



When Special Immigrant Juveniles and Trial Courts Intersect: The Value of Data-Informed Case Management

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Abstract:

In recent years, the United States experienced a large influx of unaccompanied alien children (UAC). While state courts do not adjudicate the immigration status of UAC, they may become part of the process by which UAC seek immigration relief from the federal government. Special Immigrant Juvenile Status (SIJS) is a designation under the US Immigration and Nationality Act of 1990 to assist such children obtain temporary immigration relief and possibly lawful permanent residency. Obtaining SIJS requires specific factual findings to be made by a state juvenile court in a predicate order. The influx of UAC has resulted in increases in cases with SIJS requests experienced by state courts nationwide. This article describes a Maryland trial court's evolving approach to the management of these cases and the use of data to inform and guide that evolution.

Keywords: Case Management; SIJS; Performance Management; Performance Measurement

1. Introduction

A portion of global migration includes unaccompanied alien children² (UAC) (Simich and Mallozzi, 2015; Levinson, 2011). The average number of UAC arriving in the US who were under the custody of the US Department of Health and Human Services (HHS) increased eightfold from 7,100 per year³ between Federal Fiscal Years (FedFYs)⁴ 2003-2011 to 57,500 in FedFY2014⁵ (HHS, 2016; Government Accountability Office (GAO), 2016). Additionally, the number of UAC apprehended at US borders increased by 180% from 24,481 in FedFY2012⁶ to 68,631 in FedFY2014⁷ largely due to an influx of UAC from Guatemala, Honduras, and El Salvador (Donato and Sisk, 2015; GAO, 2015).⁸ While the number of UAC apprehensions decreased by 42% to 40,035 in FedFY2015, the number increased to 58,821 in FedFY2016.⁹ The increased presence of UAC resulted in heightened attention and concern among the public about, among other things, the country's response and the ability of local, state, and federal governments to meet these children's diverse and unique needs (Chishti and Hipsman, 2014; Simich and Mallozzi, 2015).

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² Per 6 U.S. Code '279(g)(2) see <https://www.law.cornell.edu/uscode/text/6/279>, [accessed 07 March 2017], an "unaccompanied alien child" is under the age of 18, and with no parent or legal guardian in the United States or no parent or legal guardian in the United States available to provide care and physical custody.

³ Calculation was performed from data retrieved from https://www.acf.hhs.gov/sites/default/files/olab/2016_acf_cj.PDF [accessed 08 March 2017].

⁴ The federal fiscal year (FedFY) spans from 01 October to 30 September. For example, FedFY 2003 spans from 01 October 2002 to 30 September 2003.

⁵ Data for FedFY2014 referrals to HHS custody was retrieved from <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data> [accessed 07 March 2017].

⁶ CBP data on unaccompanied juvenile apprehensions for FedFY2012 retrieved from <https://www.cbp.gov/sites/default/files/documents/U.S.%20Border%20Patrol%20Fiscal%20Year%202012%20Sector%20Profile.pdf> [accessed 07 March 2017].

⁷ CBP data on unaccompanied juvenile apprehensions for FedFY2014 retrieved from <https://www.cbp.gov/sites/default/files/documents/USBP%20Stats%20FY2014%20sector%20profile.pdf> [accessed 07 March 2017].

⁸ Toward the end of FedFY2014, shifts occurred in the representation of UAC from Mexico and Central American potentially due to the responses that were put in place to address the influx of unauthorized immigration (Kandel, 2017; Rosenblum and Ball, 2016).

⁹ CBP data on unaccompanied juvenile apprehensions retrieved from <https://www.cbp.gov/sites/default/files/assets/documents/2017-Jan/USBP%20Stats%20FY2016%20sector%20profile.pdf> [accessed 07 March 2017].

State courts in the US have a unique connection with UAC through an immigration relief classification known as Special Immigrant Juvenile Status (SIJS). While not adjudicating the immigration status of UAC, state courts function as an intermediate step in the federal immigration process by making determinations as to whether children meet certain factual findings needed to apply for the status (CPPS and NCSC, 2015). As courts work to meet their workload and caseload demands and case processing performance goals, handling cases with a SIJS request may present unique procedural challenges such as serving individuals residing outside the US. Without a management structure and clear procedures to guide case progress, these cases may languish in the system challenging the administration of justice (Martin et al., 2009, 2010). Adherence to the rule of law is also critical and enables courts to deliver justice in an accessible, fair, and efficient manner (NACM, 2015). In relation to cases with SIJS requests, predicate findings by state courts are required before UAC's SIJS status can be considered and determined by the federal government. By creating a process that ensures the predicate findings are made timely, correctly and consistently, the court's process facilitates that the rights and opportunities provided under federal law are accessible to all.

