program may have more time to come into contact with an attorney before the first hearing. Some policies influenced the general climate in immigrant communities; for example, in January 2016, the DHS announced it would be conducting raids on Central American families

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<sup>17</sup> <http://trac.syr.edu/immigration/reports/371/>

<sup>18</sup> These programs are offered by ORR (through Vera, and formerly through the U.S. Committee for Refugees and Immigrants and the United States Conference of Catholic Bishops), and by EOIR, which also manages the Legal Orientation Program for Custodians and the Baltimore Initiative.

and individuals with in absentia orders who arrived after November 1, 2014, a policy that reportedly fueled wide-spread fears of involvement with the immigration court system.

Some legal developments in 2014 affected UCs' ability to pursue legal relief through asylum. In 2014, the BIA decision, *Matter of A-R-C-G-*,<sup>19</sup> allowed gender-based and domestic violence to form the grounds necessary to obtain asylum, allowing UC to more easily obtain legal relief on those bases. On the other hand, in 2014, during the same period, *Matter of M-E-V-G-* and *Matter of W-G-R-* limited the viability of certain gang-based claims.<sup>20</sup>

Other legal developments limited the ability of certain groups of unaccompanied children to obtain relief. Towards the end of 2014, DHS released guidelines that reduced the ability of unaccompanied children who entered after January 1, 2014 to obtain prosecutorial discretion. In addition, an April 2016 Department of State memo announced that the visa category for SIJS for unaccompanied children from El Salvador, Guatemala, and Honduras had reached its annual caps for the first time ever, and as a result USCIS would stop accepting FY2016 adjustment of status applications for children from those countries after May 1, 2016. Because the SIJS visa caps have already been met for 2016, the applications of many children eligible to adjust status are on hold until the next fiscal year at the earliest. This delay will result in cases pending with providers and sometimes in immigration court for a much longer period of time. Since data collection for this evaluation ceased at the end of May 2016, the effects of this policy will not be visible in the outcome data, but could become evident in the future.

Funding for representation of unaccompanied children increased in some areas served by the jAC program. At the federal level, ORR provided funding for released in-house representation in the New Orleans, Memphis, Miami, Phoenix, Arlington, Baltimore, and Dallas immigration court jurisdictions (and increased the funding in Houston and Los Angeles) with the only criterion that the children be released from ORR custody. On the state and local levels, the California Department of Social Services and the New York City Council both provided funding for the representation of unaccompanied children. In this period, EOIR also initiated programs to provide representation for released unaccompanied children in the Baltimore and Memphis immigration courts, and continued to provide services to guardians of UC through the Legal Orientation Program for Custodians.

## Purpose of Performance Measurement and Outcome Evaluation

This evaluation design integrates performance measurement and evaluation research for several purposes: to improve systematic data collection capacity, to help address program challenges, to

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<sup>19</sup> *Matter of A-R-C-G-*, 22 I. & N. Dec. 388 (BIA 2014).

<sup>20</sup> *Matter of W-G-R-*, 26 I. & N. Dec. 208 (BIA 2014); *Matter of M-E-V-G-*, 26 I. & N. Dec. 227 (BIA 2014).

modify program operations and direction as needed, to measure outcomes and effectiveness, and to contribute to greater accountability and transparency. In this regard, it is helpful to understand the difference between performance measurement and evaluation and their intended uses: performance measurement lays the foundation for measuring changes in a program as it evolves, while outcome evaluation aims to assess how well a program is meeting its goals, usually after the program is well-established.

Under contractual obligations, jAC grantees are required to collect and report performance indicators and outcome data on all cases they represent and are required to share this information with the evaluators. Performance indicators answer questions about whether, and how much, progress is being made toward certain objectives. Vera developed performance indicators collaboratively with the jAC grantors (EOIR and CNCS) at the start of the jAC program. By January 2015, Vera had designed, tested, and implemented these indicators in an online performance measurement database, which is used by the grantees to enter comprehensive, detailed information about their work. Vera will continue to monitor program trends using this database for the first five years of the program.

## Evaluation Objectives

The jAC evaluation objectives are to measure performance and program outcomes along five dimensions: increasing representation, effectiveness and efficiency, abuse and trafficking victim identification, pro bono capacity building, and members' satisfaction with the AmeriCorps service experience. The following evaluation research questions are derived directly from the jAC program objectives:

- Is there evidence (and if so, what kind and how strong) that justice AmeriCorps increases the level of representation for unaccompanied children in immigration proceedings?
- Is there evidence (and if so, what kind and how strong) that justice AmeriCorps increases the effectiveness and efficiencies of the immigration court system through the mechanism of representation?
- Is there evidence (and if so, what kind and how strong) that justice AmeriCorps increases identification of unaccompanied children who have been victims of human trafficking or abuse?
- Is there evidence (and if so, what kind and how strong) that justice AmeriCorps increases pro bono capacity to support and represent the population of unaccompanied children in the immigration court locations the members serve?
- Is there evidence (and if so, what kind and how strong) that justice AmeriCorps members find measurable satisfaction, meaning, and opportunity through their national service?

## Data Collection and Analysis Methods

Using several unique data sources and techniques in combination (triangulation) produces a strong evidence base. The quantitative and qualitative data needed to answer the evaluation questions were collected from several sources. Administrative data were gathered from:

- The U.S. Department of Health and Human Services, Office of Refugee Resettlement, Division of Children’s Services (DCS) Tracking and Management System, which contains information on children who are admitted into and discharged from ORR custody. This will be referred to going forward as “ORR data.”
- The U.S. Department of Justice, Executive Office for Immigration Review, Office of Planning, Analysis, & Technology’s (OPAT) CASE database which is used to track information on cases going through immigration court. This will be referred to going forward as “EOIR data.”
- Vera’s jAC Caspio database, where service providers enter information on the cases they are representing, along with information on pro bono capacity building activities performed by jAC members. This will be referred to going forward as the “program data.”

Analyzing program data from the Caspio online database involved migrating the data to a secure SQL server database where it was matched with the EOIR data and the ORR data on children released from custody.

Qualitative data were collected through review of relevant policy memos and on five site visits to jAC grantee organizations during which Vera conducted in-depth interviews with jAC supervisors, attorneys, and unaccompanied children being served by the program. Evaluation data were also gathered through an online survey with Immigration Judges and by an exit survey to measure satisfaction among jAC members after leaving service. Details of the sample are as follows: data were collected from 152 program participants and stakeholders. During site visits to five regionally-diverse jAC grantee organizations, eight in-depth interviews were conducted with jAC supervisors and nine in-depth interviews with jAC members. Vera evaluators interviewed in Spanish 49 unaccompanied children being served by the jAC program during these site visits. Vera also created and administered an online survey of Immigration Judges: 84 received a request to complete the survey and 29 complied, yielding a response rate of 35 percent. Finally, Vera compiled and analyzed responses to a brief online exit survey regularly used by CNCS and intended to measure satisfaction among the 85 jAC members who had completed their terms, 57 (67 percent) of whom responded. Qualitative data from the interviews were analyzed using QDA Miner software for coding, and survey responses were tabulated and analyzed.

To carry out data collection for this evaluation, Vera researchers obtained research ethics approval from the Vera Institute of Justice Institutional Review Board on February 26, 2015. Vera researchers also assisted EOIR with filing the required application to the Office of Management and Budget (OMB) in compliance with Paperwork Reduction Act regulations. OMB approval was granted for Vera’s outcome evaluation data collection activities on August 10, 2015.

## Study Limitations

A number of caveats that constrain the interpretation of performance measurement and implementation evaluation data must be mentioned. First and foremost, the jAC program is too recently established, and there are too few completed cases, to definitively arrive at conclusions about impact or long-term trends. For example, since immigration court proceedings often take a year or more, legal case outcomes and the program’s contribution to those outcomes cannot be definitively determined for the high proportion of uncompleted cases represented in the jAC program. Secondly, while contractual obligations outlining confidentiality requirements of jAC grantees were laid out at the start of the program, EOIR adjusted reporting requirements to allow collection of aggregate data for some variables following grantees’ concerns about entering case-level data, as described in the implementation evaluation. This modification affected the outcome evaluation, as the lack of discrete case- and site-level data for those variables render some analyses impossible. As previously noted, it is also difficult to isolate effects of the jAC program on increasing representation rates and other outcomes given the contemporaneous growth of other legal representation programs for unaccompanied children. While existing legal representation programs do not meet the need for more than a fraction of UC, the programs are spread extensively throughout the immigration court system, making it difficult to disentangle the effects of this particular program from the beneficial effects of legal representation in general. Finally, a substantial limitation of the evaluation is that jAC members must collect and enter program data in an accurate and timely way; if they do not, poor data quality inhibits the ability to evaluate program outcomes. To prevent this problem, Vera performed data audits on the jAC database in 2015 and 2016 to identify possible errors of completeness and accuracy. The jAC grantees responded to this request by providing more complete data. Over the course of the evaluation, Vera also held several data entry trainings on the Caspio online database designed to improve jAC data quality. Vera also spent considerable time cleaning the program data received.

Due to these efforts, only a small percentage of the data were found to be missing or unreliable. The primary findings of the evaluation—those that compare jAC cases to cases outside the program—are largely unimpeded by these concerns since they rely heavily on ORR and EOIR data, rather than program data, to allow for appropriate comparisons. Although data

quality concerns limit Vera's ability to explore certain supplemental analyses, the validity of the general evaluation findings are not negatively impacted.

## Persistent Program Design Problems

As Vera noted in the jAC implementation evaluation report submitted in 2015 to EOIR and CNCS, the program is not optimally designed to increase representation of unaccompanied children because of age and other restrictions on the children's eligibility, according to experienced jAC managers in the grantee organizations. While there have been improvements from the first to the second year of the program as operations have become clearer and more predictable, problems have only been partially alleviated because eligibility restrictions remain in force and the evident need for representation still outstrips resources. When asked to comment on how the program has changed since its inception, jAC supervisors typically reported mixed progress:

The only major change that I've seen has sort of been in spite of the program. I expressed from the start of this program both to CNCS representatives and EOIR, that the artificially constructed constraints on representation here were a huge hindrance. It meant that there were tons of children that needed services that weren't able to be served through this program.... The one benefit that we have in year two is that we're finding more kids eligible.... For kids that we're seeing now, they fit, whereas a kid who had been here the same length of time during the first year, but fell outside that range, was not eligible for services. It's not because anything positive was done in the program ... just by the passage of time, the net got bigger of who can be served.  
-jAC Supervisor

Obviously at the beginning the restrictions were more difficult given the NTA date and first court appearance date. As we moved further away [from the start of the program] ... it got easier.... Another change is that we've reached capacity, and so it's been hard to continue to try to work new clients in, because we're at our maximum almost. So we're kind of at a standstill as far as continuing to accept new clients, and that's hard to know that there's still the need out there and not be able to address it.  
-jAC Supervisor

## Outcome Evaluation Findings

The following sections of the report present the outcome evaluation findings organized by the five main program objectives: increasing representation, effectiveness and efficiency, identifying victims of trafficking and abuse, pro-bono capacity-building, and jAC member satisfaction.



## II. Increasing Representation for Unaccompanied Children

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### The Landscape of Representation for Children

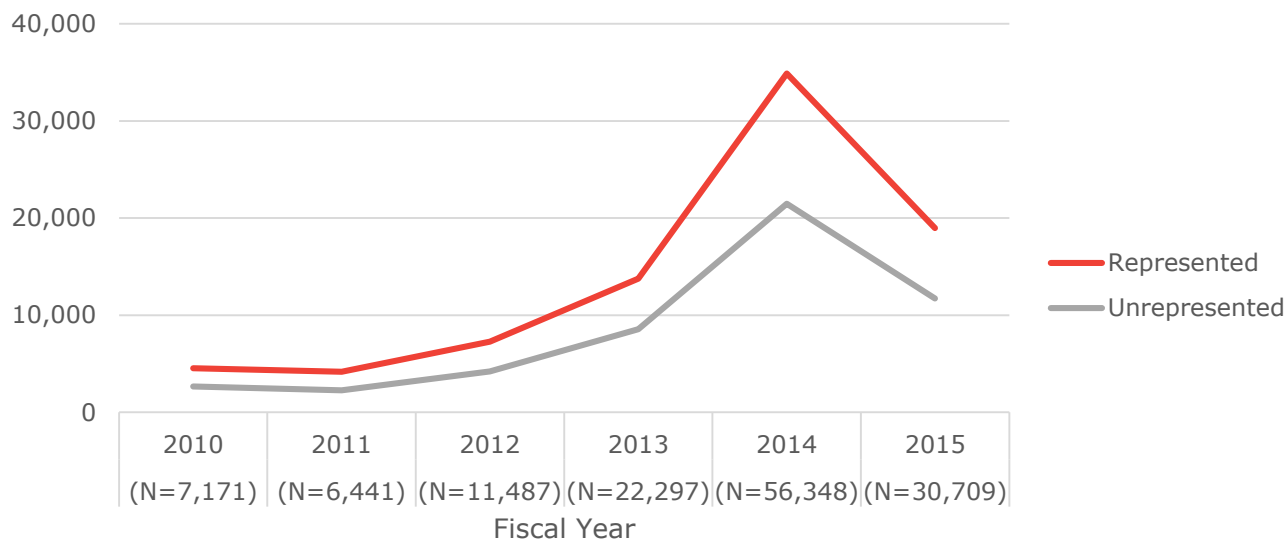
As the number of children undergoing removal proceedings has risen in recent years, so too has the number of children appearing in court alone. As seen in Figure 2.1, the number of unrepresented children facing deportation has increased substantially over the past five years for which complete data are available (2010-2015), despite the fact that the rate of representation has remained relatively consistent over this time. Although representation rates were nearly identical in 2010 and 2014 (63 percent and 62 percent, respectively; not shown on graph), these rates signify very different numbers of children without access to counsel—2,649 in 2010 as compared to 21,472 in 2014.<sup>21</sup> Altogether, an average of 38 percent of all unaccompanied children around the country went unrepresented in immigration court between 2010-2015 regardless of age, custody status, or court location—a total of over 50,000 unrepresented children. Recognizing this need, EOIR and CNCS developed jAC with a goal to increase levels of representation for unaccompanied children in court.

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<sup>21</sup> Data from the Transactional Records Access Clearinghouse (TRAC) at Syracuse University. See <http://trac.syr.edu/phptools/immigration/juvenile/>.

Figure 2.1

**Number of All Unaccompanied Children in Immigration Court Without Legal Representation, by Year When Case Began, Regardless of Age, Custody Status, or Location (October 2010 – September 2015)**



Source: Transactional Records Access Clearinghouse (TRAC)

**jAC Court Selection**

In the absence of full universal representation throughout the country, legal access programs such as jAC must strategically allocate funding and resources to the locations with the greatest need. Analysis of representation rates for children matching the age and NTA requirements of jAC shows that the selected courts were those with a greater need for representation in the period prior to the jAC program implementation.<sup>22</sup> Of the courts not served by jAC, several (particularly Houston and Los Angeles) were not selected for the program because they already had government-funded initiatives to provide representation for unaccompanied children.

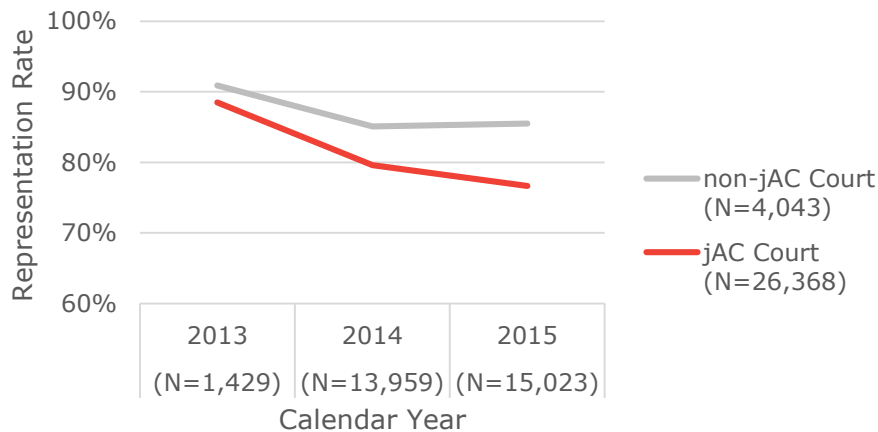
As seen in Figure 2.2, courts served by the program (“jAC courts”) had lower rates of representation in the two years prior to jAC than courts not served by the program (“non-jAC courts”).<sup>23</sup> Notably, notwithstanding the considerable increase in the number of represented

<sup>22</sup> Courts were characterized as either jAC or non-jAC courts using the Hearing Location Code within the EOIR data; hearing locations where jAC cases appeared post-release were characterized as jAC courts. If the same case appeared at multiple hearing locations upon release, the most recent location was used to avoid potential complications with changes of venue from the detained court location. Courts whose cases transferred out of jAC (e.g., courts where the grantees left the program) were considered to be non-jAC courts.

<sup>23</sup> The differences in representation rates between jAC and non-jAC courts are statistically significant ( $p < .05$ ) for children whose initial Master Calendar Hearings occurred in 2014 and 2015. The

children during recent years (as shown previously in Figure 2.1), the rate of representation in jAC courts of jAC-eligible children dipped from 88 percent in 2013 to 77 percent in 2015, the program’s first year.

**Figure 2.2**  
**Representation Rates of Released Children Under the Age of 16, by Year of Initial Released Master Calendar Hearing (January 2013 – December 2015)**



*Source: Program, ORR, and EOIR data. These data differ from Figure 2.1 because they exclude detained children, 16 to 18 year olds, and children with initial Master Calendar Hearings prior to 2013. The data do not reflect the representation rates for all released unaccompanied children, but rather, only those cases that meet jAC eligibility criteria for age, NTA filing, and date of first MCH.*

These representation rates reflect only the population served by jAC—notably, those under the age of 16—who were released from ORR custody beginning in FY12. These rates are not indicative of the representation rate for the entire released unaccompanied children population, where only 63 percent of all released children were represented from 2013 to 2015.<sup>24</sup>

### The Impact of jAC on Representation Rates

Many factors influence the rate of representation at immigration courts around the country. These include, but are not limited to: the number and availability of immigration attorneys; the number of unaccompanied children undergoing removal proceedings (which is itself affected by a constellation of additional factors, including the causes of migration and border enforcement

difference is not statistically significant for 2013. Statistical significance means that the observed difference is highly unlikely to have occurred by chance, suggesting that there are genuine differences between the two groups.

<sup>24</sup> Data from the Transactional Records Access Clearinghouse (TRAC) at Syracuse University. See <http://trac.syr.edu/phptools/immigration/juvenile/>.

activities); locations where children reunify with family; travel distances and abilities for children to access representation; changes to federal policy, procedures of DHS field operations, and fluctuations in the vast network of federally-, locally-, or privately-funded initiatives to provide legal services to unaccompanied children. These factors are varied, complex, and difficult to disentangle from one another with any degree of precision.

Given this ever-evolving landscape, it is not feasible to isolate the direct impact of a program such as jAC on rates of representation. There are simply too many factors, many of which are unquantifiable, to draw statistically valid conclusions. As previously discussed, the courts selected for inclusion in the jAC program are a reflection of need, making it inappropriate to simply compare rates of representation between jAC and non-jAC courts. Further, since many courts are only served by one or two members each, it may be unreasonable to expect jAC to substantially impact overall representation rates under the program's current capacity. Importantly, if representation rates at jAC courts were to eventually surpass those of non-jAC courts, this trend alone would still be insufficient to conclude that the jAC program is responsible, considering the multitude of other factors that influence rates of representation for unaccompanied children around the country.

