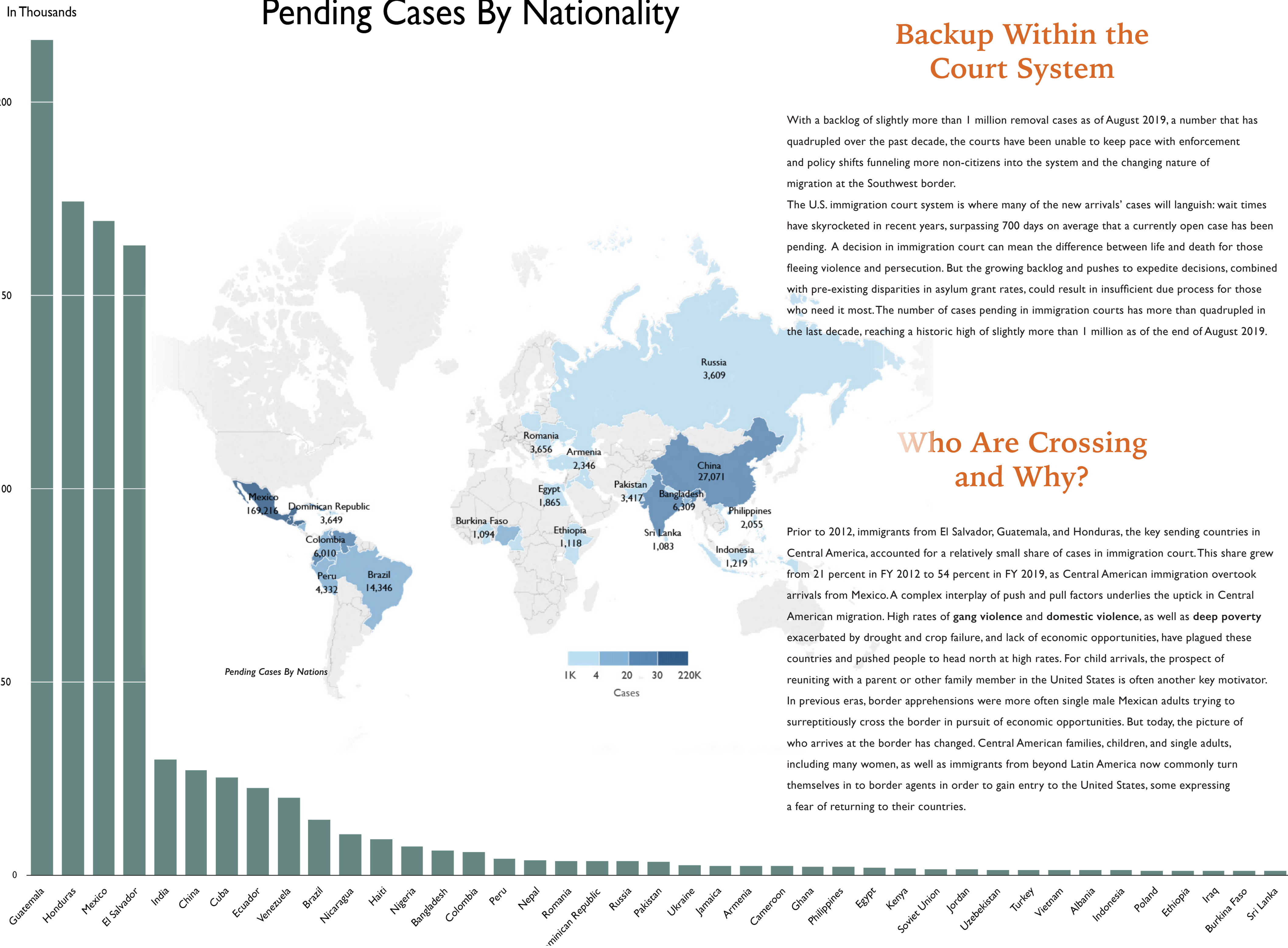


US Immigration Court Backlog

The backlog in the immigration courts has been growing for the past decade, and pending cases have increased by nearly 50 percent since Trump took office in 2017. The backlog is made up of all kinds of immigration cases. Most involve people waiting for a judge to determine whether they should be allowed to stay in the United States or should be deported.