Since May 2013, a Maryland trial court has experienced a steady increase in the volume of family law cases with SIJS requests. The most noticeable increase occurred between July 2015 and June 2016. Focusing on the evolution of the court's management practices associated with these cases, this article addresses the following questions:

- How is data utilized to inform the management of case progress when shifts in caseload occur?
- What resources are needed for courts to sustain a data-informed approach to case management?

1. 1. Immigration Relief: Special Immigrant Juvenile Status (SIJS)

SIJS, which was established by the US Immigration and Nationality Act (INA) of 1990,¹⁰ offers temporary immigration relief for certain UAC seeking to obtain lawful permanent residency in the US (Knoespel, 2013; Junck, 2012; CPPS and NCSC, 2015). "Special immigrant" as defined by the INA¹¹ is an immigrant who is under the jurisdiction (or care) of a state juvenile court, is deemed eligible for long-term foster care by that court and for whom it has been determined that it is not in his/her best interests to return to his/her home country or last habitual residence (Knoespel, 2013). Per US Code, "eligible for long-term foster care" means that the juvenile court made a determination that "family reunification is no longer a viable option."¹²

The SIJS immigration classification is tailored to protect a child who is not a US citizen from deportation (Baum et al., 2012) with its focus on the child's best interests (Pulitzer, 2014). In 1997, amendments added the language of abuse, neglect or abandonment (United States Customs and Immigration Services (USCIS), 2004; Knoespel, 2013; Hamm, 2004) to clarify the law's original intent.¹³ In 2008, the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA)¹⁴ expanded eligibility for SIJS by removing the "long-term foster care" language (USCIS, 2009). In particular, TVPRA clarified that if it is not viable for a child to reunify with one or both parents due to abuse, neglect, abandonment or similar basis found under state law, then the child may be eligible to petition for SIJS relief (Junck, 2012; Catangay, 2016). TVPRA also outlined the eligibility requirements that a state juvenile court must make for a valid SIJS petition (Knoespel, 2013). The specific findings that must be contained within the state court's predicate order to petition for this immigration relief are:^{15,16}

- Declare the child dependent on the juvenile court, or legally commit or place the child under the custody of either a state agency or department or an individual or entity appointed by a juvenile court;
- State that reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
- Include the best interests determination for the child not to return to his or her country of origin.

¹⁰ See Immigration and Nationality Act, Pub. L. No. 101-649, '153, 104 Stat. 4978, 5005-06 (1990) (codified at 8 U.S.C. '1101(a)(27)(J) (2006)) (establishing Special Immigrant Juvenile Status). <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-2593.html#0-0-0-471> [accessed 07 March 2017].

¹¹ <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-2593.html#0-0-0-471> [accessed 16 March 2017].

¹² 8 C.F.R. '204.11(a)(2009) (<https://www.gpo.gov/fdsys/pkg/CFR-2012-title8-vol1/xml/CFR-2012-title8-vol1-sec204-11.xml>) [accessed 07 March 2017].

¹³ See Immigration and Nationality Act, Pub. L. No. 105-119, ' 113, 111 Stat. 2440, 2460 (1997) (requiring findings of abuse, neglect, or abandonment); <https://www.gpo.gov/fdsys/pkg/PLAW-105publ119/html/PLAW-105publ119.htm> [accessed 07 March 2017].

¹⁴ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub.L. No. 110-457, 122 Stat 5044 (2008) retrieved from <https://www.congress.gov/110/plaws/publ457/PLAW-110publ457.pdf> [accessed 07 March 2017].

¹⁵ USCIS information for juvenile courts retrieved from https://www.uscis.gov/sites/default/files/USCIS/Green%20Card/Green%20Card%20Through%20a%20Job/Information_for_Juvenile_Courts_-FINAL.pdf [accessed 07 March 2017].

¹⁶ 8 U.S.C.'1101(a)(27)(J) retrieved from <https://www.law.cornell.edu/uscode/text/8/1101> [accessed 07 March 2017].