Despite ambiguity regarding the direct effect of jAC towards increasing representation rates overall, jAC has undeniably contributed to the increased representation of children on a fundamental level. The program has achieved this goal by funding attorneys to represent children in immigration proceedings. The sheer number of children provided with counsel—more than 2,000 in the program's first 1.5 years—is evidence of jAC's accomplishment in this regard. Qualitative data also strongly suggest that the program is successfully matching attorneys with children who may not have otherwise had access to counsel. Multiple supervisors of grantees or subgrantees praised the ways in which the program has improved organizational capacity to represent children, with one saying, "Without [jAC], we would not have been able to [provide] these services to the population, especially for that population that really needs it, because of lack of resources." Judges also acknowledged this dynamic, with one asserting, "The jAC program without a doubt has had a profound and positive impact because so many of the children would not have otherwise had legal representation."

## Numbers and Demographics of Children Represented by jAC

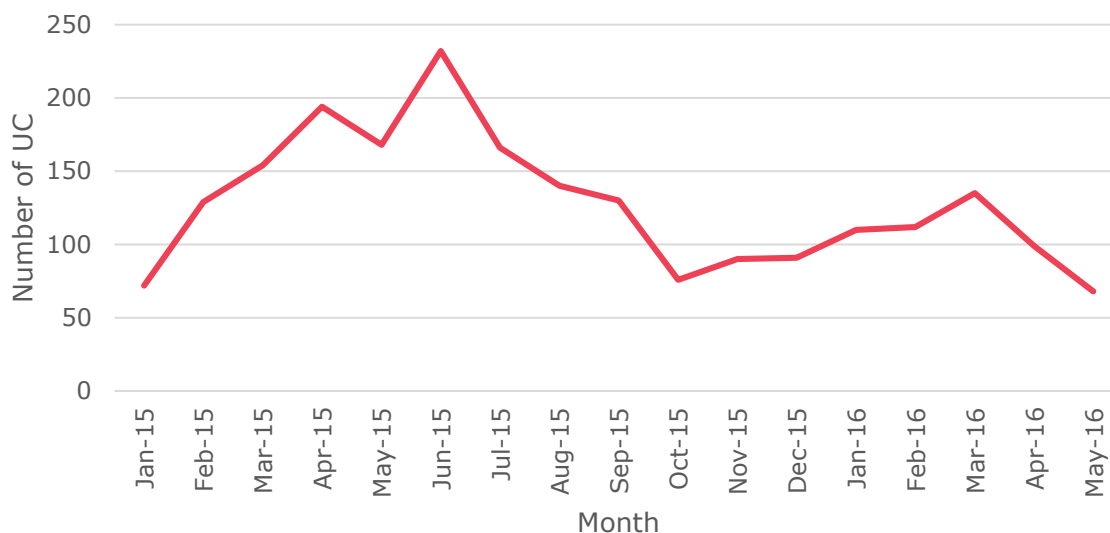
In its first 17 months of operation, jAC has initiated representation for 2,309 children and, through networks of pro bono referrals (see Section V) contributed towards the representation of additional children. See Figure 2.3 below for the number of children for whom jAC initiated representation, by month.<sup>25</sup>

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<sup>25</sup> The number of children represented by the jAC program is likely lower in the first half of Year Two (January to May 2016; N=717) than the same time period in Year One (January to May 2015; N=524)

Figure 2.3

**Number of Children for Whom jAC Initiated Representation, by Month (January 2015 – May 2016) (N=2,166)**



Source: Program data. Includes only UC who accepted representation and had a jAC member assigned. Some UC do not appear in Figure 2.3 due to missing or inaccurate assignment dates, despite being assigned to a member.

For the 2,309 children represented through jAC in the program’s first year and a half, their demographics are similar to those of the unaccompanied children population as a whole. The majority are male (58 percent), were born in Northern Triangle countries (35 percent in El Salvador, 30 percent in Honduras, and 28 percent in Guatemala), and speak Spanish as their primary language (91 percent). Since program eligibility criteria specifies that children served by the program must be under 16 years old, the average age of program participants (12 years old) is younger than that of the broader unaccompanied children population at large, where over 60 percent are 15 years of age or older.<sup>26</sup> See Figure 2.4 below for the age distribution of children represented through jAC, and refer to Appendix 2.1 for detailed demographic information of all children represented by the program.

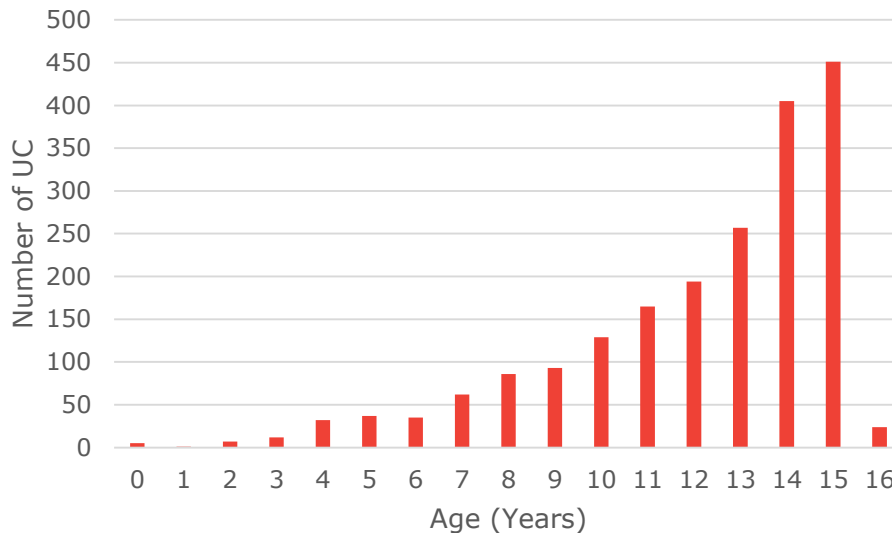
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for a few different reasons. Since the majority of cases initiated in Year One were still pending at the start of the second year, members were permitted to take fewer new cases in Year Two while they continued to work on these pending cases. Further, some grantees and subgrantees left the program after Year One.

<sup>26</sup> For demographic information on unaccompanied children overall, please see <http://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.

Figure 2.4

### Number of Children Represented by jAC, by Age at Date of NTA Filing (N=1,995)



Source: Program data. Includes only children who accepted service and had a jAC member assigned. Some children do not appear in Figure 2.4 due to missing age information. There were 24 children represented by jAC members who were 16-years-old at the time of NTA filing.

### The Universal Representation Model

Under jAC’s universal representation model, all children who meet the program’s criteria are eligible for representation, as capacity allows, regardless of the child’s eligibility for legal relief. In other words, children are offered representation on a first-come, first-served basis. This stands in contrast to a “triage” model, where attorneys select cases to represent based in part upon the apparent strength of the child’s case as determined by the attorneys, sometimes based only on an initial screening. While there are many ways to prioritize representation under a triage model, it is typically the case that children with stronger *prima facie* claims to legal relief—or those who are seen as “particularly vulnerable”—are more likely to receive representation, while those who, upon an initial screening, appear to have weak or no claims must often proceed *pro se*.

The universal representation model has been met by providers and Judges alike with both praise and some criticism. The following section describes both views of the model from the perspectives of those interviewed or surveyed for the evaluation.

### Strengths of the Universal Representation Approach

There are a number of strengths associated with the universal representation approach, and the model has helped the program meet its objective to represent large numbers of children. It is

through this universal representation model that jAC is able to represent so many children who may have gone otherwise unrepresented as a result of appearing, upon an initial screening, to have weak or no relief cases. During interviews, jAC members and supervisors routinely referenced this element of the program as one of its more unique components. They generally shared positive feelings about the program's ability to serve a wide range of children, including those without readily apparent strong legal cases. As one supervisor explained, "I love the idea of it, and I think that it should be expanding." Judges were also generally supportive of the model, with one stating, "Even children who have no available relief from expulsion benefit in multiple ways from having legal counsel."

For all children—those with strong cases, those who do not qualify for relief, and everyone in between—the services of an attorney are vital to achieving due process within the context of immigration court. One supervisor summarized the feelings of many people involved with the jAC program, saying, "We strongly believe that a child should not be going to court alone, even if it is to ask for voluntary departure. So a child should have counsel." Of the Immigration Judges surveyed for the evaluation, several reported that universal representation positively impacted the court specifically by improving due process. According to one Judge, "This model seems to maximize the chances of children in securing counsel," adding, "Having someone who is able to evaluate a case in a private setting with presumably adequate time to assess a complete history is also extremely beneficial to ensuring the proper administration of justice."

The presence of an attorney helps children and their families feel as safe and comfortable as possible with the legal process, providing an essential safeguard to due process and procedural justice. As one member explained, "Some of [the children] get scared, some of them get nervous. I feel that knowing that there's an attorney that's going to represent them, and it's free, and I'm going to stay with them...that makes them feel better." A few Judges expressed similar sentiments, with one adding, "Whether or not relief is available, the child's ability to feel comfortable with the court process, to experience it without unnecessary fear and anxiety, etc., is important. An adult presence such as that of an attorney can really help with this."

Another important role of the attorney is to hold the government to its burden, a task that is nearly impossible for a child to accomplish on his own. By challenging factual and legal allegations made during proceedings, or challenging procedural issues such as service requirements, jAC members ensure the rights of their clients. One member commented that he was "amazed" by "the service issues that we're finding, basic issues prior to arguing the facts of the case. These are all issues that I think would be waived if there was no attorney present." Other members commented that they often recognized service issues with the NTA, such as missing or incorrect signatures; without these signatures, "there was nothing to show that the kids had received their rights."

Although the benefits of universal representation—as compared to the triage model—are often thought of within the context of providing counsel to children without readily apparent

options for relief, the model has additional advantages. Several jAC members and supervisors felt that an attorney’s involvement can expose relief in cases that initially appear weak or in which relief seems nonexistent. Some members described clients who presented themselves as ineligible for relief during the initial intake only to later disclose information indicative of relief eligibility. As one member explained, “I think if they would never have [had] an opportunity to meet with an attorney like that, [the potential relief] would never come out.” Since the jAC program pairs children with attorneys regardless of the strength of the child’s case, there is ample opportunity for details regarding possible relief to emerge. Without the universal representation model, these cases would likely be filtered out of the program at the point of the initial intake, after which many additional details often emerge, and these children would be denied access to counsel.<sup>27</sup>

Members have responded to this need to represent children regardless of relief by elevating their legal practice and innovating new legal strategies. According to one member, “Maybe [the cases] are not always the strongest, but [in] most cases there’s usually a colorable claim of some kind, I’ve found. So even with the universal representation model, I don’t feel like some cases are beyond the pale of having any hope.” Another member expanded on this concept, adding, “What it comes down to is really working hard to try and check every avenue, ask every question that you can, [and] think outside the box.” Discussing this notion, one experienced supervisor credited her jAC member with helping the entire organization think creatively and try new legal arguments: “I credit it to her. She challenges me to such an extent that I was like, ‘Wow, what have I been doing? Man, I dropped the ball.’”

### **Challenges to Universal Representation**

Programs seeking to provide universal representation are fairly new within the context of immigration law. This change has been embraced by some, and met with resistance by others. As of 2016, there is no court where all children undergoing removal proceedings are represented, which would constitute full “universal representation.” Programs like jAC and others have aimed to emulate the concept, but are fraught with limitations (e.g., capacity constraints, eligibility restrictions, geographic dispersion, etc.). Interviewees, from jAC members

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<sup>27</sup> Although the attorney’s presence alone may help elicit important information pertaining to relief eligibility, the likelihood of such disclosures could be maximized with the involvement of social workers as part of the representation process. While trained in ways to communicate with their young clients, jAC members are not licensed psychologists or social work professionals. Social workers are knowledgeable about working with populations that have experienced trauma—such as the trauma associated with an asylum or SIJS claim—and are uniquely positioned to respond. (For more information about how involving social workers in universal representation contributes specifically towards effective representation and improved identification of victims of human trafficking, abuse, or trauma, see Sections III and IV.)



and supervisors to Immigration Judges, expressed strong support for full universal representation, but were more reserved in their appraisals of the partial implementation of the universal representation model.

When asked to comment on the universal representation component of the program, some members and Judges raised concerns about the shift in courtroom practice brought about by the model. Members said they experienced “backlash” for advancing certain legal arguments, such as the aforementioned NTA service issues. One Judge commented that, “In some cases, justice was impeded by the inexperience of some of the lawyers and their apparent lack of judgment about which cases to fight tooth and nail and which cases to simply concede removability.” While Judges viewed conceding removability as both a responsibility of the attorney and a necessity to facilitate court efficiency, jAC members viewed *not* conceding removability as an obligation, when appropriate, to provide their client with a defense.

Although many of the jAC attorneys are new to immigration law practice, their inexperience is not the only possible explanation for some reported tensions over appropriate practices and arguments in court. Universal representation is an innovative approach for the immigration court system as a whole, and all actors in the system are acclimating to the culture change this implies. Notably, some Judges interviewed raised concerns about “frivolous” arguments and attorneys who were “unduly litigious.” This suggests possibly differing perceptions of two ethical obligations—an attorney’s obligation to advocate zealously for the client and an attorney’s obligation to make valid legal claims. The American Bar Association (ABA) Model Rules for Professional Conduct state that, “As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system.”<sup>28</sup> The ABA Rules also say that, “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument.” While “frivolous” arguments clearly raise ethical concerns as arguments must be colorable or legally valid, comments about attorneys being “unduly litigious” point to the need for a culture shift within immigration practice—one that accepts the practice of attorneys’ zealous advocacy for clients.

Judges were not alone in sharing these concerns, and the jAC members themselves also expressed anxiety over a lack of clarity in terms of their professional responsibilities. Members asserted that they would “never file something that’s fraudulent,” yet still seemed conflicted over how to differentiate between weak and frivolous arguments. Further, members felt unsure about the appropriate steps to take for clients without obvious eligibility for relief. Discussing these sorts of cases, one member asked, “With our universal representation policy, what’s the next

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<sup>28</sup> For full text of the ABA Model Rules of Professional Conduct, see [http://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/model\\_rules\\_of\\_professional\\_conduct\\_table\\_of\\_contents.html](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents.html).

step?” Attorneys operating under this model face the challenge of advising clients who may have no legal relief except voluntary departure and who may then choose not to pursue their cases. Or, a client may direct the attorney to pursue a borderline claim and the attorney must then determine whether it is colorable after a reasonable investigation of the facts. Making these decisions put attorneys in a more challenging position and requires specific training.

For years under the widely-adopted triage model, most children with representation were those with more readily apparent, “strong” claims to legal relief—cases where legal arguments centered on substantive, rather than procedural, issues. It is within this culture that many Judges and jAC supervisors learned their craft. As representation spreads under the universal representation model to those cases that initially appear weak or to have no relief, the courtroom culture must adapt. Issues about legal procedure, such as incorrect service of the NTA as a basis for termination of the case, may become more prominent and will require careful guidance, training, and technical assistance for attorneys.

In addition to the need for additional training on professional responsibility, concerns exist over whether it is sensible for the program to utilize a universal representation approach within a broader context where genuine universal representation does not yet exist, as there are opportunity costs to the model. Data presented earlier in the text introducing Figure 2.1 show that approximately 38 percent of children lack representation in immigration court, regardless of age, custody status, or court location—the equivalent of tens of thousands of children appearing in court alone. There are more children who need representation than there are attorneys available, and this is an issue that the jAC program must contend with. “It’s really hard right now to have universal representation with such limited services,” said one supervisor, adding, “It’s really hard to just say first-come-first-serve, and then you hit capacity and then two people later, you see the little girl that’s being abused at home.”

As long as representation is not genuinely universal across the country or even within individual jurisdictions, there is likely to be some objection to the idea that representation should not be prioritized for some cases above others. Multiple supervisors wondered whether jAC was making the best use of limited attorney resources considering this context. “I have a little bit of an issue with being forced to continue with certain cases that we don’t and shouldn’t be spending our resources on, when we could be spending that on a different child that actually does have relief.”

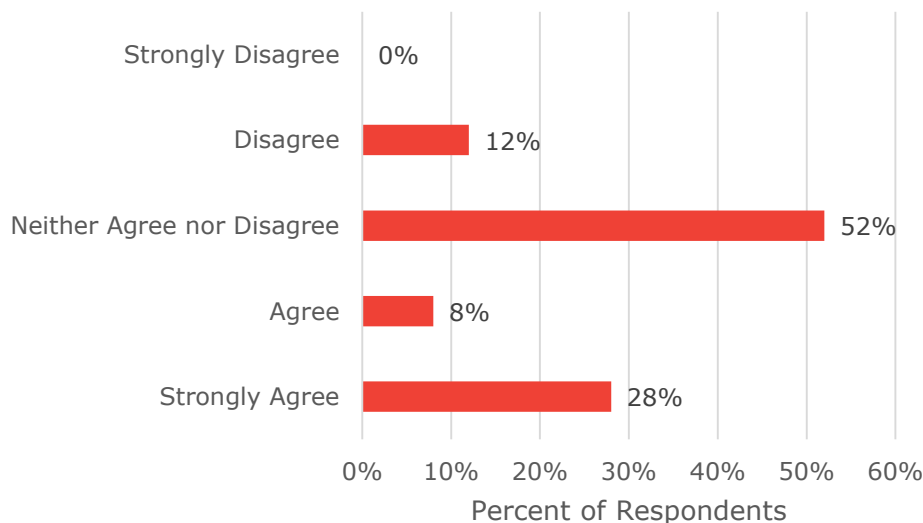
Overall, interviewees seemed to support the concept of universal representation and advocated for it to be adopted nationwide, but wrestled with the realities and occasionally uneasy courtroom tensions involved with its implementation in its current state.

## More Representation, More Informed Clients

In addition to providing representation to unaccompanied children, the jAC program is thought to help children gain a greater understanding of the legal process compared to those without an attorney. As one supervisor described, “It really is incredible, from what I can see, how much our clients really do understand.” Overall, the members and supervisors interviewed were measured in their assessments over whether their clients truly understood the legal system. The high degree of complexity involved in immigration law makes it nearly impossible for any non-lawyer, and young children in particular, to fully understand the process. Nonetheless, having access to counsel does appear to help to some extent. When asked whether jAC has improved children’s understanding of their court cases, one supervisor answered, “I think it’s helped that there’s someone there to explain the process to them as opposed to being unrepresented. I still think that it’s still a very difficult topic that’s difficult for them to understand. I don’t know that they will ever understand it.” Another supervisor agreed, saying children represented through jAC are “better informed than any kid that doesn’t have an attorney or doesn’t have access to this information, but that doesn’t mean they receive everything.” As seen in Figure 2.5, while the majority of Immigration Judges (52 percent) were unsure about whether jAC has improved children’s understanding, more agreed or strongly agreed than disagreed. These responses are similar to those of jAC members and supervisors, who feel that while representation helps, the process is too complex for children to ever fully grasp.

Figure 2.5

### Judges’ Survey Responses to the Statement, “The jAC Program Has Improved Children’s Understanding of the Court System”



Source: Judges’ survey. Twenty-five respondents answered this question.

The results of interviews with jAC clients (ranging in age from 12 to 17) themselves further support these concepts.<sup>29</sup> Overall, the children interviewed expressed some understanding of certain fundamental concepts, but this knowledge was generally very basic. The children appeared to have mixed knowledge of the roles of various court actors, but were able to convey a greater understanding of some positions than others. Children were most knowledgeable about the role of interpreters, typically describing them as someone who “translates to Spanish.” They also largely understood the job of their jAC attorneys, describing the attorney’s role as one that involves helping the child with his case or fighting on the child’s behalf to avoid deportation. According to one child, “The lawyer helps by giving us information and fights for us based on what happened to us in the past.” Others said of their attorneys, “He helps to let me be legal in this country,” and, “He defends what he knows about me so that the Judge accepts it, so that the Judge will give me residency.”

Children expressed some understanding about the Immigration Judge’s role, with 40 percent of those interviewed reflecting a rather accurate depiction of her or his role. As one child described, “The Judge looks at your case and decides what will happen to your future.” However, the majority (60 percent), expressed either very basic or limited understanding of the Judge’s function, expressing ideas like, “The Judge asks questions” or “The Judge works hard and works on the computer,” without offering more detail about the role of the Judge in a child’s case.