About one in every 40 cases is criminal or related to national security or terrorism. The rest are civil immigration cases. They can include migrants arrested for crossing the border illegally, people who overstayed their visas and many asylum seekers. Asylum seekers tend to come from the Central American countries known as the Northern Triangle, El Salvador, Guatemala and Honduras, and they make up a growing share of the backlog.

Pending Cases By Nationality



Backup Within the Court System

With a backlog of slightly more than 1 million removal cases as of August 2019, a number that has quadrupled over the past decade, the courts have been unable to keep pace with enforcement and policy shifts funneling more non-citizens into the system and the changing nature of migration at the Southwest border.

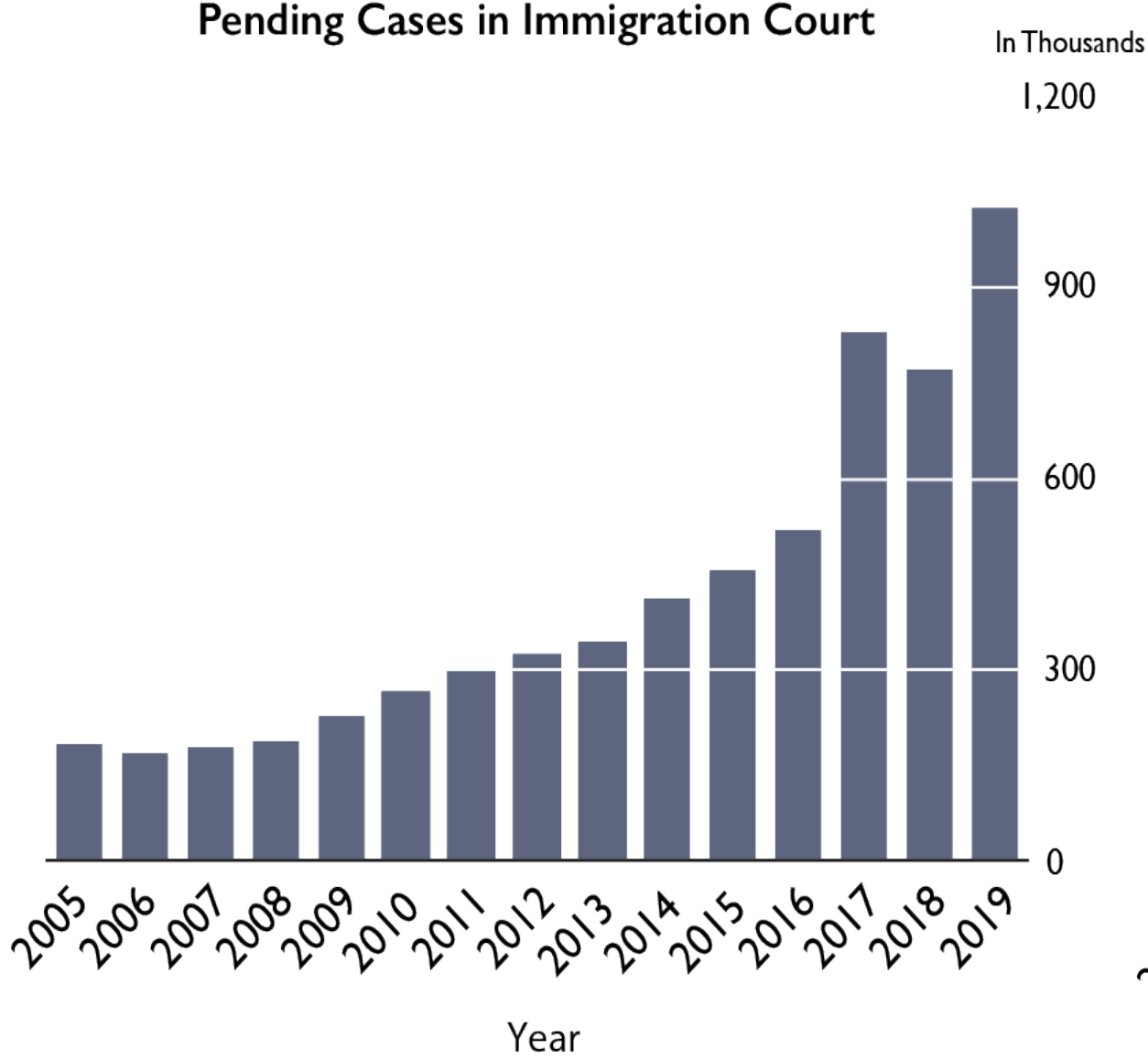
The U.S. immigration court system is where many of the new arrivals' cases will languish: wait times have skyrocketed in recent years, surpassing 700 days on average that a currently open case has been pending. A decision in immigration court can mean the difference between life and death for those fleeing violence and persecution. But the growing backlog and pushes to expedite decisions, combined with pre-existing disparities in asylum grant rates, could result in insufficient due process for those who need it most. The number of cases pending in immigration courts has more than quadrupled in the last decade, reaching a historic high of slightly more than 1 million as of the end of August 2019.