1.2. Maryland Courts and SIJS

According to Maryland Code (Family Law (FL) §1-201(b)(10)), circuit courts have jurisdiction over custody and guardianship matters where an immigrant child is seeking factual findings in support of SIJS relief (In re: Dany G., 223 Md. App 707 (July 2015)). A Maryland circuit court is a trial court of general jurisdiction handling major civil and more serious criminal cases, as well as family and juvenile cases. In 2014, the State of Maryland sought to align its state law with federal regulations on eligibility requirements for SIJS application. Specifically, Maryland law,¹⁷ which took effect in October 2014, altered and extended the jurisdiction of an equity court¹⁸ in custody and guardianship matters of an immigrant child pursuant to a request for SIJS factual findings (Page, 2014). It also addresses a gap between state and federal immigration laws related to the age of a child for court dependency purposes, defining a child as an unmarried individual under the age of 21 years.¹⁹ Expanding jurisdiction of Maryland circuit courts increases the likelihood that children meeting specified eligibility requirements can take greater advantage of immigration relief available under federal law (Page, 2014).

2. Methodology

The present analysis uses data from family law cases with a SIJS request filed with Montgomery County Circuit Court, a local trial court in Maryland from May 2013 through September 2016. The court serves a population of over one million residents with 24 judges, 5 family magistrates, 14 senior judges and 300 Court Administration and Clerk of the Court personnel. We examined the number of filings, closures and pending family law cases with SIJS requests, as well as pending days.

The filing date was based on the initial SIJS request date.

A case was considered closed if the SIJS-related order was entered or the case was otherwise closed (e.g., dismissed). The closure date associated with the SIJS-related order was the primary closure date captured for analysis. If no SIJS-related order was entered but the case was otherwise closed during the data collection period, then that closure date was used for analysis. Pending cases were those without an entry of a SIJS-related order or other case closure (as defined above) at the time of the data collection period. Age of pending cases was calculated from the initial SIJS request filing date to the date of the reporting period (in days).

Descriptions of the court's case management efforts were obtained from court personnel directly involved in the monitoring and management of cases with SIJS requests. A total of 939 cases had their initial SIJS request filed with the court between May 2013 and September 2016.²⁰ Ninety-eight percent of the SIJS requests were filed as part of a custody (N = 612) or guardianship (N = 306) case.²¹ Accordingly, all analyses focus on custody and guardianship cases containing SIJS requests.²²

3. Management of Custody and Guardianship Cases with SIJS Requests

Between Fiscal Year 2014 (FY2014) and FY2016,²³ a total of 26,807 original family law cases were filed with Montgomery County Circuit Court. Of those, 4,556 (17%) were cases with custody or guardianship as the main charge in the complaint. The court processed 740 custody and guardianship cases with SIJS requests, accounting for 16% of custody and guardianship cases and 3% of all family law cases. During this period, the percentage of custody and guardianship cases among all family law original case filings increased from 15% to 19%. The representation of custody and guardianship cases with SIJS requests among all family law cases also increased from 1% to 5% while that of non-SIJS custody and guardianship cases remained at 14%. Thus, the increased representation of custody and guardianship cases among overall family law original case filings was largely due to the increase in those with SIJS requests. In fact, the representation of cases with SIJS requests among custody and guardianship cases increased from 8% in FY2014 to 24% in FY2016.

¹⁷ Maryland Law Chapter 96 (2014) retrieved from http://mgaleg.maryland.gov/2014RS/Chapters_noln/CH_96_hb0315t.pdf [accessed 07 March 2017].

¹⁸ Maryland House Bill 315 (2014), fiscal and policy note retrieved from http://mgaleg.maryland.gov/2014RS/fnotes/bil_0005/hb0315.pdf [accessed 07 March 2017].

¹⁹ Maryland Law Chapter 96 (2014) retrieved from http://mgaleg.maryland.gov/2014RS/Chapters_noln/CH_96_hb0315t.pdf [accessed 07 March 2017].

²⁰ May 2013 was identified as the beginning of the reporting period because that is when the court began officially tracking cases with SIJS requests. To the extent that the specific SIJS request code was not docketed in a case, the results will be underestimated.

²¹ SIJS requests may be filed with a juvenile, dependency/child protection, or other family law (e.g., divorce, paternity, or adoption) petition; however, those cases represent 2% of the entire SIJS caseload.

²² Since the analysis uses the complete population of custody and guardianship cases with SIJS requests, no statistical significance testing is necessary.

²³ Analyses are primarily reported either by month/year or by state/local government fiscal year (July 1 – June 30) beginning with Fiscal Year (FY) 2014 (July 1, 2013 – June 30, 2014).