Children displayed the most limited understanding of the role of the government attorney. Most children indicated that they were unsure of what the government attorney does, with one child noting that he did not understand the role because the interpreter did not translate what the government attorney said. Other children, however, expressed some knowledge of the government attorney’s role, offering comments such as, “The government attorney gives the reason why I am not allowed to be here in this country.” Others shared more rudimentary perspectives, such as “The government attorney looks at the case and answers questions the Judge asks.”

In addition to discussing the roles of various court personnel, the children interviewed shared other lessons learned from their jAC attorneys. Most children articulated some understanding of how to win their legal case, ranging from simple ideas (e.g., “behaving well”) to the more sophisticated, such as working with their attorney or appearing in court. Some children reported specific forms of relief for which their attorneys told them they were eligible. Others were unsure how to win their cases or incorrectly associated other activities, such as getting good grades in school, with legal outcomes.

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<sup>29</sup> The 17-year-old interviewed was a former client who was under the age of 16 at the time his NTA was filed, making him eligible for the jAC program.

Immigration law is complex, detailed and nuanced to the extent that young children are unlikely to comprehend its implications for their cases. Much of the attorney's role involves helping children understand the importance of simply appearing for court. At least one child said the role of attorneys is to "help us remember our court dates [and] give us information on what we need to prepare for court." Further, when asked what they learned from their attorney, many children simply answered, "Go to court." Others said their attorneys conveyed the importance of "always [being] punctual to my court dates and [saying] the truth." (See Section III for more information regarding the impact of jAC on in absentia rates.)

### Assuaging Fears, Lowering Anxiety, and Improving Efficiency

Improving understanding of the legal system is important in helping children feel more comfortable with the process as a whole. Although the children interviewed appeared to possess varying levels of understanding about the courtroom actors or certain legal concepts, the children overwhelmingly praised their jAC attorneys for helping them feel more comfortable in court. Children often characterized themselves as feeling nervous while in court, but felt "much more secure" in the presence of their attorneys. The jAC members themselves also believed that improving the comfort level of clients was an important part of their jobs. According to one member, "I really try to express to them what's going on because otherwise it feels like I'm just kind of leading them blindly through an already confusing process." Another member agreed, saying, "I think [jAC] has helped them to not be that afraid of the system."

In addition to helping children feel more comfortable, the presence of jAC attorneys may help children feel more agency in the process as it unfolds. Although children are able to defer much of the activity during the court hearings themselves to their attorneys, the information children learn from their attorneys about immigration court helps them feel more engaged with the legal process. When asked whether a child's ability to understand the court process impacted his case outcome, one member said, "Did it help their case? Maybe not, but they knew what was going on. That's important, because it's their case." This same member went on to say, "We were able to explain to them...this is your future. And they understood that. They showed up and made it something that was important to them." Another interviewee, a jAC supervisor, added that children are "able to participate in a way that they would not have if they did not have a program attorney." Although answers varied widely when children were asked who decides how to proceed with their legal cases—answers ranged from the child, the child's family, or the attorney—some named themselves as the primary decision maker. According to one child, "It's my decision, my case." Another child added, "We [the child and the lawyer] both need to be in agreement, however, to continue."

From the Judges' perspective, the jAC program's ability to help children feel more comfortable in court is an asset. When asked in the survey to elaborate on opinions regarding

the influence of jAC on children’s understanding, six of the 12 Immigration Judges who provided further information (50 percent) felt that the program’s influence was important in that the enhanced understanding and familiarity helped the children overcome fears. This comfort level, in turn, improves court efficiency by allowing hearings to run more smoothly (this is discussed in greater detail in Section III). Several Judges identified a link between children’s understanding and efficiency, with one saying,

I believe that an indicator of efficiency is how quickly the Respondent has an understanding of the nature of proceedings .... Without the assistance of the justice AmeriCorps attorneys, the Court would come to a standstill on these matters.  
*-Immigration Judge*

Another Judge called the impact of jAC “tremendous in a very positive way,” saying that, “The respondents and their custodians are not as afraid to come forward before the Court and seem more prepared and aware of the legal terms being used.”

While the jAC program helps to assuage fears of appearing at immigration court, the program exists in a context in which fear of immigration authorities affects community-wide perceptions of safety. For example, one jAC member reported:

There was that scare at the beginning of the year where the ICE agents were picking up people, children who already had a deportation order, and that just spread like wildfire throughout the community. A few clients were afraid to even come to the interview, because they don't want to leave their house or they felt it might have been a trick or a set-up, because they're hearing "oh, it's a free program." Well, that sounds like bait.  
*-jAC Member*

Overall, jAC’s goal of expanding access to counsel for large numbers of children appears to have been successful in a variety of ways, and this outcome is welcome and needed. The individuals interviewed—from jAC members and supervisors to Judges and the children themselves—overwhelmingly expressed support for expanding children’s access to counsel. Several Judges conveyed their appreciation for the program and the dedication of its members, saying that they were “very grateful that this program is available to children.” As one Judge stated:

The most important aspect of this is that children need representation, should not have to appear in court alone, and have much “better” outcomes when they are represented. While the court wins, I also believe the children win from this program.  
*-Immigration Judge*

### III. Effectiveness and Efficiency

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The analysis presented here provides evidence that representation increases many aspects of court effectiveness and efficiency, notably the effectiveness of the child’s ability to present his case, the efficiency of hearings, and appearance rates of children. However, evidence does not distinguish the jAC program in particular from other forms of representation. Furthermore, challenges remain. Language barriers and a lack of social work services to facilitate effective representation are among the most commonly cited problems with efficiency with the jAC program.

#### Effectiveness

Using EOIR court data, Vera analyzed to what extent the jAC program provided effective representation to the children served. The analysis compared the legal outcomes of concluded jAC cases to: (1) unaccompanied children’s cases without any representation, and (2) unaccompanied children’s cases that had representation outside of the jAC program. The analysis tested whether the cases in the jAC program were more or less likely to obtain successful legal outcomes—defined as encompassing administrative closure, termination, or legal relief granted.<sup>30</sup>

#### Analytical Model

To test the impact of the jAC program on the probability of obtaining successful legal outcomes, Vera analyzed comparison cases in which a Notice to Appear (NTA) had been filed, the initial released Master Calendar Hearing (MCH) occurred on or after October 1, 2014,<sup>31</sup> and a final disposition occurred prior to or on May 31, 2016. The dataset included only cases where the child was under the age of 16 when they received their NTA.<sup>32</sup> The resulting dataset includes jAC and non-jAC cases. To ensure the non-jAC cases are appropriate comparisons, the dataset only included non-jAC cases that were presided over by a Judge that had presided over a jAC case. If a Judge had never presided over a jAC case, his cases were not included in the dataset. If a Judge had presided over a jAC case, that Judge’s cases which met the aforementioned date and age qualifications were included. By limiting the comparison cases to only those presided over by a Judge who has seen jAC cases, the comparison controls for regional and court-level differences,

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<sup>30</sup> See Appendix G for Glossary of Common Immigration Legal Terms.

<sup>31</sup> Although the eligibility requirements use an MCH prior to January 1, 2015, the program did permit some cases in the beginning with an initial filing date after October 1, 2014.

<sup>32</sup> There are twenty-four cases served by the jAC program where the child had their 16<sup>th</sup> birthday prior to DHS filing the NTA with EOIR. These cases are included in the analysis.

as well as the Judge's discretion, that may influence the likelihood of a successful legal outcome. There are 8,951 cases that started on or after October 1, 2014 and concluded prior to or on May 31, 2016, and fit the age and location criteria.<sup>33</sup> Of these, 535 are jAC cases, 6,329 are cases with representation outside of jAC, and 2,087 are cases without representation. The percentage of jAC cases in the dataset is small (six percent) but sufficient to estimate jAC's role in producing successful legal outcomes.

To ensure that the analysis accounted for the many factors that can impact a case's likelihood of achieving a successful legal outcome, Vera included the following factors in the estimations to build an analytic model used to compare legal outcomes:

### **Client Information**

- whether the child is from Guatemala, El Salvador, or Honduras (the most common countries of birth of unaccompanied children)
- whether Spanish is the child's primary language
- the gender of the child
- the age of the child when the NTA was issued
- the number of cases that child had before the court<sup>34</sup>
- whether the child was charged with Entry Without Inspection (EWI)
- whether the child was charged with other inadmissibility grounds

### **Judge and Attorney Information**

- the number of cases represented by the child's lawyer in the previous five years<sup>35</sup>
- the average number of cases per day seen by the Judge
- the ratio of asylum claims granted and denied for the Judge<sup>36</sup>

### **Case Proceedings**

- the date the NTA was filed with EOIR
- the date the lawyer first appeared in the court with the child

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<sup>33</sup> The criteria are: (1) First MCH on or after October 1, 2014, (2) final disposition occurred on or prior to May 31, 2016, (3) the child was under the age of 16 when the NTA was filed with the court, and if it is a non-jAC case, then (4) the case was presided over by a Judge that had presided over a completed jAC case in the time period.

<sup>34</sup> This calculation uses more years (January 2011 through May 2016) than the statistical model (October 2014 through May 2016) in order to show a trend and more accurately depict the child's history with Immigration Court. The available dataset begins in 2011, and therefore cases prior to 2011 are not counted in this calculation.

<sup>35</sup> This calculation uses more years (January 2011 through May 2016) than the statistical model (October 2014 through May 2016) in order to show a trend and more accurately depict the attorney's recent work experience.

<sup>36</sup> This calculation uses more years (January 2011 through May 2016) than the statistical model (October 2014 through May 2016) in order to show a trend and more accurately depict the Judge's record.



- the date of discharge from Office of Refugee Resettlement (ORR) custody
- the date of the first MCH in the case
- the date of the final disposition
- the number of days from the first MCH to final disposition
- the number of days between discharge from ORR custody and the NTA filing
- the number of days between the NTA filing and the first MCH
- the number of days between the NTA filing and the date the lawyer first appeared with the child in court
- whether the case was served by the jAC program
- the court location for the first hearing
- the court location for the final disposition
- whether an application for asylum was filed within the immigration court
- the total number of continuances in the case
- the total number of continuances while the respondent was represented
- the average length of the continuances in the case
- the variance in the length of continuances granted in the case
- the total number of motions made in the case
- the total number of MCHs in the case
- the total number of individual hearings in the case
- whether the final disposition resulted in legal relief, termination, or administrative closure
- whether the child was given an in absentia order

More information about each of these indicators is included in Appendix 3.1.

### **Comparison of Legal Outcomes**

As shown in Table 3.1, the percentage of cases with successful legal outcomes is identical for jAC cases and cases that have representation outside of jAC (both have 88 percent successful cases, 12 percent non-successful cases). However, the percentage of cases with successful legal outcomes is substantially different for jAC cases (88 percent successful cases, 12 percent non-

successful cases) when compared to cases without representation (18 percent successful cases<sup>37</sup>, 82 percent non-successful cases).<sup>38</sup>

**Table 3.1**  
**Successful Legal Outcomes, Defined as Administrative Closure, Termination, and Legal Relief**

	Successful legal outcome (i.e., termination, administrative closure, relief)	Non-successful legal outcome (e.g., order of removal, absentia, VD)
<b>jAC case</b>	<b>88% (469)</b>	<b>12% (66)</b>
<b>Representation outside of jAC</b>	<b>88% (5,598)</b>	<b>12% (731)</b>
<b>No representation</b>	<b>18% (366)</b>	<b>82% (1721)</b>

*Source: Program and EOIR data. Includes UC who: accepted representation and had a jAC member assigned; had a valid A number that matched with EOIR data; were 15 or younger as of the time of NTA filing, first MCH date after October 1, 2014 and completed their case in the courts with the jAC member (i.e., the case concluded and was not transferred). The comparison groups include the same stipulations and include only cases that were seen by the same Judges as those in the jAC program with a first MCH date after October 1, 2014.*

The percentages in Table 3.1 illustrate that the jAC cases in the dataset have the same percentage of successful legal outcomes (88 percent), compared to the cases with other representation (88 percent successful legal outcomes) and compared to the cases without representation (18 percent successful legal outcomes). Without controlling for other factors that impact the outcome of a case (e.g., age, number of motions, etc.), it is not possible to determine if jAC’s high percentage of successful legal outcomes is due to the types of cases in the program (e.g., cases with a strong case for legal relief), and not due to the program itself. To determine if these differences are meaningful after taking into account the factors that impact the outcome of a case, Vera conducted a statistical test of these cases.<sup>39</sup> The analysis, fully detailed in Appendix 3.2, reveals that jAC cases generally fared the same as any analogous case with a legal

<sup>37</sup> Vera believes that 18 percent successful cases for unrepresented cases is an overestimate. We have found evidence that the appearance of legal representation (“E 28 date”) is sometimes missing in CASE (U.S. Department of Justice, Executive Office for Immigration Review, Office of Planning, Analysis, & Technology’s (OPAT) CASE database), causing some represented cases to appear to be unrepresented. While we are unsure of the exact number that have had this occurred, we can estimate this to be 250 of the 2,087 unrepresented cases. This estimate is based off an analysis of cases represented in the jAC program that did not have an E 28 date in CASE. That analysis showed that 276 of the 2,309 jAC cases (12 percent) did not have an E 28 date despite having representation.

<sup>38</sup> Evidence of the statistical significance of this difference is presented in the statistical model and outlined in detail in Appendix 3.2.

<sup>39</sup> Vera conducted a logistic regression, the details are outlined in Appendix 3.2.

representative, but fared significantly better than cases without representation. The predicted probability of a successful legal outcome is 90 percent for a jAC case, 91 percent for a case represented by a non-jAC lawyer, and 19 percent for unrepresented cases. The difference in this “predicted probability” and the actual percentage reported in Table 3.1 is that the predicted probability takes into account information about the cases seen by each group (i.e., case proceedings, client information, Judge and attorney information).

Table 3.2

### Key Findings from Estimating Successful Legal Outcomes

#### Impact on Legal Outcome<sup>40</sup>

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**jAC cases are 71% more likely to have a successful outcome than unrepresented cases, all else being equal**

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**jAC cases are not more or less likely to have a successful outcome than other represented cases, all else being equal. There is less than one percent difference and this difference is not statistically meaningful**

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*Source: Program and EOIR data. Includes UC who: accepted representation and had a jAC member assigned; had a valid A number that matched with EOIR data; were 15 or younger as of the time of NTA filing, first MCH date after October 1, 2014 and completed their case in the courts with the jAC member (i.e., the case concluded and was not transferred). The comparison groups include the same stipulations and include only cases that were seen by the same Judges as those in the jAC program with a first MCH date after October 1, 2014.*

To determine if program effectiveness is impacted by the cases with an initial MCH between October and December 2014—cases that were permitted as an exception and where representation began much later in the case—the previous analyses were repeated with this population excluded. The findings of the statistical model are unaffected by this change, meaning that the outcomes of the 74 cases (14 percent of all completed jAC cases) with MCHs prior to January 2015 are not significantly different from the rest. Overall, 85 percent of the jAC cases matching this criteria had successful legal outcomes, compared to 88 percent for the jAC cases that began in or after January 2015. Legal outcomes for unrepresented (17 percent successful) or non-jAC representation (88 percent successful) cases with initial MCHs prior to January 2015 were also virtually identical to the figures presented in Table 3.1 above. These findings suggest that the May 19, 2015 decision to allow jAC attorneys to accept cases with a MCH before January 2015 did not affect the program’s ability to obtain successful legal outcomes, despite these cases experiencing longer durations prior to receiving representation.

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<sup>40</sup> The probability is different for different types of cases. The predicted probabilities listed here are those that apply to an average case for a standard deviation change in the measure.

As seen in Table 3.3 below, jAC attorneys entered their first appearance on cases with an initial MCH between October and December 2014 after an average of 223 days, compared to 79 days for the post-January 1, 2015 cases.

Table 3.3

**Days from First Master Calendar Hearing to First Court Appearance with an Attorney for jAC Cases, Unrepresented Cases, and Cases with Non-jAC Representation**

Type of case	All		MCH between Oct-Dec 2014		MCH after January 1, 2015	
	# of UC	Avg Number of Days	# of UC	Avg Number of Days	# of UC	Avg Number of Days
Other Represented	6,329	74	2,582	113	3,747	47
Not Represented	2,087	n/a	751	n/a	1,336	n/a
jAC	535	97	74	223	461	79
<b>Total</b>	<b>8,951</b>		<b>3,407</b>		<b>5,544</b>	

Although the delayed acceptance of representation did not influence case outcomes, it did seem to have some influence on the duration of the completed cases. Table 3.4 details the differences in case time, as defined by the number of days from MCH to disposition, based upon the date of the initial MCH. While the post-January 1, 2015 cases handled by jAC attorneys took only 12 percent longer on average to complete than those represented by other counsel (202 days for jAC versus 181 for other represented), the jAC cases with a first MCH from October-December 2014 took 36 percent longer on average to complete than the other represented cases (408 days for jAC versus 299 for other).

Table 3.4

**Case Time, from First MCH to IJ Disposition for jAC Cases, Unrepresented Cases, and Cases with Non-jAC Representation**

Type of case	All		MCH between Oct- Dec 2014		MCH after January 1, 2015	
	# of UC	Avg Number of Days	# of UC	Avg Number of Days	# of UC	Avg Number of Days
Other Represented	6,329	229	2,582	299	3,747	181
Not Represented	2,087	149	751	177	1,336	134
jAC	535	227	74	408	461	202
<b>Total</b>	<b>8,951</b>		<b>3,407</b>		<b>5,544</b>	

**There is No Difference in the Probability of Successful Legal Outcomes for jAC Compared to Cases with Non-jAC Representation**

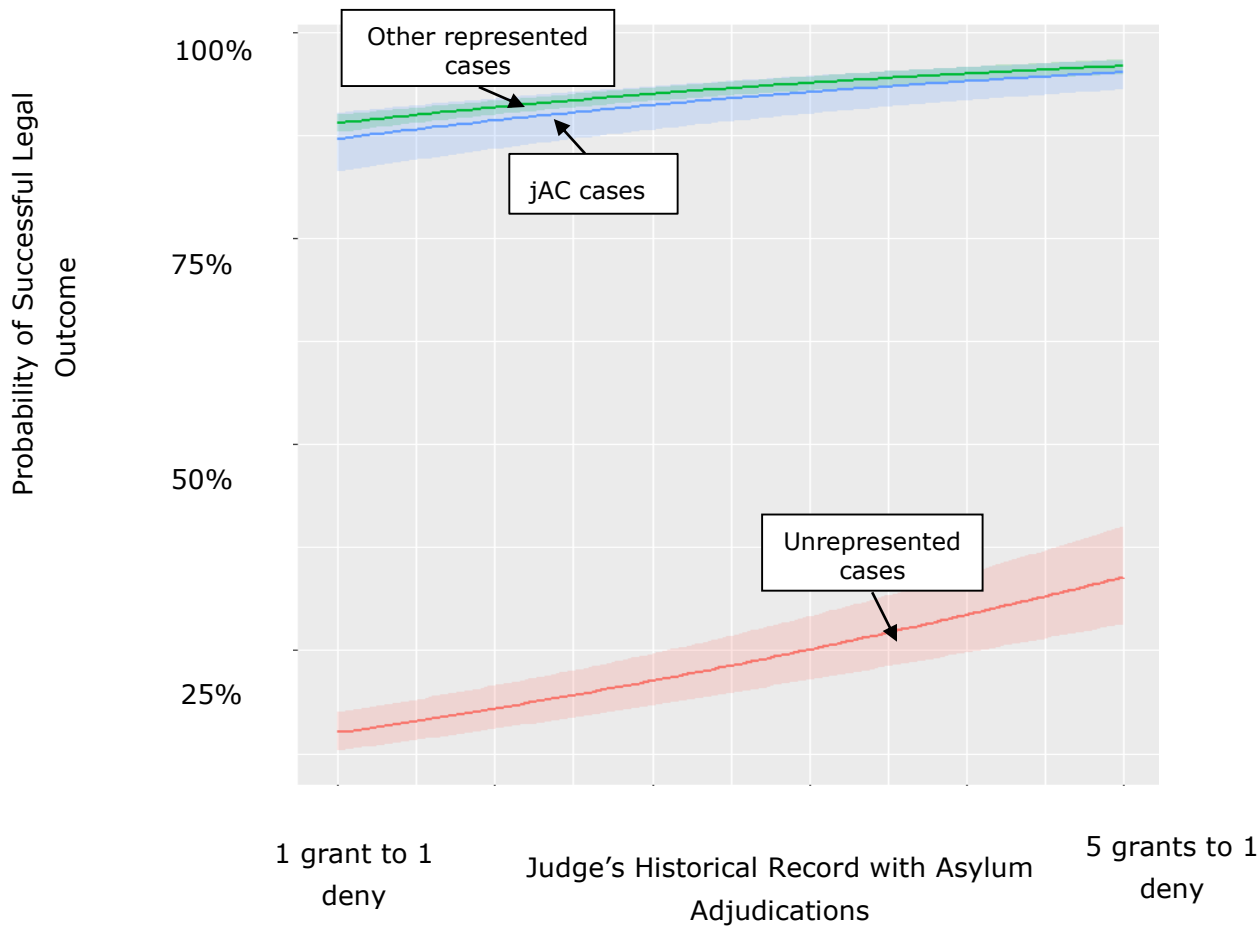
The evaluation compared outcomes of cases with jAC representation to those with other representation, finding that jAC attorneys are equally successful at obtaining positive legal outcomes for their clients as other attorneys, including members of the private bar. Controlling for external factors that impact the child’s likelihood of obtaining legal relief, Vera found that jAC cases are equally likely to obtain a successful legal outcome compared to other represented cases. The results for the entire model are presented in Appendix 3.2. Although the model does not provide evidence that jAC specifically impacts legal outcomes, the data very clearly demonstrate that representation in any form matters for the effectiveness of the case. In other words, Vera found that jAC attorneys as a group, though usually just out of law school, are generally as successful in obtaining positive outcomes as other attorneys.