Who Are Crossing and Why?

Prior to 2012, immigrants from El Salvador, Guatemala, and Honduras, the key sending countries in Central America, accounted for a relatively small share of cases in immigration court. This share grew from 21 percent in FY 2012 to 54 percent in FY 2019, as Central American immigration overtook arrivals from Mexico. A complex interplay of push and pull factors underlies the uptick in Central American migration. High rates of gang violence and domestic violence, as well as deep poverty exacerbated by drought and crop failure, and lack of economic opportunities, have plagued these countries and pushed people to head north at high rates. For child arrivals, the prospect of reuniting with a parent or other family member in the United States is often another key motivator. In previous eras, border apprehensions were more often single male Mexican adults trying to surreptitiously cross the border in pursuit of economic opportunities. But today, the picture of who arrives at the border has changed. Central American families, children, and single adults, including many women, as well as immigrants from beyond Latin America now commonly turn themselves in to border agents in order to gain entry to the United States, some expressing a fear of returning to their countries.

Ongoing Cases

Pending Cases in Immigration Court

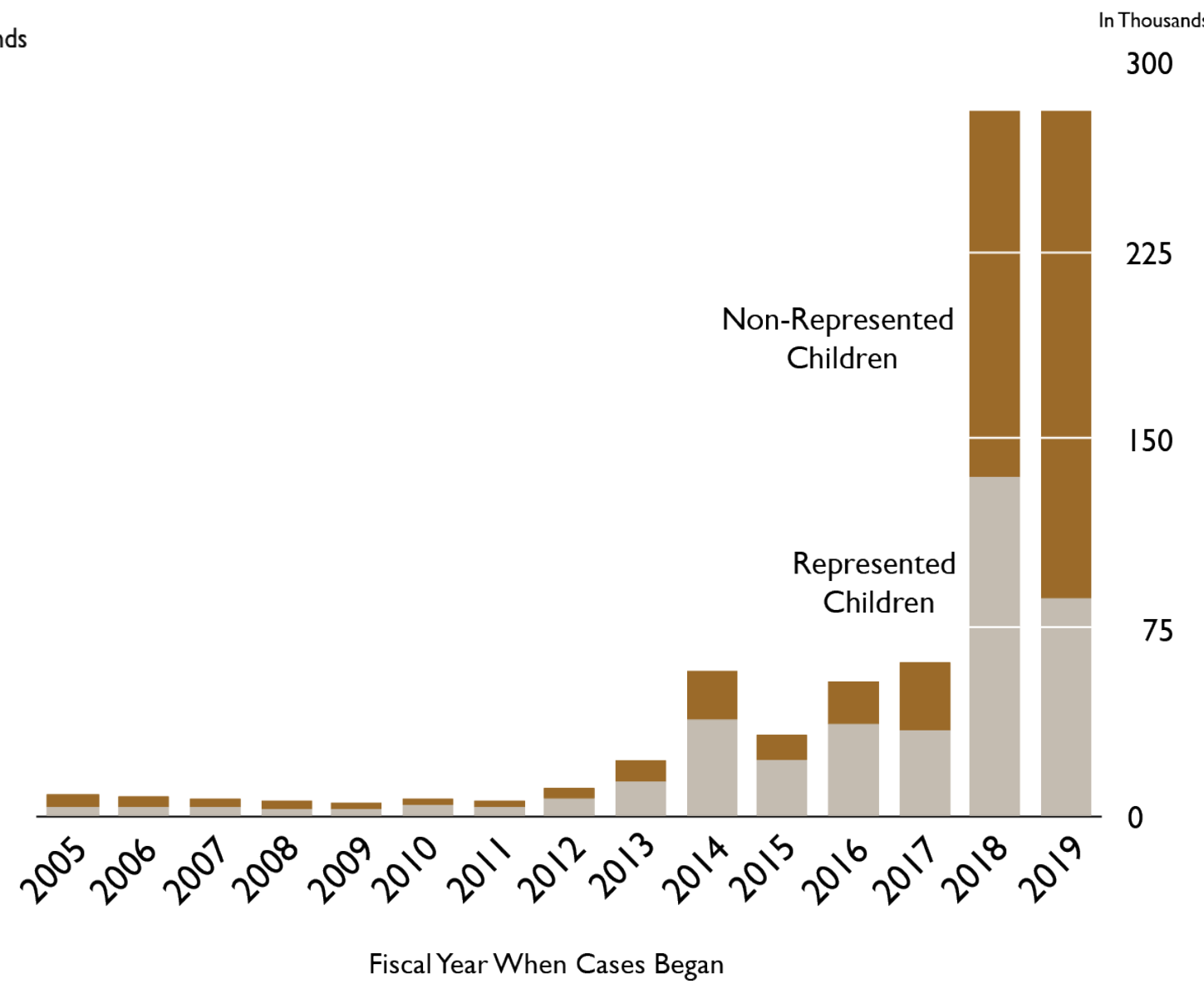


The Immigration Court's active backlog of cases just passed the million case mark. During the first eleven months of fiscal year, 2019, court records reveal a total of 384,977 new cases reached the court. If the pace of filings continues through the final month of this fiscal year, fiscal year, 2019 will also mark a new filing record.

While much in the news, new cases where individuals have been required to "Remain in Mexico" during their court processing currently make up just under 10 percent (9.9%) of these new filings. These MPP cases comprise an even smaller share, only 3.3 percent, of the court's active backlog.