As shown in Figure 3.1, the probability of a successful legal outcome is nearly identical for jAC cases and cases with other forms of representation. The blue line (middle line) represents the probability of obtaining a successful legal outcome for jAC cases. The green line (on top) represents the probability of obtaining a successful legal outcome for other represented cases. On average, the probability of a successful legal outcome is high for represented cases (both jAC and cases with other, non-jAC representation) and this probability increases as the Judge’s rate of granting asylum increases. The bands surrounding the lines represent the estimate’s confidence interval, showing with 95 percent certainty that the true number falls somewhere within the band. Since the confidence interval for jAC cases overlaps with the confidence

interval for cases with other, non-jAC representation, it is not possible to decipher whether the probability of a successful outcome is any different for jAC compared to other representation. Even though the green line (corresponding to other represented cases) appears above the blue line (corresponding to jAC cases), there is not any statistically significant difference in successful legal outcomes between jAC and other represented cases because the true probabilities could fall anywhere within the band, which overlap with one another. Therefore, these estimates should be treated as statistically equivalent.

Figure 3.1

**Probability of a Successful Legal Outcome by Judge Asylum Grant Rate for jAC Cases and Cases with Other Forms of Representation**



Source: Program and EOIR data. Includes UC who: accepted representation and had a jAC member assigned; had a valid A number that matched with EOIR data; were 15 or younger as of the time of NTA filing, first MCH date after October 1, 2014 and completed their case in the courts with the jAC member (i.e., the case concluded and was

not transferred). The comparison groups include the same stipulations and include only cases that were seen by the same Judges as those in the jAC program with a first MCH date after October 1, 2014.

### **jAC Cases Have a Higher Probability of a Successful Legal Outcome Compared to No Representation**

In Figure 3.1, the blue line (middle) represents the probability of obtaining a successful legal outcome for jAC cases. The red line (on bottom) represents the probability of obtaining a successful legal outcome for unrepresented cases. The bands surrounding the lines represent the estimate's confidence interval, showing with 95 percent certainty that the true number is within the band. Cases in jAC have a significantly higher probability of obtaining a successful legal outcome than cases without representation as indicated by the separation of the two confidence intervals.

The analysis provides evidence that jAC cases have a higher probability of a successful legal outcome compared to not having representation. As outlined in Table 3.2, jAC cases have a 71 percent higher likelihood of a successful legal outcome compared to cases without representation (increasing from 19 percent for unrepresented cases to 90 percent for jAC cases). Data from Immigration Judges and jAC attorneys surveyed and interviewed for this evaluation also supported this finding. Immigration Judges and jAC attorneys expressed the opinion that children with representation obtain more successful legal outcomes than children without representation. Of the Immigration Judges surveyed, 69 percent (18 of 26) “agreed” or “strongly agreed” that represented children tend to have better legal outcomes than those without representation. As further explained by this Judge,

Represented children have better outcomes even when there is no relief available before the Court. Attorneys can reach out to the DHS to apply for prosecutorial discretion as they are better able to set out the equities for the child. The administrative closure of proceedings clears the court's docket.  
-Immigration Judge

### **Longer Case Times May Decrease the Efficiency of the Court But They Increase the Effectiveness of Representation**

For the purpose of the evaluation, Vera defines efficiency of representation by the speed and ease of proceedings. Efficiency is frequently defined more narrowly as the duration of a case. Indeed, when asked to define “an efficient court,” seven of the 24 Immigration Judges who responded defined it by the time required to complete the case, so that shorter case times indicate efficiency. However, Vera's analysis found evidence that the duration of the case is directly related to the probability of obtaining a successful legal outcome, so that longer case times are associated with more successful legal outcomes. This is a clear example of a trade-off between efficiency and effectiveness. For all child cases, the average case time is 240 days for

obtaining a successful legal outcome and 135 days for a non-successful legal outcome. So while a longer case may be perceived to be less efficient, longer cases allow time to identify and pursue avenues of legal recourse as the attorney-client relationship develops and the child settles into a more permanent living situation. This is especially important for children who may not be forthcoming or direct about the types of situations they have encountered (more discussion of the need to build trust for victim identification is in Section IV). For children who pursue relief in other venues, such as state court (for SIJS) or USCIS (for SIJS, asylum, and several other forms or relief), case times are further influenced by the speed of those proceedings. State court and USCIS proceedings vary in length and can sometimes be quite long, but they must be adjudicated before Immigration Court proceedings can be brought to conclusion. Since the vast majority of legal relief for children involves proceedings in these other venues, children with successful legal outcomes may experience prolonged case times due to these proceedings in other forums—the speed of which is out of the Immigration Court’s control.

For unrepresented cases, continuances may extend the case time and provide the child with time to find legal representation, an important part of increasing one’s chance at a successful legal outcome. For represented cases, filing motions and obtaining continuances may extend case time when the child has potential avenues for relief, as a means to allow the lawyer sufficient preparation time to prepare the best defense.<sup>41</sup> As articulated by one jAC member,

[Judges] give us longer continuances [be]cause they know that—especially with me—that my clients are so far away, so I really appreciate a longer continuance [be]cause it gives me more time to work on the case.  
-jAC Member

Figure 3.2 details the probability of a successful legal outcome for jAC cases compared to cases with non-jAC representation, and other represented cases by case time. Case time is defined as the number of days from the first Master Calendar Hearing to the final disposition. Figure 3.2 shows that the probabilities for jAC cases and other represented cases are once again near identical as shown by the overlapping confidence interval bands. The probability of a successful legal outcome for jAC cases is much higher compared to unrepresented cases.

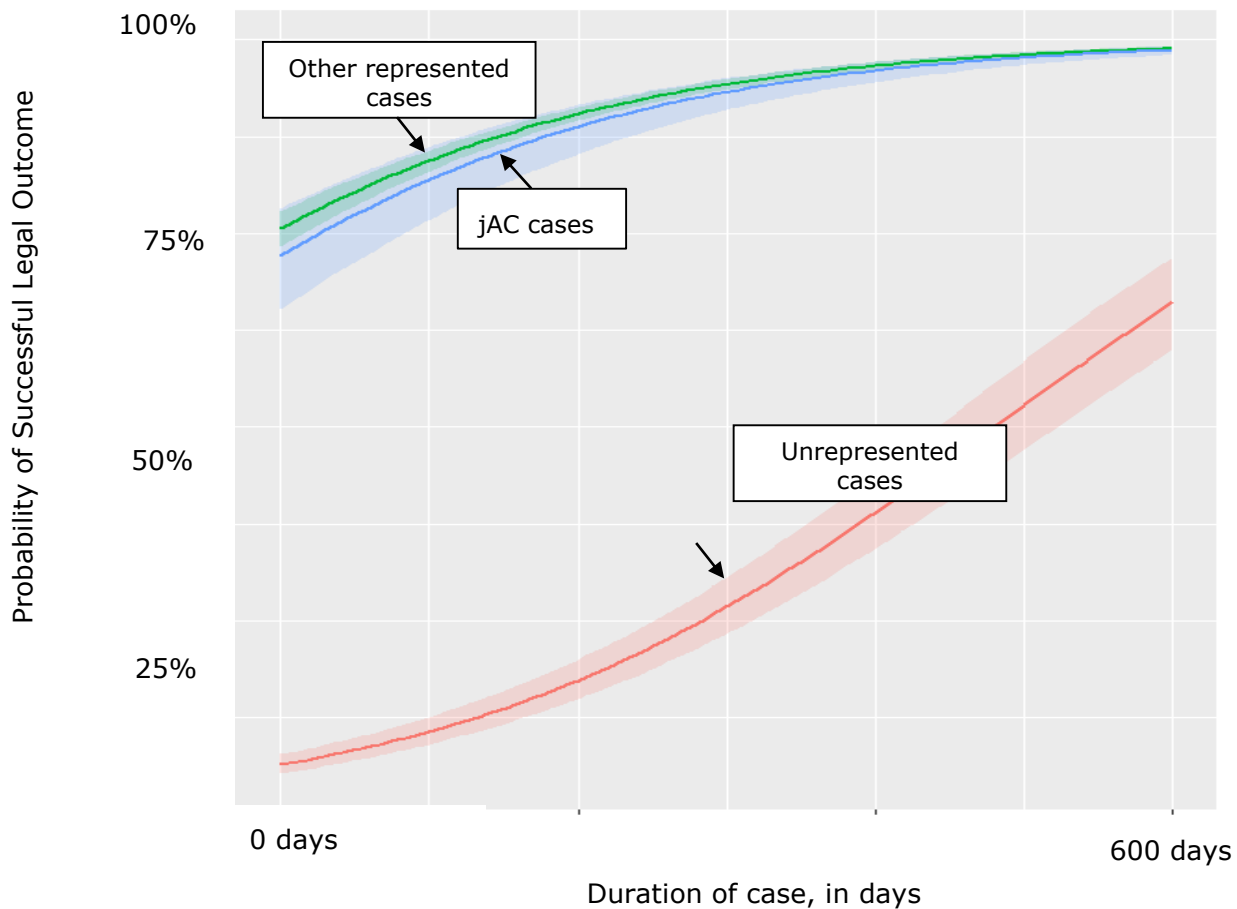
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<sup>41</sup> For example: “having an attorney will get them more continuances, and will allow them more time to get their case together ...” (jAC supervisor).



Figure 3.2

### Probability of a Successful Legal Outcome by Case Times for jAC Cases, Cases with Other Forms of Representation, and Unrepresented Cases



Source: Program and EOIR data. Includes UC who: accepted representation and had a jAC member assigned; had a valid A number that matched with EOIR data; were 15 or younger as of the time of NTA filing, first MCH date after October 1, 2014 and completed their case in the courts with the jAC member (i.e., the case concluded and was not transferred). The comparison groups include the same stipulations and include only cases that were seen by the same Judges as those in the jAC program with a first MCH date after October 1, 2014.

### The Type of Motions and Applications in jAC Suggest Effective Representation

One measure of the effectiveness of representation is the number of children who contest the charges on the NTA. Although data on whether the non-jAC cases contested the charges on the

NTA are not available, 35 percent of the jAC cases contested the charges on the NTA as shown in Table 3.5.

Table 3.5

**Contesting the Charges on the NTA - Grounds of Removability**

	Unlawful Presence	Present without Admission	Other Charges
<b>Contested charge</b>	<b>49</b>	<b>475</b>	<b>28</b>
<b>Did not contest charge</b>	<b>51</b>	<b>942</b>	<b>24</b>
<b>Admitted to some of the allegations</b>	<b>0</b>	<b>9</b>	<b>11</b>

Source: Program data. Includes only UC who accepted representation and had a jAC member assigned.

There is the perception among Judges that the jAC program has also spurred an increased volume of motions: six of the ten Immigration Judges who thought jAC had changed the court culture attributed “an increase in motions” as the reason for that change in culture. According to court data, jAC cases average two motions per case, other represented cases average two motions per case, and non-represented cases average zero motions per case.

The type of motions made by jAC members can be described according to provider data.<sup>42</sup> Of the 3,013 motions recorded by the jAC providers, 25 percent (765) are substantive motions, as shown in Table 3.4. Of the substantive motions with a government position recorded, 37 percent show the government counsel opposing the motion and 63 percent agreeing with the motion.

<sup>42</sup> Equivalent information was not available for non-jAC cases.

Table 3.6

**Substantive Motions in jAC**

	<b>Government Opposes</b>	<b>Government Agrees</b>	<b>No information</b>
<b>Motion to Administratively Close</b>	<b>101 (41%)</b>	<b>146 (59%)</b>	<b>77</b>
<b>Motion to Reconsider</b>	<b>1 (100%)</b>	<b>0 (0%)</b>	<b>2</b>
<b>Motion to Reopen</b>	<b>1 (33%)</b>	<b>2 (67%)</b>	<b>4</b>
<b>Motion to Terminate</b>	<b>105 (33%)</b>	<b>208 (67%)</b>	<b>117</b>
<b>Total</b>	<b>208 (37%)</b>	<b>356 (63%)</b>	<b>564</b>

*Source: Program data. Includes only UC who accepted service and had a jAC member assigned.*

The two most common substantive motions, the motion to administratively close the case and the motion to terminate, are often associated with successfully obtaining relief before USCIS. In many cases, Judges administratively close a case once a child has been granted Special Immigrant Juvenile Status (SIJS) by USCIS and terminate the case after adjustment of status. Other Judges terminate a case when the child has SIJS status. Motions to administratively close or terminate may also be associated with prosecutorial discretion, a challenge to removability or the adequacy of service, or claims of violations of due process.<sup>43</sup>

Another indicator of whether jAC has provided children with a means to effectively present their case is whether an application is submitted on their behalf before USCIS. Provider data suggests that jAC members have been effective at filing applications for relief. Table 3.7 demonstrates that 100 percent of decided I-360 SIJS applications filed by jAC members have been granted and 78 percent of I-589 Asylum/Withholding/CAT applications decided by USCIS have been granted.

<sup>43</sup> Limitations in the jAC database prohibit identification of motions to terminate associated with relief before USCIS.

Table 3.7

**Applications by jAC Members to USCIS and Immigration Court**

	Granted	Denied	Pending or null
I-360 SIJS	123	0	186
I-589 Asylum/Withholding/CAT (USCIS)	54	15	182
I-485 Adjustment of Status (USCIS)	35	3	192
I-589 Asylum/Withholding/CAT (immigration court)	6	1	33
I-485 Adjustment of Status (immigration court)	1	0	16
I-914 T Visa	1	0	2
I-918 U Visa	0	1	15

Source: Program data. Includes only UC who accepted service and had a jAC member assigned.

This section has provided evidence that jAC produces effective representation before the court. The following section discusses the efficiency of representation.

**Efficiency**

Although effective representation may lengthen case time, representation is seen to increase the efficiency of court proceedings in other aspects, such as the efficiency of hearings, according to jAC members, children in the program, and Immigration Judges.

**Legal representation increases efficiency of proceedings at court appearances**

As detailed in qualitative interviews with jAC members and children in the program, children who appear at hearings with a lawyer know what to expect, are prepared, and do not require the Judge to take time to explain the process or other information about what is occurring. As explained by one jAC supervisor,

If you've ever watched a child go forward without an attorney, it's just unbearable to watch. It turns a five-minute hearing or less, into a 20-minute hearing. And when there's a docket of 50, that's just impossible to get through. So in the eyes of the court, having an attorney next to the child certainly increases the efficiency.  
 -jAC Supervisor

According to qualitative data, the jAC program has been able to provide the children with this preparation for hearings, and thus, increased efficiency in hearings compared to unrepresented cases. As articulated by one jAC member,

[T]he kids that we're representing, they're prepared. They know what they're going into and know what, hopefully, will come about during each hearing. And so I think the Judge also doesn't have to take the time to explain what's next or what's going to happen.  
 -jAC Member

A lawyer is able to relay the expectations of court proceedings as well as the importance of attending court to the children. Children interviewed in the jAC program expressed an understanding of the negative consequences associated with not attending court:

If I don't go, maybe they'll come looking for me at my home and take me out of the country.  
 -Child

If you don't go, there may be problems that arise like an order of deportation.  
 -Child

If I don't go to the first court appearance, my papers won't be approved.  
 -Child

Almost all children cited deportation as the consequence of not attending their court proceeding. According to the data presented in Table 3.8, there is a large difference in absentia rates for unrepresented cases and cases with representation; the in absentia rate for jAC cases was slightly higher than for cases with other forms of representation.

**Table 3.8**  
**In Absentia Rates for Children by Comparison Group**

	In Absentia	Percent	Total Cases
<b>jAC</b>	<b>35</b>	<b>7%</b>	<b>535</b>
<b>Other, non-jAC representation</b>	<b>345</b>	<b>5%</b>	<b>6,329</b>
<b>Unrepresented</b>	<b>1,597</b>	<b>77%</b>	<b>2,087</b>

*Source: Program and EOIR data. Includes UC who: accepted representation and had a jAC member assigned; had a valid A number that matched with EOIR data; were 15 or younger as of the time of NTA filing, first MCH date after October 1, 2014 and completed their case in the courts with the jAC member (i.e., the case concluded and was not transferred). The comparison groups include the same stipulations and include only cases that were seen by the same Judges as those in the jAC program with a first MCH date after October 1, 2014.*

In addition to being aware of consequences, having an attorney appear with the child in court gives the child more security and comfort in what is often described as a stressful situation for the child. Children are often unaware of what the process entails and this can cause anxiety and reluctance to endure the process, even when made aware of the negative consequences of not appearing. As articulated by one jAC director,

It's not a mystery. I think that [having representation] greatly increases even just their willingness to show up. Because they know, 'Okay, this is what the attorney said. This is going to happen. That's going to happen.'  
-jAC Director

The positive relationship between representation and appearance rates is accepted by the majority of the Immigration Judges surveyed, with 22 out of 26 Judges “agreeing” or “strongly agreeing” with the statement, “Children with representation tend to have better appearance rates than those without representation.”

### **A lack of social services is a barrier to effective and efficient representation**

Qualitative interviews suggest that jAC members faced challenges providing adequate social service referrals to their clients, and that unmet social and health needs create additional problems for clients that may affect representation. The lack of social and health services is a challenge that is not unique to the jAC program; it is a nationwide problem for immigration lawyers. However, the problem may be more acute for attorneys or grantee agencies that are relatively new to the field, because social service referral networks are often dependent upon personal knowledge and are built up over time. To alleviate this obstacle, jAC members and supervisors spoke of the potential benefit of having an in-house social worker who is knowledgeable about local referral networks. Members mentioned that having a social worker as a liaison would be especially beneficial for children who need mental health services or those coping with trauma, as social workers are positioned to address the children’s individual needs.

Access to such professionals can be crucial for children who have experienced trauma to be able to begin to work with their attorney to build a case. The majority of interviewees brought up the urgent need for more social services for their clients, especially when working with a vulnerable population like unaccompanied children. Many attorneys recognized the limits of their role as attorneys and not as social workers or psychologists, claiming that many children “have mental health issues. I’m not a doctor, I can’t diagnose them.” The existing networks for social service referrals for victims of trafficking and abuse described by jAC members and their supervisors are inconsistent, insufficient, and often established *ad hoc*. Describing their referral network, one supervisor said, “We don’t have a formal relationship where we funnel all of these

certain types of cases... none of these are formal relationships. They're just community agencies that we know we can refer to." One member explained their strategy when looking for service providers: "I will probably just talk to my colleagues in the office to see who is available and who we should talk to if we're referring it."

Because of the dearth of referral options, jAC attorneys end up devoting a significant amount of time and resources to providing non-legal support, going beyond their job description. This also has become a source of member dissatisfaction with the program. Because the attorneys are often the children's first point of contact for support and help in their communities, the members feel obligated to respond to their clients' need for counseling or further assistance. One supervisor said the lack of social service referrals detracted from the organization's ability to focus on legal matters:

If I had someone in my office to deal with these calls, I could focus more time on recruiting pro bonos and work on our emergency cases.... [Clients] want them to help them apply at Publix. 'How do I get a driver's exam? How do I get my social security card? How do I get this?' Our paralegal helps them get the social security card, but they can't do everything. So if jAC were to fund a social worker to help the same kids once they get their status, and help them assimilate to the U.S., it would be a huge help and it would increase efficiency.

*-jAC Supervisor*

Not only does trauma affect a child's well-being, but there was wide agreement among jAC members and their supervisors that the effects of trafficking and abuse can have a negative impact on case outcomes. After experiencing trauma, children are often unable to clearly communicate their story. One jAC member explained, "We know how much trauma affects a child's brain and that's obviously going to negatively impact their case. They don't want to talk about it with us. They don't want to talk about it with the Judge." Other members addressed how trauma affects memory, which is essential for building a case for potential relief: "Even if they trust you, they block things out. They have a hard time digging back and remembering that, or they just can't handle how painful it is." Several jAC members and supervisors cited expert knowledge and mental health care in helping children get to the point where they can talk about their history enough to present a strong case for relief. One supervisor emphasized that psychological services are necessary for some clients to be able to meet with their attorneys:

I have one client .... She's homeless, and she's says, "Well, I always try to schedule these visits [with my attorney] when I have access to my psychologist," because they're just really painful visits. You would never know from their faces, because sometimes it looks like they're just telling a story. Sometimes they get a little tearful, but you don't realize.... I think it's very painful for them, and most of the time they can't even talk about it.

*-jAC Supervisor*

Both jAC members and supervisors felt that social service referrals were not only important for the well-being of the children and for efficiency, but could also facilitate their ability to effectively present their case. As described by the supervisor below,

I know I've repeated this ten times, but I really feel strongly that there is a hole in the services that we provide with not having a different kind of partner on board—a social service agency.... Really when you have a child who's in counseling and who's receiving that kind of support, it's going to allow them to be able to speak, to articulate, to form the kinds of thoughts.

*-jAC Supervisor*

When considering improving social service referrals, it is also important to keep in mind that language issues significantly compound the problem of finding appropriate, quality services for vulnerable children, who need linguistically competent interpretation to access psychological support. As described by the member below,

The other [issue] I have is not so much the referral part; it's not finding what my client needs. He needs counseling. The mom and the kid both need it, but they couldn't find one to speak Spanish and they had gone to three different ones. It's not a factor of referring them and they're not wanting to do it. It's just no one that we could find. Even [my supervisor] said, 'I don't know anyone that speaks Spanish.' And the kid already doesn't want to talk. You're going to have the psychiatrist or the counselor and you'll have an interpreter. And the kid's not going to talk. Yeah, language barriers are the biggest thing.

*-jAC Member*

### **Language and Interpretation Remains a Barrier to Efficiency and Effectiveness**

Qualitative interviews with jAC members reveal that language remains a barrier, not just to social work, but to facilitating a case more broadly. The vast majority of clients serviced in justice AmeriCorps speak Spanish. Qualitative interviews with jAC members detailed that the lack of Spanish fluency by all jAC members has in some instances created a barrier to efficiency. Additionally, up to ten percent of the clients speak other languages, often less common indigenous languages, as displayed in Table 3.9.



Table 3.9

**Languages of jAC clients**

Language	Number of clients
Spanish	2,098
Unknown	69
Mam	52
Quiche	45
Kanjobal	21
Akateko	6
Chuj	5
Ixil	2
Sign Language	2
Quichua	1
Achi	1
English	1
Punjabi	1
Popti	1
Aguacateco	1
Saho	1
Mixteca	1
Kachiquel	1

Source: Program data. Includes only UC who accepted service and had a jAC member assigned.

When asked about challenges to efficiency, language barriers to efficient counsel was a common theme among jAC attorneys. The jAC program does not fund interpretation or translation for any language, and members expressed frustration over this lack of access to language services.<sup>44</sup> Members stated that the inability to find suitable interpreters occasionally led them to conduct interviews with children in Spanish, even if Spanish was not the child’s strongest language. Accordingly, incorporating language access directly into the program design would help to ameliorate this barrier to efficiency.

The attorneys expressed a frequent struggle with translating indigenous languages and finding interpreters for the children:

In the state court, we're responsible for providing [translation].... You're technically required to bring a court certified interpreter. For most of these indigenous languages, there isn't a court certified interpreter in the state. We have to get by with them

<sup>44</sup> Title VI of the Civil Rights Act of 1964 and Title IV regulations prohibit national origin discrimination, including the failure to provide meaningful language access, in programs and activities receiving federal financial assistance.

allowing us to use community interpreters, which is less than ideal, but literally the resource is not there.”

*-jAC Supervisor*

Another situation we had--and it was just horrible, really--was for a child who spoke Mam. Since he was from a Central American country, everybody assumed that he spoke Spanish. But guess what? He wasn't understanding anybody. He couldn't even tell the officer, when the officer threw him to the ground, that he had thorns in his back to the point where he was bleeding, but he couldn't express that to the officer.

*-jAC Supervisor*

The lack of Spanish-speaking attorneys in the pro bono community is another challenge. One grantee expressed that the language barrier may deter prospective pro bono attorneys from taking a case:

We've had a lot of attorneys that have been interested in helping out, but they don't have language capacity in their office, and it is difficult to ask them to take on the expense... of hiring their own interpreter or translator. We have gotten a handful volunteer interpreters and translators to help with certain things, but that is a continued challenge.

*-jAC Member*

When non-Spanish-speaking pro bono attorneys are in fact matched with a Spanish-speaking child, they may nonetheless require assistance from the jAC member in order to communicate. Under jAC program guidelines, members are allowed to provide interpretation assistance on behalf of pro bono attorneys,<sup>45</sup> and jAC members provided such assistance to pro bono attorneys in 260 instances. As one grantee described, interpretation assistance requires the jAC member to be present with the pro bono attorney even if for a matter that the pro bono attorney could do on their own but for the language barrier.

### **NTA Filing Delays Are a Barrier to Efficiency**

Interviews with jAC members provide evidence that delays in NTA filing can cause inefficiencies in their preparations as they are unable to start representing the child in court immediately. This is compounded by the fact that delays in the NTA filing leads to situations where the child is at risk of becoming ineligible for the program if this child's 16<sup>th</sup> birthday is approaching. Members described the variety of responses to this situation:

Many times the NTA is not filed with the court, so ... they're not eligible for the jAC program. All other criteria might be present, but their NTA's not filed so, I can't represent them as a jAC member. That's probably the most challenging part of it all.

*-jAC Member*

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<sup>45</sup> April 2015 EOIR Memo.

It's difficult because we've already put in the work assuming that they would be getting the NTA. At the time of the intake, they were 15 years old, they came after January 2015, and they were unaccompanied. So they looked perfect, except they don't have that NTA. Where's the NTA? ...With the client that I interviewed today, he turns 16 next month. It's starting to raise a big red flag for me. I'm going to need to go back through my files and just verify birthdays and set up deadlines for when I need these NTAs filed.

*-jAC Member*

### **Lack of Sibling Representation is a Barrier to Efficiency**

According to jAC members interviewed, sites found it difficult for the clients and their family to understand that the non-jAC eligible sibling could not be represented by a jAC member. In these situations the non-eligible sibling would need to obtain representation elsewhere. Grantees matched non-eligible siblings of eligible children with pro bono attorneys in 131 instances. Sites found it inefficient for the court to not be able to consolidate sibling cases. As explained by a member and a former member:

I would say the biggest problem with our eligibility criteria is what happens is there is a brother or a sister—there's a sibling. Sometimes there's an older sibling that most definitely has the same form of relief, and we just can't serve them. So it kind of confuses things for the parents and the family.

*-jAC Member*

Siblings are the worst, too, because you have a 17-year-old and a 15-year-old... you can do one, but not the other. And functionally, you know, it's tough, because now you need two attorneys, two appointments which takes time, resources and interpreters. Then for court, it's kind of awkward because you've got to say to the Judge, well, they're not consolidated [even though] they're siblings. So you've got to explain what's going on. And he's kind of rolling his eyes, saying this is a waste of everyone's time right now.

*-Former jAC Member*

## IV. Abuse and Trafficking Victim Identification

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The jAC program aims to increase the identification of unaccompanied children who have been victims of abuse or human trafficking, defined as the recruitment or obtaining of a person for labor or a commercial sex act through use of force, fraud, or coercion.<sup>46</sup> Despite the program members' ability to identify abuse and trafficking victims to some extent, as indicated by aggregate information reported in the program database, interview and survey data show that program operations do not focus enough on abuse and trafficking identification. More work remains to be done in accomplishing this goal, as will be discussed throughout this section.

Since the beginning of the program, jAC members have conducted 2,284 trafficking screenings, covering 99 percent of the 2,309 unaccompanied children served in total.<sup>47</sup> Of the children who were screened, 29 trafficking victims were identified. For six additional children, members were unsure whether they were trafficking victims. In total, the 35 children identified represent 1.5 percent of the 2,309 children served by the program. Since it is impossible to know the true number of trafficking victims among the jAC clientele, this evaluation cannot conclude the extent to which the program has been successful at identifying trafficking victims. However, there is concern that UC trafficking victims are under-identified, particularly when released by ORR to unsuitable sponsors.<sup>48</sup>

Seventeen of the 29 positively identified children (59 percent) were subsequently referred to social services. It is unknown why only a portion of those identified received trafficking-related referrals. Possible explanations may be that a child had already received social services after

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<sup>46</sup> 22 USC § 7102.

<sup>47</sup> In the implementation evaluation, analysis showed that 529 of the 844 children (63 percent) received a human trafficking screening. This result was calculated from data at the individual child level. In June 2015, after the implementation evaluation was conducted, jAC providers began providing these numbers in aggregate, rather than case-specific information. This outcome evaluation report, which uses aggregate data, shows a much higher proportion of children who received trafficking screenings. It is likely that the providers underreported trafficking screenings previously when entering at the individual child level. This assumption is supported by the fact that providers had not entered a substantial amount of the individual data as of May 2015.

<sup>48</sup> United States Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs. Protecting Unaccompanied Alien Children from Trafficking and Other Abuses: The Role of the Office of Refugee Resettlement, January 28, 2016. <http://www.hsgac.senate.gov/subcommittees/investigations/hearings/adequacy-of-the-department-of-health-and-human-services-efforts-to-protect-unaccompanied-alien-children-from-human-trafficking>

being identified as a trafficking victim by another source; that a child had already been referred for general social services prior to being identified as a trafficking victim; that the jAC member was unable to find available or appropriate social services where the child could be referred; that the abuse may have occurred in the child's country of origin and the child had since received help; or that attempts were not made to refer the child despite his or her victimization. Regardless, the exact reason for the small number of trafficking-related social service referrals cannot be determined from the program data. Despite a low number of trafficking-specific referrals, the jAC program has provided other social service referrals to many of their clients, including health, child welfare, and housing services. (See Table 1 in Appendix 4.1 for a breakdown of the number and type of social service referrals).

### Strategies to Identify Abuse and Trafficking

Justice AmeriCorps members and supervisors widely agreed that the most effective strategy for attorneys to identify trafficking and abuse is to build relationships and rapport with children over time. Children need time to establish trust with their attorneys in order for them to feel safe sharing details of traumatic experiences. According to one supervisor:

We're dealing with children, and some of them are traumatized. These are children with trauma. It's not meet them three times and prepare their asylum. A lot of times, it's meet them three times just to create a relationship so that you can start to talk about the trauma.

*-jAC Supervisor*

Judges shared the belief that building relationships over time increases the likelihood of identifying trafficking victims. One Judge explained how the jAC attorneys develop rapport with clients:

I notice that children do not open up to strangers and that it takes them time to feel comfortable with someone before they will disclose certain personal information, especially if it is painful to recall and describe. The attorneys with jAC have demonstrated an ability to connect with the young respondents and thereby learn important facts about respondents that can help them with their immigration proceedings.

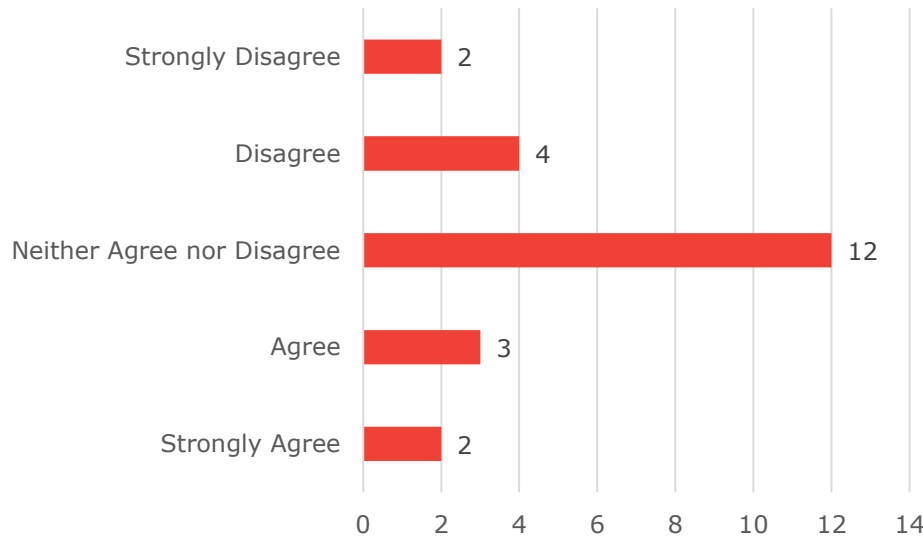
*-Immigration Judge*

Although several Immigration Judges acknowledged the impact of relationship-building on children's ability to disclose sensitive information, the majority of those surveyed were unsure of the jAC program's effect on improving trafficking identification. As illustrated in Figure 4.1, when asked to respond with their level of agreement to the statement, "The jAC program has increased the identification of trafficking victims," only five of the 23 Judges "agreed" or

“strongly agreed” with the statement; six of the 23 respondents said they “disagreed” or “strongly disagreed,” while 12 said they “neither agreed nor disagreed.”

Figure 4.1

**Judges’ Survey Responses to the Statement, “The jAC Program Has Increased the Identification of Trafficking Victims”**



Source: Judges’ survey. Twenty-three respondents answered this question.

To the extent that Judges believed that jAC has impacted the identification of trafficking victims, they indicated that it is representation, and not necessarily unique features of the program itself, that contributed towards this process of relationship building. As one Judge commented, “I am not sure jAC attorneys are any better equipped to identify such victims than anyone else. But at least they have an attorney, which increases the likelihood that they will be identified as such.”

In addition to developing relationships over time, the jAC members use various practical strategies to identify children who were victims of trafficking or abuse. Important techniques include the ability to make the child feel comfortable enough to talk about taboo or embarrassing topics and the ability to interpret non-verbal cues. For example, one member described a technique he used when trying to establish whether male children have a fear of returning to their country:

A lot of times, [the older male children] want to say no, because they want to appear *macho*. I tell them, “I’m almost 30 years old and I’d be afraid of going back to your

country!" And then they look at me like, "Well, okay, if you're admitting you'd be afraid, then I can, too."

*-jAC Member*

Several members mentioned another key skill in identifying trafficking victims: knowing which questions to ask and how to phrase them. Indirect questions can be more effective due to their less emotionally-loaded language, but also because they can prompt responses that more accurately describe the actions that occurred. Clients may not see themselves as victims, either because they see their victimization as a normal part of life or because the circumstances were ambiguous and they are not aware that they are victims of a crime. One jAC member recalled a case where an individual normalized crimes committed against her:

I was trying to find out if [the mother] had any crime happen to her or the kid.... She's like, "Oh, yeah. One time, this guy took me in his car really far away and threatened [me]. He said that [I] had to shut up or he was going to make me disappear." And I'm like, wait, so you just got kidnapped, threatened, and he almost tried to kill you, and she's like, "Yeah, but it wasn't a big deal." ...They don't even recognize this, so it's really hard ... when they don't even think that it's a big deal.

*-jAC Member*

In other cases, extenuating factors may impede children's ability to recognize their own situations as trafficking. One jAC member provided an example of a child who needed to work to pay rent instead of going to school, so his sister could stay home and take care of the younger children: "[That] is technically labor trafficking of a minor, but they don't see it that way." Several members explained that their clients faced a range of circumstances that made it difficult for the children to understand their particular experience as trafficking.

## The Role of Social Services in Abuse and Trafficking Identification

Whereas some crime victims may be able to seek help from or be identified by police, unaccompanied children who are victims of abuse or trafficking may not be able to turn to law enforcement due to fear of retaliation by traffickers and equal mistrust of police. Vera's prior research with identifying immigrant human trafficking victims demonstrates that victims view the police as untrustworthy; victim referrals and support are more likely to come from other attorneys and from social service providers than from law enforcement.<sup>49</sup> Indeed, a jAC supervisor said, "It's just been very difficult to trust working with law enforcement to try to find

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<sup>49</sup> For resources and information about Vera's research on Improving Trafficking Victim Identification, including victim identification tools and user guidelines in English and Spanish, as well as research summary and technical report, please see <https://www.vera.org/publications/out-of-the-shadows-identification-of-victims-of-human-trafficking>. The research was funded by the National Institute of Justice, Award no. 2011-MU-MU-0066.

the victims, and obviously the victims aren't coming to law enforcement either. So, it's kind of a difficult situation.” This sentiment was shared by another supervisor, who said, “Unfortunately, we don't have a good answer [as to what to do when trafficking is identified or suspected] because you can't call in local law enforcement because they're racist and half the time they want to re-arrest the kids.”

The children's mistrust of law enforcement also affects the questions that can be used to elicit responses during trafficking screenings. When interviewing children who have experienced trauma, jAC members must balance the need to be sensitive with the need to ask questions that are useful. For example, as one member explained, “It's really harsh to ask the child, ‘Have you been a victim of crime?’” However, this member went on to say that “rather, the question that [my supervisor has] taught me is, ‘Have you ever been afraid and called the police?’” This example, where the child's fear of law enforcement is overlooked, highlights that jAC members continue to struggle to adequately frame questions in a suitable way.

Although most of the jAC members received some training and had access to resources to help identify trafficking and abuse, the level varied from site to site. While some service providers offered well-developed and institutionalized resources in these areas, others expressed a need for ongoing training of jAC members about human trafficking from the program itself. A supervisor elaborated on the potential benefit of an externally-developed training to supplement the training received in-house:

When we do a training for the fellows, we're going to focus on legal issues, but ... we need to have somebody come in. We need to have a mental health expert, social service expert, to talk to all of us about the basics: interviewing child sexual abuse victims, dealing with child trauma, understanding how children can articulate or how they communicate.... It's not always easy to recognize when it's the right time to talk, so I think we need a little help. I think it would be helpful overall for the program.