Children in Court

Children Deportation Proceedings in Immigration Court

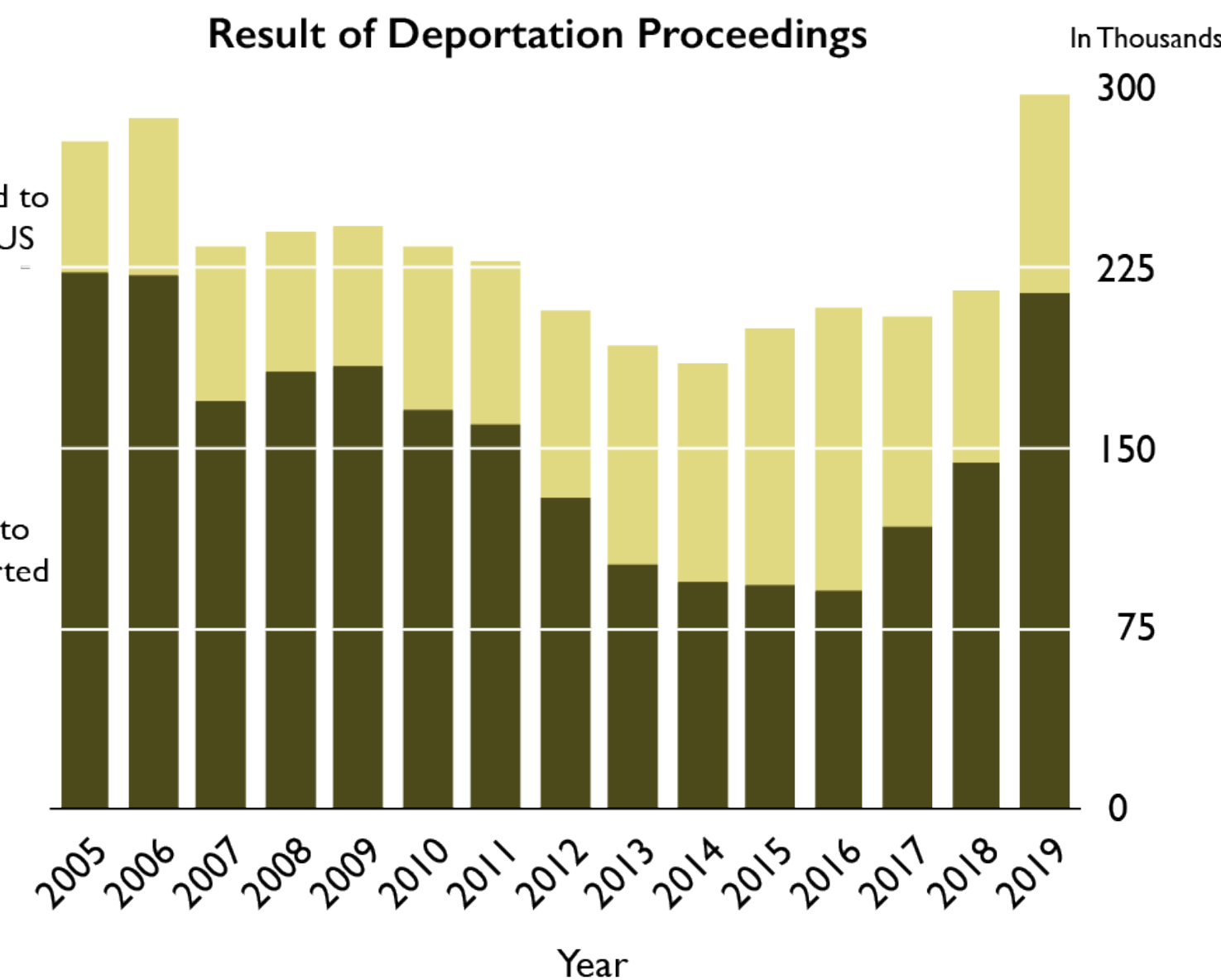


Unaccompanied children are represented by an attorney in only about one-third (32%) of 63,721 cases pending in Immigration Court as of 2014. Some 43,030 juveniles have not as yet been able to hire an attorney to assist them or to find pro bono representation. For the 21,588 children's cases filed and already decided since the surge of unaccompanied minors from Central America began three years ago, only 41 percent had representation. In almost three out of four (73%) of the cases in which the child was represented, the court allowed the child to remain in the United States.

The child was ordered removed in slightly more than one in ten (12%) of these cases. And in the remaining 15 percent the judge entered a "voluntary departure" order. When the child appears alone without representation, only 15 percent were allowed to remain in the country. About 80 percent through the entry of a removal order, and 5 percent with a voluntary departure order.

Asylum Seekers

Result of Deportation Proceedings



The surge in asylum seekers has added more cases to the overall backlog. A month into his presidency, Trump rescinded an Obama-era policy that relaxed prosecution for some immigrants who were in the country illegally. Since the end of 2016, the backlog has grown by more than 293,000 cases.

Asylum seekers account for about half of new immigration cases last year, at a record 159,590 cases. While asylum seekers wait, they can remain in the country but are in legal limbo. A long wait can hurt asylum seekers in particular. Cases may be harder to prove years down the line if conditions change at home or if witnesses become unavailable. A person's chance of being granted asylum can depend not only on the court he or she has been assigned to, but also the individual judge hearing the case. Even though cases are assigned randomly to judges within courts, grant rates at the judge level vary widely in some courts.