*-jAC Supervisor*

Supplemental trainings would help attorneys interact with child victims and build their cases, yet initial identification of abuse and trafficking requires professional training that attorneys lack. As mentioned in Section III, incorporating social services into the program would increase its effectiveness; the addition of an in-house social worker would also assist with identifying abuse and trafficking. As one member stated, “We are not psychologists and we have to talk about abuse. It's heartbreaking because we didn't study to [provide psychological support].... It would be nice if there was a social worker [who] could talk to victims and we can go from there.” A jAC supervisor agreed that attorneys require additional support to work with victims of trauma:

We're dealing with young children who've been traumatized in one way or another, whether it's sexual abuse, physical abuse, the trauma of the journey, whatever it is



that happened to them in their home country. In some cases, we do need the assistance of some sort of social services or mental health services, because the most seasoned attorney is not an expert in mental health and is not an expert at talking to a seven-year-old about sexual abuse.

- jAC Supervisor

A social worker's education and experience is better suited to identify abuse and trafficking than that of an attorney. Social workers have the professional training to follow-up with the children to connect them to the services they need in order to feel secure and able to talk about victimization experiences. Successful victim identification is not typically accomplished in a single screening interview, but requires in-depth information gathering over an extended time period. As a jAC supervisor stated, "It's just difficult for a child to be identified as a trafficking victim. It takes time.... Sometimes you'd learn new facts nine months into the relationship, just because they didn't feel comfortable." To build rapport and trust needed for children to disclose trauma, social workers are necessary partners in the ongoing process of identifying abuse and human trafficking within the jAC program.

Not only does trauma affect a child's well-being, but there was wide agreement among jAC members and their supervisors that the effects of trafficking and abuse can have a negative impact on case outcomes. After experiencing trauma, children are often unable to clearly communicate their story. One jAC member explained, "We know how much trauma affects a child's brain and that's obviously going to negatively impact their case. They don't want to talk about it with us. They don't want to talk about it with the Judge." Other members addressed how trauma affects memory, which is essential for building a case for potential relief: "Even if they trust you, they block things out. They have a hard time digging back and remembering that, or they just can't handle how painful it is." Several jAC members and supervisors cited expert knowledge and mental health care in helping children get to the point where they can talk about their history enough to present a strong case for relief.

## V: Pro-Bono Capacity Building and Other Reported Activities

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A goal of the jAC program is to build pro bono capacity to support and represent unaccompanied children in the locations where jAC operates. Overall, the jAC program has increased pro bono capacity by matching *children -- both jAC-eligible and non-jAC-eligible --* as well as *adult caregivers* with pro bono attorneys. While pro bono capacity has increased, an examination of the activities reported in this section demonstrates that jAC members used pro bono capacity building to fill gaps created by the program design, raising questions about the appropriate use and allocation of resources.

The jAC program is designed with a focus on direct representation and complemented by pro bono capacity building. However, pro bono activities are time consuming. There are resource constraints and many children who need representation. As described in the jAC implementation evaluation, particularly early in the program, many members reported spending more time on pro bono and other permitted activities than on direct representation. Members and supervisors viewed this as a shift in the orientation of the jAC program, from that of a direct representation service model to a pro bono service model. The problem has continued in the second year of the program, as does the need for representation. As currently operationalized, pro bono capacity building is not strategically deployed and detracts from the jAC program's mission of increasing direct representation. Pro bono capacity building as required by the program also was a difficult task for members and the organizations they serve because of a lack of pro bono culture in certain locations, the lack of experience and networks of jAC members, and language barriers for pro bono attorneys.

In addition to pro bono activities, the jAC program has indirectly supported pro bono capacity by providing ancillary support services to children, adult caregivers, and pro bono attorneys. Although EOIR described these support activities as "permissible pro bono capacity building activities," for the purposes of this evaluation, they are analyzed separately as other permitted activities.<sup>50</sup> Finally, jAC members also reported other activities, such as making referrals to paid private attorneys. This section analyzes each of these three types of activities:

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<sup>50</sup> See April 17, 2015 Memorandum from Steve Lang, Program Director, Office of Legal Access Programs to justice AmeriCorps Grantees re: Pro Bono Capacity Building and Guidance on Permitted Activities [hereinafter April 2015 EOIR Memo].

- Pro bono capacity building activities that include outreach, referrals, matching, mentoring, and training.<sup>51</sup>
- Other permitted activities that provide ancillary support services for children and pro bono counsel. These include screening for jAC eligibility, providing legal rights presentations to children and their adult caregivers, providing interpretation assistance during the child’s interactions with pro bono attorneys, providing paralegal assistance to the child’s case, and providing outreach to local communities regarding the jAC program.<sup>52</sup>
- Other reported activities, namely referrals to paid private attorneys to represent a child’s adult caregiver in state court.

## Pro Bono Capacity Building Activities

### **The jAC Program Increases Pro Bono Capacity through Core Pro Bono Activities**

Members increased pro bono capacity by providing several core activities: 1) referrals to pro bono counsel; 2) outreach, recruitment, and matching to pro bono counsel; and 3) training and mentoring pro bono counsel. For purposes of the jAC program, “pro bono counsel” is defined as “any individual providing legal representation without compensation to indigent individuals or for the public good,” but who may be regularly compensated by the “firm, organization, or pro bono referral service with which he or she is associated.”<sup>53</sup> This means that the pro bono capacity building activities of jAC members can include pro bono counsel inside or outside of the jAC member organization. Unless noted otherwise, the term “pro bono” will *encompass both internal and external pro bono counsel*.

Table 5.1 below shows the most commonly provided pro bono activities related to “providing pro bono representation to a child.” Members provided these pro bono activities even when a child was not jAC-eligible.

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<sup>51</sup> April 2015 EOIR Memo.

<sup>52</sup> April 2015 EOIR Memo.

<sup>53</sup> April 2015 EOIR Memo.

Table 5.1

**Most Common Pro Bono Capacity Building Activities Provided by jAC Members**

	<b>Number</b>
<b>Pro bono lists or general referrals to pro bono counsel provided</b>	<b>3,268</b>
<b>Pro bono attorneys matched for children<sup>54</sup></b>	<b>1,340</b>
<b>Pro bono trainings – number of attendees</b>	<b>875</b>
<b>Pro bono attorneys mentored</b>	<b>170</b>

*Source: Program data (Pro bono and Legal Services Module)*

As shown in Table 5.1, although jAC members reported matching children with pro bono attorneys in 1,340 instances, they only reported mentoring 170 cases. It is likely that the number of attorneys mentored is underreported because pro bono mentoring was not included as a field in the database and was only captured when members affirmatively entered “mentoring” into an open-ended “other” field. However, a relatively low number of mentoring instances is not surprising considering the fact that the data in Figure 5.2 below shows that the vast majority of pro bono matches were made with internal pro bono attorneys already working at the jAC member organization, who presumably did not need mentoring. In addition to providing pro bono matches for 1,340 children, jAC members provided pro bono matches for 298 adult caregivers, bringing the total of pro bono matches provided to children and adult caregivers in the program to 1,638. Information on adult caregivers was collected separately in the Caspio database, and was relevant only when the child was pursuing SIJS.

**Pro Bono Matches Increase Pro Bono Capacity But Raise Efficiency Concerns**

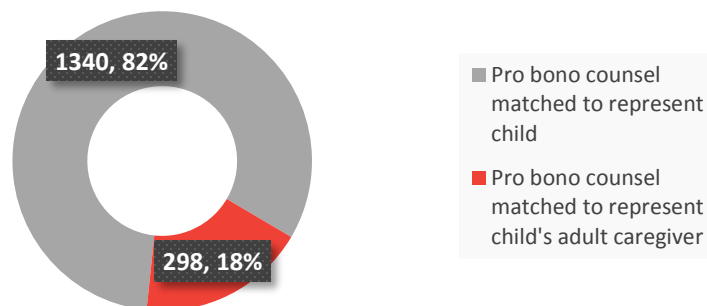
As described above, the jAC program expanded pro bono capacity by matching a total of 1,638 cases with pro bono attorneys to represent either children or their adult caregivers. Figure 5.1 below demonstrates that 82 percent of pro bono matches were for children and that 18 percent were for their adult caregivers.

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<sup>54</sup> Instructions to jAC members in Caspio asked for reporting on activities related to “providing pro bono representation to a child.” The jAC members were specifically asked to not to include information here on pro bono matches for adult caregivers, for which data were gathered separately.

Figure 5.1

### Pro Bono Matches for Children versus Adult Caregivers (N=1,638)



Source: Program data (Pro bono and Legal Services Module)

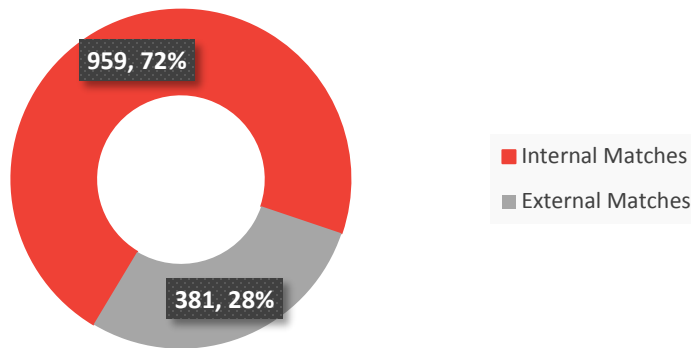
Members in the jAC program reported matching 1,340 children with pro bono attorneys, regardless of the child’s jAC program eligibility.<sup>55</sup> Pro bono counsel matched with children may provide representation in immigration or state court or before USCIS, or some combination of those three possibilities. Judges reported that the jAC program has had a positive effect on building pro bono capacity. One Judge wrote that jAC members have played a “vital role” since 2014 in matching children with pro bono counsel for SIJS petitions in state court and before USCIS.

The vast majority (72 percent) of pro bono matches for children were made with non-jAC attorneys within the same organization as the jAC member making the match. Pro bono activity outside of the member organizations accounted for only 28 percent of the matches, as shown in Figure 5.2 below. Thus, while matches with in-house pro bono attorneys increased the number of children represented and therefore increased pro bono activity, it raises questions as to the efficient use of jAC members’ time when the vast majority of the pro bono matches were placed with non-profit attorneys who likely are already experts in representing unaccompanied children.

<sup>55</sup> Grantees were asked to respond to this request for database information: “Please include cases placed with other (non-jAC) counsel (whether internal or external to the jAC grantee organization) providing pro bono representation to a child. Please include all Unaccompanied Children, regardless of eligibility for the jAC program. Please do not include pro bono matches made for adult caretakers.”

Figure 5.2

**Internal versus External Pro Bono Matches for Children Matched with Pro Bono Attorneys (N=1,340)**



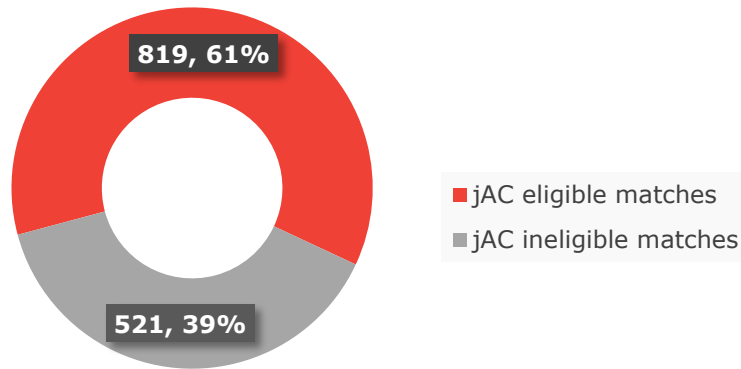
Source: Program data (Pro bono and Legal Services Module)

As demonstrated in Figure 5.3 below, a large proportion (39 percent) of the children matched with pro bono attorneys were ineligible for the jAC program. This high percentage of children who are not jAC-eligible but matched with pro bono counsel indicates the demand for representation for children who do not meet the current jAC criteria. Furthermore, of the 521 jAC-ineligible matches, 131 matches (25 percent) were for siblings of jAC-eligible children.

The majority of matches (61 percent) were for children found eligible for the jAC program. It is likely that a high proportion of these matches were for children in state court proceedings where a jAC member was already representing the child in their immigration proceedings, but was unable to represent the child in state court, as described further below. Therefore, the total number of pro bono matches for children does not reflect a commensurate increase in the number of additional children provided representation through the program.

Figure 5.3

### Program Eligibility of Children Matched with Pro Bono Attorneys (N=1,340)



Source: Program data (Pro bono and Legal Services Module)

#### Pro Bono Activities Are Used to Fill Gaps in the jAC Program Design

Members in the jAC program engaged in pro bono activities in instances when 1) state court was critical to the child's immigration case but members were not able to directly represent their child client or their adult caregivers or 2) when the child client had a non-jAC eligible sibling. These pro bono activities highlight limitations in the design of the jAC program, whereby pro bono activity either supplants jAC duties for children already represented by the program or requires assistance for jAC-ineligible siblings of children.

#### State Court Representation of Children Where jAC Members Are Not Licensed

Because the jAC program does not require that jAC members be licensed in the state where they practice, interviews with jAC members indicate that jAC members without a license in the state where they practice always need to seek pro bono representation for a child to appear in state court. This contrasts with jAC members who are licensed in the state where they practice and can handle the state court representation portion of a child's SIJS case. Those members without a license where they practice are therefore at a disadvantage because they must expend additional time with pro bono activities compared to members who are licensed in the state. One jAC member described the time commitment and difficulty of recruiting:

Our problem is I'm not licensed in this state, I'm licensed in [state A] and [state B], and so I can't do the family court at all.... If I were licensed in [this state], I could help them fill out the

forms and then they could go to family court on their own.... I do get pro bonos. That's my whole system.... But it means working with pro bono attorneys, some of them aren't reliable. And it means finding pro bono attorneys is a big part of my job and there aren't that many people willing to do it.  
-jAC Member

This situation presents a further challenge in building pro bono capacity because the jAC member is also not able to mentor a pro bono attorney unfamiliar with state court process since the jAC member does not have the relevant state court knowledge or experience.

### **State Court Representation of Adult Caregivers**

As noted in Figure 5.1 above, 298 (18 percent)<sup>56</sup> of pro bono matches were for the adult caregiver of children pursuing SIJS in jurisdictions that require the adult caregiver to petition the state court for the requisite predicate order. The jAC program does not allow the jAC member to represent the child's adult caregiver in state court. As a result, the pro bono activity challenges discussed throughout this section are compounded in these situations because jAC members, unable to represent the child's adult caregiver, cannot move forward with the child's SIJS petition unless the adult caregiver obtains representation. Pro bono matching for the adult caregiver is therefore a de facto requirement for the jAC member to effectively represent the child client in this situation. One jAC member explained that the inability for the jAC attorney to represent the child's caregiver places the child and their caregiver in a "quandary" that may make them look elsewhere for representation of the child.<sup>57</sup> Another jAC member noted that while their local family court temporarily allows the child to bring forth the petition rather than the caregiver, this practice is anticipated to change soon, which will make representation more difficult once the caregiver is required to bring the petition.

### **Representation of Siblings of jAC-Eligible Children**

Siblings of children represented by jAC members in many instances approach jAC members for assistance. Due to program eligibility requirements, one sibling may be eligible for the program

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<sup>56</sup> It is likely that the number of matches for adult caregivers is underreported. The database asked jAC members to identify whether the adult caregiver of a child in the jAC program was matched with counsel (pro bono or private) for the state court portion of the child's SIJS case. The total number of "Yes" or "No" matches reported (772) is significantly less than the total number of jAC cases (2,309) with representation, meaning that jAC members did not enter data for 1,537 cases. Although information about matching an adult caregiver only relates to SIJS cases, SIJS is the most commonly sought form of relief and there it is likely that many of those 1,537 cases required matching the child's adult caregiver.

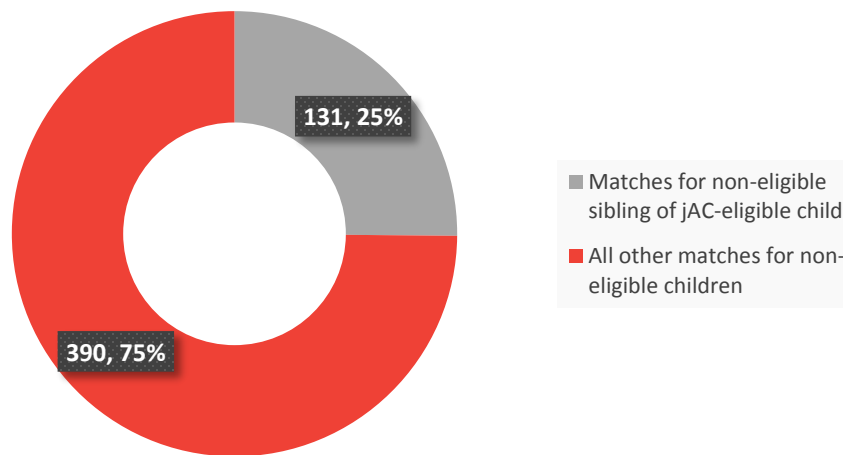
<sup>57</sup> Members in the jAC program reported making referrals to low bono attorneys in 10 instances, although it is not clear whether the referral was made for purposes of representing the child, a sibling, or the adult caregiver. As discussed later, jAC members also matched 95 adult caregivers with fee-charging private attorneys.



and another may be ineligible, despite being an unaccompanied child. Oftentimes the stories and situations of siblings are linked, but the jAC member is unable to represent the non-eligible sibling. Because the program does not allow jAC members to represent siblings of jAC-eligible children, jAC members may need to match the child's sibling with pro bono counsel, or the sibling may need to obtain representation elsewhere. The jAC members must therefore engage in pro bono activities that benefit children who are not eligible for the jAC program. As discussed above in Section III. Effectiveness and Efficiency, this required pro bono matching with a second attorney is a barrier to efficiency because the cases cannot be consolidated. Twenty-five percent (N=131) of pro bono matches for jAC-ineligible children were for the sibling of a jAC-eligible child, as noted in Figure 5.4 below.

Figure 5.4

### Non-Eligible Siblings of jAC-Eligible Children Matched with Pro Bono Representation (N=521)



### Pro Bono Outreach and Recruitment Present Challenges

In addition to issues stemming from the program design, jAC members described challenges with the provision of particular pro bono capacity building activities. While jAC members reported that they performed a variety of pro bono outreach activities, including organizing 85 trainings with a combined 875 pro bono attorneys in attendance, jAC member organizations faced a number of challenges in pro bono outreach and recruitment. They reported that the ease of conducting outreach to pro bono attorneys depended on the level of existing pro bono

networks of the member organization and the pro bono culture of the location. One jAC member lamented that the suburban location of the organization limits access to pro bono attorneys from large law firms. These attorneys may initially indicate interest in taking a case until they find out they need to travel to the suburban area to meet with the child. Those member organizations with pre-existing pro bono networks and structures reported being better equipped to obtain pro bono support.

Pro bono outreach is also a time-consuming process, which jAC members described as a “full time job,” requiring attending events, repeatedly calling potential leads, and following up with attorneys to persuade them to take a case. One member noted that it took a few months for the first attorney to “bite” and indicate interest in taking a case. In some instances, the prospective pro bono attorney may not have had experience going to court, and the jAC member must therefore “convince them that even though they’re a corporate attorney and they’ve never been in court,” that they are capable of taking the case. This similarly occurs when recruiting family or juvenile law attorneys to handle the state court component of an SIJS case, since they may incorrectly believe that they must have knowledge of immigration law, when in fact they are being recruited for their expertise in family law. These difficulties highlight the importance not only of outreach and recruitment, but of mentoring the pro bono attorney involved in what may be an unfamiliar area of law throughout the case.

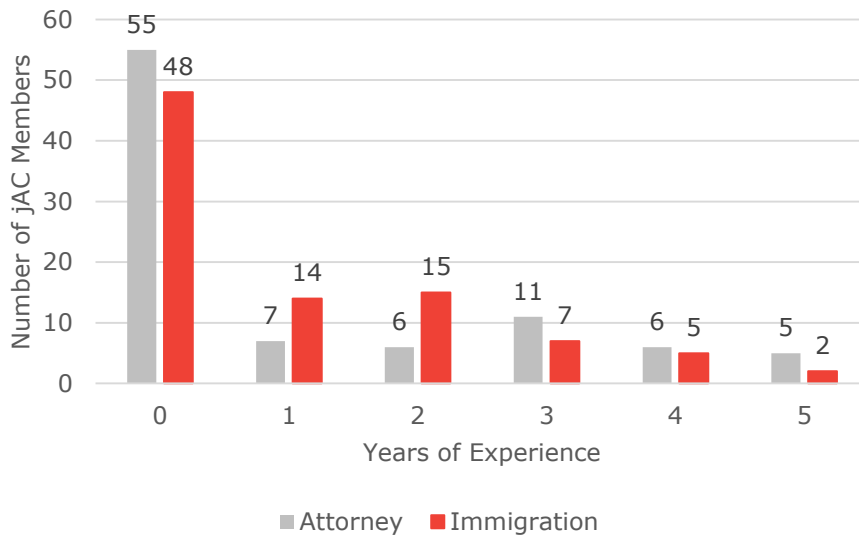
### **Pro Bono Mentoring Presents Challenges**

Pro bono mentoring allows pro bono attorneys to build their knowledge of immigration and relevant state law and how to effectively represent children; this is especially the case for external pro bono attorneys from the private bar who may be unfamiliar with immigration law. Attorneys in the jAC program reported mentoring 170 pro bono attorneys. While jAC members are responsible for mentoring pro bono attorneys, many members and supervisors agree that the ability to effectively mentor and train external pro bono attorneys is beyond the experience and confidence level of jAC members. In many cases, the mentoring responsibility instead falls on supervisors and more experienced in-house attorneys who are simultaneously training jAC members.

Overall, according to self-reported demographic data, jAC members lack the requisite experience in immigration law and as practicing attorneys. As seen in Figure 5.5, sites reported that a majority of jAC members (68 percent) had one year or less of experience as attorneys upon entering the program. The number of jAC members with one year or less of experience in immigration law was 69 percent.

Figure 5.5

**Years of Experience as an Attorney and Years of Immigration Law Experience for jAC Attorneys (N=91)<sup>58</sup>**



Source: Program data (Member Module)

Many jAC members and their supervisors mentioned that mentoring external pro bono attorneys is an involved process that requires the jAC members to devote significant time preparing to mentor pro bono attorneys. Mentoring can include “answering emails, giving [the pro bono attorney] templates to work off of, or calling them and discussing issues.” One jAC member summarized the experience as follows:

[It’s] a daunting experience having to teach another attorney how to do something when I’m still learning. I’ve only been barred for about four or five months, so having to teach another attorney how to do immigration law in a good way.... It’s really daunting to teach ... how to represent a child from beginning to end.  
-jAC Member

When a jAC member does not know the answer to a question posed by an external pro bono attorney, the supervisor may step in to help and provide guidance. One supervisor described it as “double mentoring” when the supervisor needs to mentor both the jAC member and the pro

<sup>58</sup> The total number of jAC attorneys (excluding paralegals) who entered the program before May 31, 2016 and reported biographical information about their work experience is 91. One attorney did not report information on years of experience as an attorney, but did provide information on years of experience in immigration law, so the numbers reported reflect 90 responses to legal experience and 91 to immigration-specific experience.

bono attorney at the same time. Another supervisor highlighted that this process helps the jAC member learn how to mentor pro bono attorneys in the future:

What I found is that often times the pro bono attorneys have similar questions and usually they're pretty basic questions, and so over time, the fellows learn it. And as they go along, they can take on more and more on their own.

*-jAC Supervisor*

In other instances, supervisors did not feel comfortable tasking jAC members with pro bono mentoring because of their lack of experience and knowledge. Some sites indicated that it would take at least nine months to a year for a new attorney to learn the skills necessary to mentor a pro bono attorney because the jAC member would need to first experience a range of state court, immigration court, and USCIS processes. One site described it as “too ambitious for the jAC program to ask a brand new attorney to mentor a private attorney who is an intellectual property practitioner.” Another supervisor similarly explained the lack of preparedness of jAC members to mentor pro bono attorneys:

I don't think they have enough experience [mentoring]. You have to have done enough cases on your own and have ... the confidence, because you may be mentoring a seasoned attorney and I mentor attorneys who have been practicing a much longer time than I have been practicing, but I have ... the experience and the confidence to be able to do that.... It's a stipend-ed position, it's going to be someone who is recently out of law school.... A stipend-ed brand new attorney through jAC is not going to be one that can facilitate pro bono representation.

*-jAC Supervisor*

### **Language Barriers Affect Pro Bono Capacity**

The lack of Spanish-speaking attorneys in the pro bono community is another challenge in outreach and recruitment. One grantee explained that the language barrier may deter prospective pro bono attorneys from taking a case:

We've had a lot of attorneys that have been interested in helping out but they don't have language capacity in their office, and it is difficult to ask them to take on the expense.... They may be willing to help but don't want to incur the expense of hiring their own interpreter or translator. So we have gotten a handful of volunteer interpreters and translators to help with certain things, but that is a continued challenge.

*-jAC Supervisor*

When non-Spanish-speaking pro bono attorneys are in fact matched with a Spanish-speaking child, they may nonetheless require assistance from the jAC member in order to communicate. The jAC members provided interpretation assistance to pro bono attorneys in 260 instances. As one grantee described, interpretation assistance requires the jAC member to

be present with the pro bono attorney even for a matter the pro bono attorney could do on their own but for the language barrier.

### **Member Organizations Expressed Concern over the Quality of External Pro Bono Representation**

Overall, fellows and supervisors report varied reliability and quality of representation from the external pro bono attorneys they work with, and see representation by jAC members and internal pro bono attorneys as more effective and reliable. Member organizations reported that cases moved slowly and had mixed results due to time and other pressures faced by external pro bono attorneys, in addition to insufficient jAC member time, knowledge, and experience to mentor pro bono attorneys, as noted above. As one site described:

[The external pro bono attorneys] just have to be supervised very closely. I'll give you an example. So some of the pro bono attorneys are young. They're associates. They have pressures. They want to become partner. They could more easily tell us they dropped the ball with their pro bono case than tell a partner they dropped the ball with his case, and then they get fired, so they have their own pressures and it's tough.

*-jAC Supervisor*

Along these lines, some organizations see jAC members and internal pro bono attorneys as more suited for representation of unaccompanied children due to their immigration law training and access to in-house resources:

Obviously, I think the cases we keep in-house, including jAC cases, they are working with an attorney who has done these cases before. They have more experience with them. They have more immediate support through the other attorneys here.

*-jAC Supervisor*

### **Other Permitted Activities: Ancillary Assistance Provided to Children, Adult Caregivers and Pro Bono Attorneys**

In addition to the “pro bono capacity building activities” described above, jAC members worked with unaccompanied children, including many who are non-jAC-eligible, in a variety of other ways. The jAC program’s grantors advised jAC members that they could provide children with a variety of ancillary legal services that mainly provide support to children or provide support on children’s cases, some of whom are represented by pro bono counsel. These other permitted activities include legal rights presentations, screening for children to determine jAC program eligibility, assistance provided to pro bono counsel representing children and outreach to local communities regarding jAC. Although the activities provide support to an array of unaccompanied children in the community, many of these activities directly benefit children

who are non-jAC-eligible or internal pro bono attorneys who are already funded through other programs, raising efficiency concerns and diverting resources from the core mission of the program.

Table 5.2 below lists the other permitted activities reported by jAC members.

Table 5.2

**Other Permitted Activities Reported**

	<b>Number</b>
<b>Legal rights presentations to children and their caregivers on immigration law and court procedures (number of recipients)</b>	<b>6,572</b>
<b>Screenings of children’s cases to determine eligibility for jAC services conducted</b>	<b>4,557</b>
<b>Assistance provided to pro bono counsel representing children (total number of cases) <sup>59</sup></b>	<b>805</b>
<b>General paralegal support (460)</b>	
<b>Background legal or country of origin research (341)</b>	
<b>Interpretation assistance provided (260)</b>	
<b>Declarations for jAC clients in support of SIJS motions by pro bono counsel in state court* (4)</b>	
<b>Outreach activities to local communities</b>	<b>655</b>
<b>Pro se assistance*</b>	<b>326</b>

\* Asterisk denotes a field entered manually by the organization into the database.

Source: Program data.

**Legal Rights Presentations and Screenings**

As shown in Table 5.2, the two services most frequently provided by jAC members were legal rights presentations to children and their caregivers on immigration law and court procedures and screenings of children’s cases to determine eligibility for jAC services. Legal rights presentations are a valuable activity but they are duplicative for children who will be receiving representation, as the information covered by a presentation will be incorporated into the representation. This is similar for legal screenings. It is not clear from the data reported the topics or the level of detail covered in the legal screenings but to the extent that the legal

<sup>59</sup> Entries for paralegal, interpretation, and research support relate to assistance provided to pro bono counsel representing unaccompanied children. However, interviews with jAC members reveal that these forms of assistance were also provided to pro bono counsel representing a child’s adult caregiver. It is unclear whether the data entered into the database also reflects support provided to pro bono counsel representing adult caregivers.

screenings are only to determine eligibility for jAC services, as specified by EOIR, only a brief discussion to verify eligibility needs to take place before offering representation under a universal representation model, as eligibility for relief is not requirement. Discussions about relief eligibility or legal options during a legal screening are duplicative for children who will be receiving representation in the jAC program as that service is intrinsic to the representation. To the extent that screenings which discuss potential eligibility for relief or legal options are provided for non-eligible children, resources are diverted from jAC representation.

### **Assistance Provided to Pro Bono Counsel**

Members in the jAC program also engaged in activities that provide direct support to pro bono counsel representing jAC children—activities which are separate from pro bono mentoring. These activities, as noted in Table 5.2 above, include interpretation assistance, paralegal support to the child’s case, and legal and country conditions research. Since Figure 5.2 indicates that 72 percent (N=959) of pro bono matches for children were for children represented by internal pro bono counsel, it is possible that many of these direct support activities supplemented the work done by in-house pro bono attorneys funded through other programs rather than external pro bono attorneys.

Furthermore, since Figure 5.3 above shows that 39 percent (N=521) of all pro bono matches (internal and external) for children were for jAC-ineligible children, jAC members may have provided a variety of these support services to children who fall outside of jAC program requirements.

### **Outreach Activities to Local Communities**

Outreach activities to local communities included contacting potential jAC-eligible children through mail or phone, or through community organizations that may provide referrals. This outreach was particularly necessary at the start of the program because many children that jAC members encountered who needed representation did not meet the NTA and MCH requirements of the program. After the need to conduct outreach to meet case goals diminished as the program progressed, member organizations expressed concern about the efficiency and efficacy of community outreach activities.

Some jAC members expressed confusion over the meaning of “outreach.” One member noted that jAC members did not receive much guidance or training on conducting outreach, and that this task was difficult to balance along with the member’s caseload. Other jAC supervisors noted that outreach work may be of “limited efficacy” because jAC members are instructed to do general outreach for all children, even those who are not eligible. One supervisor explained this situation further:

What's interesting about that is the way this program was originally designed, both in the call for service sites and also in our proposal, included a huge amount of community outreach.... The thing is, if we find someone in the community and they're not already on our docket list, they're not eligible for jAC representation anyway.... It's sort of a non-sequitur of how this was set up.  
-jAC supervisor.

Another jAC member described that outreach to non-eligible children put the organization in the awkward situation of making the organization contact children to tell them about the program, but then having to tell the children that the jAC member cannot help the child because they are ineligible for the program. One member even “went to farms and kind of everywhere” to find children eligible for the program.

The outreach activities were also seen as not being in line with the legal duties jAC members expected to do. As one supervisor explained:

We found that the [jAC] legal assistant the first year did a lot of the outreach, a lot of outreach, a lot of outreach. And for somebody who wants to do legal work, and not grassroots, outreach, communication work, it's a very different gig essentially.  
-jAC supervisor.

### **Pro Se Assistance**

Whereas the activities described above were specifically listed by EOIR as permitted under the jAC program, “pro se assistance” was a category entered into the program database by members manually. Members did not provide further details on this activity, but it likely refers to assisting children who are not eligible for the jAC program or children the program did not have capacity to represent. Pro se assistance is not a part of the jAC program design and likely benefited children outside of the group of jAC-eligible children.

### **Other Reported Activity: Referrals to Fee-Charging Private Attorneys**

In addition to pro bono capacity building activities, jAC members were at times compelled to refer the adult caregivers of children represented by jAC members to fee-charging private attorneys to represent the caretaker in state court for purposes of an SIJS petition.<sup>60</sup> Members

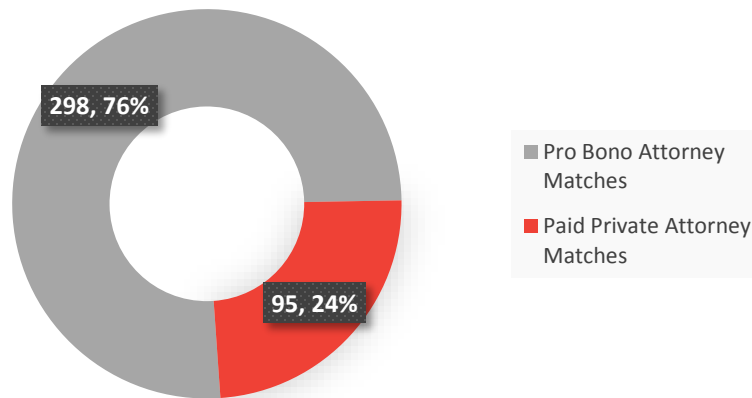
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<sup>60</sup> jAC members also reported making referrals to low bono attorneys in 10 instances, although it is not clear whether the referral was made for purposes of representing the child, a sibling, or the adult caregiver.



reported that out of all matches made for an adult caregiver, 95 (24 percent)<sup>61</sup> were made with paid attorneys, as shown in Figure 5.6 below. Matches to fee-charging private attorneys were not contemplated by the program design, but nonetheless highlight a drawback to the program design whereby such referrals are necessary in order for the jAC member to continue with the child’s SIJS petition. In other words, these matches appear to be a byproduct of the inability of jAC members to represent the child’s adult caregiver in state court proceedings or to obtain a pro bono attorney. The situation may also be counter to the spirit of government-funded representation, since jAC members were using government resources to refer children’s families to specific fee-charging private attorneys in order to be able to carry out their core work. This practice inherently creates a potential for abuse and hardship to the caregivers.

**Figure 5.6**  
**Number of Adult Caregivers Matched with Pro Bono and Paid Attorneys for Representation in State Court Proceedings (N=393)<sup>62</sup>**



*Source: Program data. Includes only UC who accepted representation and had a jAC member assigned.*

<sup>61</sup> This number and percentage may have been higher as 36 cases were entered in the database simply as “private attorney,” preventing a determination as to whether the lawyers were pro bono or being paid. In light of the lack of clarity of the entries, these cases were not included in the analyses for this section of the report.

<sup>62</sup> Vera omitted 36 cases that were reported simply as “private attorney” because the language is unclear as to whether the attorney is paid or pro bono.

## Section VI. Member Satisfaction

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One of the stated goals of the justice AmeriCorps program is to “strengthen national service so that participants engaged in CNCS-supported programs consistently find satisfaction, meaning and opportunity.” The initial successes in achieving member satisfaction have continued to hold true after almost two years of the justice AmeriCorps program.

To evaluate jAC member satisfaction, Vera analyzed two sources of data: 1) a member satisfaction survey administered by CNCS at the end of each member’s service term (N=57);<sup>63</sup> and 2) interviews with jAC members and supervisors during site visits for the evaluation.<sup>64</sup>

### **Measuring Member Satisfaction**

Levels of satisfaction are often a byproduct of expectations. Typically, when expectations are met, people are satisfied; when they are not met, people become dissatisfied. Therefore, in order to accurately assess member satisfaction within any job or volunteer opportunity, including jAC, it is important to first understand members’ initial expectations and reasons for joining the program initially.

Although members joined jAC for a wide variety of reasons, some reasons were more frequently expressed than others. As seen in Figure 6.1, when asked in the satisfaction survey about their motivations for joining justice AmeriCorps, the top three responses given among jAC members were: “to gain direct experience in a specific career and/or future profession,” “to help in solving a community need or challenge” and “to have a chance to work with people who share your ideals.” Given that these were the reasons why most members joined the program, it is within this context that satisfaction should be measured.

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<sup>63</sup> The member satisfaction survey analyzed in the evaluation consists of 57 respondents who fully completed the survey. The response rate for the survey is 67 percent.

<sup>64</sup> Vera conducted site visits to five different justice AmeriCorps providers and conducted eight interviews with supervising attorneys and nine interviews justice AmeriCorps members.

Figure 6.1

## Members' Motivations for Joining justice AmeriCorps

% Agree/Strongly Agree



Source: CNCS Member Satisfaction Survey.

### Skill Building and Training

Since members' most common reason for joining the jAC program was to gain direct experience in a specific career (an opinion shared by 96 percent of all survey respondents), providing ample opportunity for skill building and training are important elements of member satisfaction.

Although the program term is defined by EOIR and CNCS as one minimum year of *service* (with the opportunity to renew their service term for up to one additional year) rather than employment per se, the majority of survey respondents (81 percent) stated that they would characterize their jAC service as "professional or work experience." Therefore, member satisfaction is strongly influenced by the degree to which the program fit into their legal career path.

Results from the satisfaction survey demonstrate that jAC members generally believe they have developed their skills, which has helped them become more sophisticated lawyers. When asked how often they "solve unexpected problems or find new and better ways to do things," 82

percent claimed that they did so often or very often. Members also described themselves as being able to “handle unforeseen situations” (93 percent) and “meet deadlines effectively” (93 percent), skills which are crucial for attorneys. Further, 79 percent either agreed or strongly agreed that “AmeriCorps service was a defining professional experience that confirmed [their] professional goals, or one that resulted in a change or shift in [their] professional goals.” One member further explained that he or she “learned to practice law *correctly*, not just *quickly*.”

### **On-the-Job Training is Well-Received across justice AmeriCorps**

Training comes in many shapes and sizes, such as skills that are developed on-the-job versus those that are taught under more formal settings, and members shared a variety of views regarding the training opportunities provided through jAC. Many members expressed satisfaction with the unique legal skills gained through on-the-job training. They believed they would not otherwise have had exposure to this type of training as recent law school graduates, and 82 percent characterized the on-the-job training as either good or excellent. Supervisors agreed, characterizing this training as a unique and positive aspect of the program. As noted by one supervisor, jAC allows its members to take a great deal of responsibility early on in their careers under the close support of supervisors and other more experienced attorneys, who mentor them throughout the process: “I honestly think that this is an incredible, unique, amazing opportunity for someone who just graduated from law school ... here, you don’t have someone holding your hand and you do have to hit the ground running, but you have support. You have a lot of resources.”

Despite describing immigration law as overwhelming and demanding, the jAC members interviewed felt that the immediate exposure to the court system and the ability to work with clients directly on their cases were positive elements of the program. Through direct exposure with the various actors involved in immigration law, members gained the confidence necessary to work and excel within the complex immigration legal system. One member, defining his or her experience as “invaluable,” said, “Now as a second-year lawyer, I feel so comfortable going to the family court, probate court, [and] immigration court and knowing that I know what’s going on in those courts and how those procedures work.” This member went on to say that with the jAC program, “I think the kids won [and] I think we won.” Members also thought that the skills gained from participation in the jAC program could provide them with an advantage for future opportunities. As one member said,

Coming out of law school, [this is] a really, really great position I think for anyone interested in any type of legal career. The responsibility that you receive almost immediately is incredible, which I think is a really great thing. The amount of time I spend in court, it's great. I don't think I could get this experience in a lot of other entry-level positions. My drafting, my language skills, my community organizing, and mentoring skills - these are all transferrable skills.  
*-jAC Member*

Although members generally expressed high satisfaction with on-the-job training, levels of satisfaction regarding training opportunities differ depending upon the volume of cases in immigration court where the members work.<sup>65</sup> As seen in Table 6.1, members working in average or high volume courts are significantly happier with on-the-job training than members working in low volume courts.<sup>66</sup> Five of the nine members working in courts with low immigration volume (56 percent) found their on-the-job training to be poor, whereas 32 of the 48 members working in courts with average to high volume most commonly find on-the-job training to be excellent (67 percent). Representing children in average or high volume courts may expose members to a greater amount and variety of cases, including non-jAC cases that are represented or otherwise served by other attorneys within their host organization. Further, host organizations working in average or high volume courts are likely to have more established legal practices for representing unaccompanied children, including infrastructures for training alongside other staff engaged in similar work—all of which improve members’ experiences and perceptions of training.

**Table 6.1**  
**Immigration Court Volume vs. Satisfaction with On-the-Job Training**

	Poor training	Fair training	Excellent training	Totals
<b>Average to High Volume</b>	<b>9 (18%)</b>	<b>7 (15%)</b>	<b>32 (67%)</b>	<b>48 (100%)</b>
<b>Low Volume</b>	<b>5 (56%)</b>	<b>3 (33%)</b>	<b>1 (11%)</b>	<b>9 (100%)</b>
<b>Totals</b>	<b>14 (25%)</b>	<b>10 (18%)</b>	<b>33 (58%)</b>	<b>57 (100%)</b>

*Source: CNCS Member Satisfaction Survey and TRAC data.*

<sup>65</sup> See Appendix 6.1 for a discussion of how immigration volume is measured.

<sup>66</sup> A t-test confirmed that the two groups (those members that work in average to high volume courts and those members that work in low volume courts) have significantly different levels of satisfaction with on-the-job training (significant at the .02 level)

## Formal AmeriCorps-Sponsored Training

While on-the-job training satisfaction is high among jAC members, AmeriCorps-sponsored training is considered less so. Although 58 percent of survey respondents considered the on-the-job training to be excellent, only 21 percent say the same about AmeriCorps-sponsored training.

Table 6.2

### Satisfaction with On-the-Job Training versus AmeriCorps Training

	On-the-job	AmeriCorps
No Training	0 (0%)	1 (2%)
Poor Training	14 (25%)	6 (11%)
Fair Training	10 (17%)	27 (47%)
Good Training	0 (0%)	11 (19%)
Excellent Training	33 (58%)	12 (21%)

Source: CNCS Member Satisfaction Survey

The most common critique made by the interviewees was a perceived lack of relevant information given at the annual justice AmeriCorps training. In particular, members noted that the training would have been more helpful if it were tailored to the different experience levels and jurisdictions of attendees as explained by this member from the member survey,

The training in DC was helpful, but because the immigration and family court systems vary depending on jurisdiction, the training wasn't tailored to address specifics. I understand that would be difficult to coordinate.  
-jAC Member

New members are not necessarily less experienced in immigration law than those who renewed their term for a second year, and individuals who join jAC with prior immigration experience may benefit by being able to attend advanced training. As one first-year member, who had prior experience with immigration law described, “It was okay. Not as helpful as I wanted it to be just because I have experience in immigration law before I went to the training. ... It would have been nice to have been given the opportunity to go to the advanced sections cause they split us up between first years and second years and it would have been nice to been given the option to go to the second year.” Another interviewee felt there was a need for more specialized training given jurisdictional differences in state court. Discussing a presentation on ethics, one member commented, “It would have been nice if we divided it by tables and by each state. And then say, this rule applies to you guys [in this state], be mindful of that rule. Rather than having general national model rules.”

## **There is a Need for Additional, Specialized Training**

The need for additional training and support from EOIR and CNCS for the jAC members is essential when considering the steep learning curve to practice immigration law. While the Judges surveyed expressed many positive beliefs about the jAC program, a few Judges referred negatively to “the inexperience of some of the lawyers.” These Judges expressed concern about this inexperience and believed that “they should be better equipped to handle cases before the Court and have some working knowledge of how matters transpire.” Of the 109 members who completed the member demographic section of Vera’s online database, 52 percent indicated that they had no prior immigration law experience prior to joining the jAC program.

The jAC program largely relies upon newly graduated law students for membership, thereby ensuring that many members will have a lack of substantial immigration experience. This strongly suggests that training and coordination must be paramount in the jAC program design. Members who had some immigration law experience or previous relationships with the host organization were able to adapt more quickly to the demanding nature of the work; if newer members received more effective training, they too might grow more confident in their work more quickly. As one supervisor who was able to strategically hire a member with more immigration law experience said,

The member we have now was recruited from our core law clerks, so she came in already knowing our organization. So all she had to do was really take over that caseload, but she already knew about our mission. She already knew about our workflow. She already knew about our systems. She knew about our case management system. ... So had we had to bring in someone completely new, we probably would have opted out.

*-jAC Supervisor*

Additionally, jAC organizations that have had substantial experience with serving unaccompanied children or have other funding sources attributed those established resources as influential to success in jAC. One supervisor mentioned that the jAC members are “exposed” to the institutionalized in-house resources “and have access to all the social service agencies that [our organization] has access to.” This allowed members to focus on their cases instead of on tasks such as locating additional resources of an area they may not be familiar with.

Organizations such as these operate in a collaborative environment where jAC members are able to rely on non-jAC attorneys to help their legal work. As described for instance by this member, “having attorneys here who are more experienced than us has definitely been helpful.”

As mentioned previously, members expressed the need for more substantive, targeted legal training on immigration law. One way to provide more localized trainings and trainings tailored by experience level could be to fund trainings sponsored by the managers of the organizations who are experts of their jurisdiction and location. This could help jAC supervisors further

transition their members to become fully proficient attorneys and lower the barriers of inexperience.

### **Giving Back and Finding Meaning in Work**

In addition to gaining work experience, a large number of jAC members indicated that they joined the jAC program to help solve a community need or challenge (95 percent), suggesting that they wanted to make a difference in people's lives. Overall, members expressed high levels of satisfaction with this element of the program. When asked whether they agreed with the statements, "I felt I made a contribution to the community," and "I felt I made a difference in the life of at least one person," 96 percent of survey respondents either agreed or strongly agreed to each. During interviews, many members said that they found personal value and meaning by serving unaccompanied children, with one member describing, "I'm very satisfied. I enjoy the work. I feel like the mission is a very good mission; it's a very positive thing that we're doing for immigrants and for children. It's something that's desperately needed in the immigration system." Another member agreed, adding, "I feel really satisfied with the work. I feel really invested in it and I really identify with the work. I like the fact that the work I do is consistent with my values ... it actually makes me a better person in a way."

### **Additional Challenges to Satisfaction**

Although members are generally satisfied with the program, satisfaction can be further increased by addressing a few additional challenges mentioned by the members, including the one-year service term, low compensation, eligibility restrictions, and experiences of secondary trauma.

### **The One-Year Service Term Presents a Barrier to Member Satisfaction and Case Continuity**

Many interviewees noted the short, one-year service term model of justice AmeriCorps as a professional challenge. Members are expected to work in the program for a minimum of one year, with the opportunity to renew their service term for up to one additional year. However, due to the lengthy and complex nature of immigration legal proceedings, cases generally last longer than a year. This means that, more often than not, a child's case has not concluded when the jAC member leaves the program. During interviews, one member questioned "whether that is the best model to have, considering that the needs of children are not going to disappear overnight." This member further elaborated that, "To have so much turnover constantly is probably not in the best interest of unaccompanied minors. And it probably reduces the efficiency that we're trying to have for the court's benefit, to have so much turnover constantly."

Members also expressed concern over the impact of attorney turnover on the children themselves. Effectively building rapport with a client is particularly important for this



population, especially given experiences of trauma and/or abuse, and turnover may negatively influence the development of rapport. Attorneys often mentioned the importance of time in building a relationship with a child and gaining the trust needed to elicit sensitive information pertinent to legal relief. One interviewee noted the challenge a short service term poses for the attorney-client relationship:

I think it's really important to keep in mind that these are not just "cases." These are children that we're dealing with. Children that found someone who they can trust and someone who heard them, who listened to them, who asked them about their story, about being raped, or about their mother failing them time and time again. So they're really important private stories that I personally wouldn't tell anybody. If I found someone like that [to confide in], I would like to have the same person through the remainder of my case.

*-jAC Supervisor*

Attorney consistency on a case is also important for building rapport with key stakeholders, such as members of the courts, and preventing problems for jAC supervisors. One supervisor described the experience of transferring a jAC case to a new member as a difficult process, saying, "Now the [jAC] person who [USCIS] has worked with and built rapport with for a year is gone. It's pretty terrible." High staff turnover is also burdensome to supervisors, who are expected to train and mentor the members. One supervisor described the first several months of a members' service time as "dead time" because there are "three, four months where you have somebody in a learning curve, because sometimes they don't come with any experience."

While members are generally very satisfied with the on-the-job training, as previously noted, some members noted that the short service term has impeded their learning because they were not able to see the cases all the way through to completion. In the first 1.5 years of the program, there have been only 535 completed cases since the start of the program—out of more than 2,309 children represented.<sup>67</sup> As one member described, "You can't see it all the way through, which is a bummer. We have a lot of cases that are pending.... I think it would be a bit sad to leave this organization and not know what's happening, all the clients you worked so hard on."

Taking into consideration the concerns that the short service term imposes on the program operations and children, perhaps the jAC service term should be made at least a two-year commitment in order to allow the members to fully complete their cases. This recommendation was often mentioned by the providers such as this member who stated,

I think two years makes more sense than a single-year term because it's just impossible I think to get the resolutions, especially with the caseloads as they are,

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<sup>67</sup> Includes UC who: accepted representation and had a jAC member assigned; had a valid A number that matched with EOIR data; were 15 or younger as of the time of NTA filing, and completed their case in the courts with a jAC member (i.e., the case concluded and was not transferred).

within a single year.  
-jAC Member

### **Dissatisfaction with Compensation Poses a Challenge to Retaining jAC Members in the Second Year**

Although members expressed desires to see their cases through to completion, many members decide not to renew their term for an optional second year due to low levels of monetary compensation. The same member who shared his disappointment with leaving the program while cases are pending also shared, “It’d be very tough to get attorneys to stay two years at that salary just because you just went through three years of paying law school debt and now you have two years of a low salary.” Low compensation was a common theme among interviewees when asked about challenges to satisfaction, and even members who are satisfied with the program mentioned that the monetary compensation was not sufficient considering high costs of living. For many, this prevented them from renewing their service for an additional year. When a former member was asked whether he or she would have renewed for a second year if the compensation was higher, he or she stated that, “I would have strongly reconsidered renewing; ... that was the only factor that really pushed me to say no.”

### **Eligibility Requirements Dampen Member Satisfaction**

As mentioned in the implementation evaluation, a majority of the members interviewed expressed disappointment and frustration with the eligibility requirements of jAC, lessening member satisfaction. As discussed in the implementation evaluation, the eligibility requirements limited the number and kinds of cases that the providers could accept for representation. For some, the eligibility restrictions were the jAC program’s main challenge. When asked if they were satisfied with the program, one interviewee answered, “I am, but I’m not. I’m satisfied with it because I think the ideas are there, [but] it just doesn’t make any sense to wait for all those eligibility requirements to be met before we can help or represent children.”

Dissatisfaction with the eligibility requirements may also be related to members’ desires to maximize due process for unaccompanied children as a whole. For instance, some members found that the age restriction of the jAC program limited the program’s ability to provide high levels of representation, as children above age 15 are ineligible for representation. Interviewees expressed a desire to expand the program to the wider unaccompanied children population at large, given the large numbers of children—especially those over the age of 15—who lack representation in immigration court.

### **Secondary Trauma Impacts Member Satisfaction**

Members and their supervisors alike both acknowledged the extreme stress experienced by jAC members who work so closely with victims of trauma. Even those with experience in similarly

difficult situations pointed out how uniquely distressing some of the children’s stories are. One supervisor said:

I have to say, I've been doing this for a really long time, and ... the things that we go through and the things that we hear and the trauma that our clients suffer, make me emotional. ... What we're hearing from the children who are clients of this program, it's unbelievable. It is UNBELIEVABLE. So I have to say ... that it can affect attorneys profoundly. It really can. I think that for the members who are new, it takes a while for even them to realize how much it impacts them.... It's something that really has surprised me with this particular program. Having done this for a while, the types of trauma that we're seeing is something that I have never seen before. Never. And I do think that it merits attention and training somehow.  
*-jAC Supervisor*

Members shared their major coping mechanisms, such as the creation of strong work/life boundaries, attempts to desensitize themselves to the details of their clients’ cases, and efforts to rely on colleagues and supervisors for support. However, despite the apparent emotional toll of the work, results from the satisfaction survey show that 74 percent of members either disagreed or strongly disagreed that they “felt defeated by the scope of the problems I worked on.” Members appear to be burdened by the stress of their work but not to point of defeat. The program grantors can further strengthen morale and help manage the stress of the members by providing trainings and resources on vicarious trauma.

### Increasing Ongoing Member Satisfaction

As the program moves into its third year, justice AmeriCorps has largely proven successful at satisfying its members’ professional and personal goals. In the satisfaction survey, 93 percent either agreed or strongly agreed that “participating in AmeriCorps was a worthwhile experience in terms of furthering my professional goals and professional endeavors.” Members are likely to recommend AmeriCorps to others (79 percent) and on 17 occasions, interviewees expressed in the interviews that a program such as justice AmeriCorps is beneficial for unaccompanied children and the justice system as a whole. One supervisor explained:

I think effective representation is directly related to due process. So if a child is participating in the proceedings in a meaningful way, advocating for their legal interest, then that is an effective attorney. I don't think it matters what the outcome is.  
*-jAC Supervisor*

While members are proud to have served the nation and particularly this population in need, they expressed some desire for enhanced post-service opportunities, including strengthened networking opportunities. Comparing jAC with a program like the Peace Corps, one member

said, “Once you’re Peace Corps, you’re always Peace Corps,” but did not feel the same dynamic with the justice AmeriCorps program.

CNCS and EOIR can continue to further strengthen member satisfaction by addressing the challenges faced by the grantees, such as those discussed in this evaluation. Addressing these challenges will help members do their job most effectively, ultimately improving the program’s ability to fully achieve its objectives.

## VII: Recommendations and Future Directions

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### Recommendations

Vera offers the following recommendations to improve jAC program design, effectiveness and outcomes:

#### **Increasing representation and improving quality of legal practice**

- Eligibility restrictions on representation should be lifted to enable attorneys to represent unaccompanied children regardless of age; age restrictions suppress increases in representation rates by excluding large numbers of unaccompanied children.
- Representation of parents or guardians, where legally required and consistent with the child's case, should be allowed to meet stated program goals of effectiveness and efficiency.
- Representation of unaccompanied child siblings, regardless of general jAC program eligibility criteria, should be allowed to meet the stated program effectiveness and efficiency goals.
- Representation should be permitted to begin before the NTA is filed. Attorneys can begin affirmatively preparing all aspects of a case before the case begins in immigration court.
- Grantee organizations should be required to demonstrate how they will support the implementation of the universal representation model. This requires a culture shift among some grantees to ensure that jAC members understand and fulfill their ethical obligation as attorneys to pursue all non-frivolous legal defenses and claims for relief for their clients.
- Systematic planning on a program-wide level should occur for continued representation of cases that are pending when a jAC member or grantee organization leaves the program.
- jAC grantees and members should not have to seek pro bono counsel to represent unaccompanied children who do not meet the current program eligibility requirements; rather, the program criteria should allow members to provide a full panoply of legal services as needed in immigration court, USCIS, and state court for all unaccompanied children. If program requirements remain unchanged, jAC should focus the vast majority of resources on the core mission of serving children who meet eligibility requirements and use pro bono counsel for strategic and targeted reasons.
- The program should fund interpretation and translation services for non-Spanish languages, in particular for Mayan languages, to ensure the level of communication

essential for competent representation and compliance with civil rights statutes and regulations. All jAC members should demonstrate fluency in Spanish.

- Continuous program-wide substantive training and technical assistance to grantees and jAC members, together with individual mentoring of jAC members, should be prioritized to improve the quality of representation.

### **Providing social work services for vulnerable children and resources for members' self-care**

- As is recognized nationwide as a best practice, social work services should be built-in and funded as an integral part the jAC legal services model. To provide effective legal representation attorneys need the assistance of social workers—to best communicate with traumatized clients, ensure clients' integration into the community, and to fashion the strongest cases for relief. Using social workers for work that they are trained for, and attorneys are not, will result significant time efficiencies and more effective representation and referrals.
- Social workers, who are prepared by their training to deal with trauma and abuse, should be given primary responsibility for identifying victims of trafficking and maltreatment, so as to ensure more frequent and effective implementation of this program requirement.
- The program should strengthen morale and help members manage work-related stress by providing trainings and resources on vicarious trauma.

### **Redesigning Pro Bono Capacity Building**

- The pro bono capacity building component of the program should be redesigned to reduce inefficiencies and better allocate resources.
- Most jAC attorneys do not have the experience or knowledge to mentor pro bonos. Requirements for pro bono capacity building should be changed to make the grantee organizations, not the jAC members, primarily responsible. In this way, more experienced managers can provide the appropriate mentorship and potential malpractice may be prevented. Members should be required to mentor pro bonos only in their second year.
- Grantees and members in the jAC program should not seek pro bono counsel to represent unaccompanied children who do not meet the current program eligibility requirements; rather, as set forth on the preceding page, the program criteria should be reformulated so that members can provide a full panoply of legal services—in immigration court, USCIS, and state court—for all unaccompanied children.
- Legal screenings, legal rights presentations, and interpreting for pro bono counsel should not be considered pro bono capacity building. Support for legal work done by pro

bonos should be limited to getting them up to speed on a case, training, and mentoring—not acting as interpreters or paralegals for pro bonos.

- Grantees and jAC members should be prohibited from referring clients or adult caregivers to fee-charging private counsel, as this is inconsistent with the provision of government funded counsel. The program criteria should be reformulated so that members can provide a full panoply of legal services in state court for the adult caregivers of all unaccompanied children when necessary for the children’s immigration cases.

### **Changing requirements for jAC members**

- Members of the jAC program should be required to enlist for at least two one-year terms; this will ensure more effective legal representation, improve case outcomes, improve program sustainability and build knowledge and program capacity.
- As the unaccompanied children population (and their adult caregivers) are overwhelmingly Spanish-speaking, members should be required to demonstrate fluency in Spanish. Good communication is fundamental to effective legal representation and direct communication between attorney and client is far more efficient than using an interpreter.
- So as to ensure full representation of the majority of clients who will pursue SIJS, which requires state court proceedings, members should be required to be admitted to practice (or be awaiting admission, having passed the bar exam) in the state where the grantee or sub-grantee is located. Grantee organizations should be required to commit to handle the state court proceedings of clients of jAC members who are awaiting admission to practice in that state.

## **Future Directions**

### **Meeting the Real Need for Representation of Unaccompanied Children**

A greater number of unaccompanied children than ever need legal counsel. The immigration court system must step up resources for representation to close the gap. Employing a service-oriented model, the jAC program can make an important contribution to a broader system of legal services; however, consideration should be given to its proper scale within the larger system, and to developing legal representation programs better designed to meet actual needs.

### **Promoting Universal Representation**

Universal representation should be understood as central to an important culture shift among attorneys, managers, DHS attorneys and Immigration Judges, all of whom have long used a

“triage” approach to determining which children to represent. It is essential to recognize that it is legitimate and ethical to pursue all non-frivolous defenses and claims for relief for clients.

### **Providing Holistic Legal Services**

The jAC legal services model should incorporate best practices of holistic services. Specifically, the program should provide funding for social workers and interpreters without whom vulnerable children cannot be effectively represented. Providing such resources would increase efficiency, quality and success of representation, as well as complying with the language access requirements of federal law.