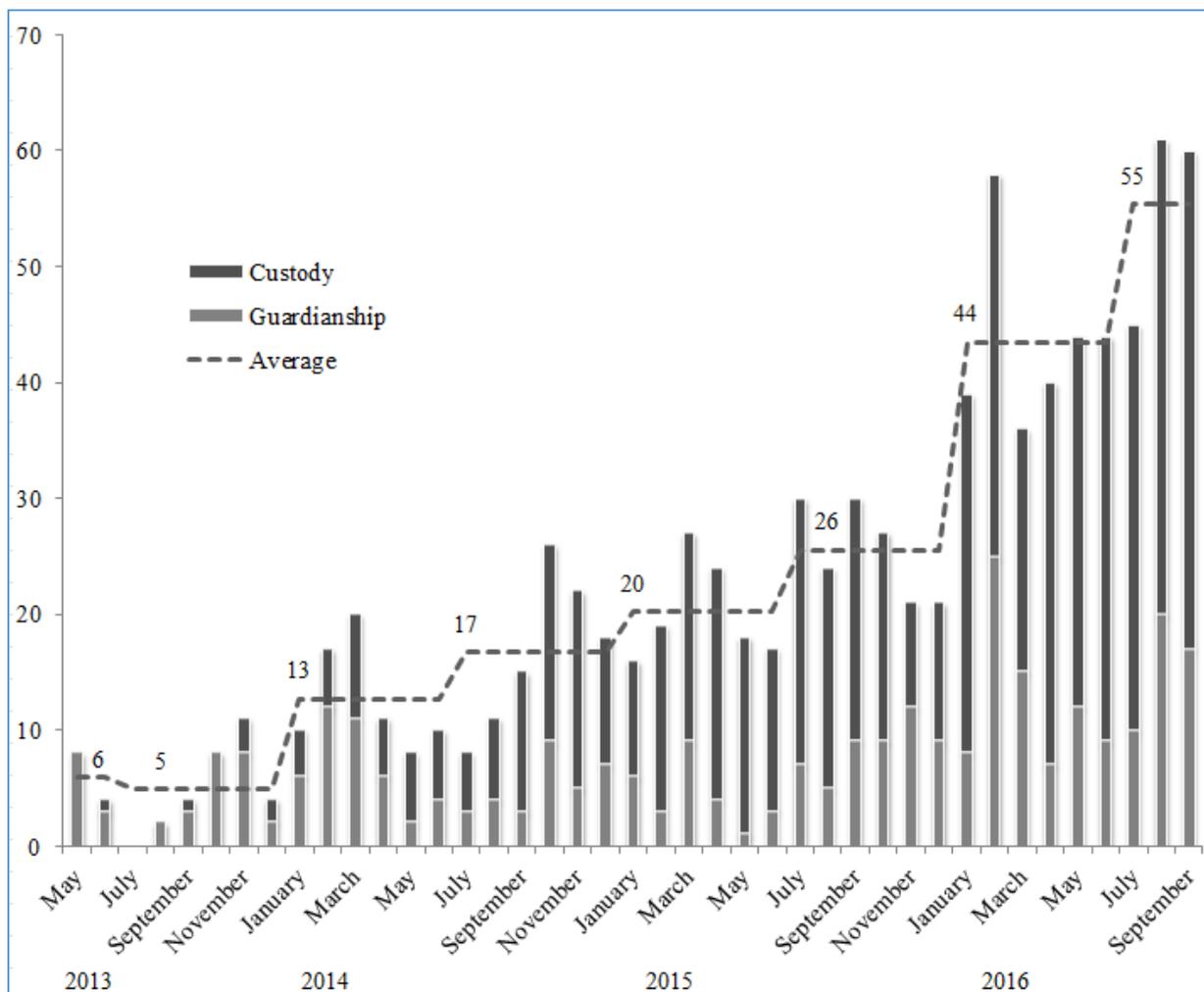


Figure 1 – Number of Custody and Guardianship Cases with a SIJS Request by Month of Initial Request and Sub-Type, May 2013-September 2016

Between May 2013 and September 2016, a total of 918 custody or guardianship cases with SIJS requests were filed.²⁴ Sixty-seven percent of SIJS requests were filed with a custody petition while 33% were filed with a guardianship petition. As shown in Figure 1, since May 2013, the number of custody and guardianship cases with a SIJS request has steadily increased. The most noticeable increase took place between July-December 2015 and January-June 2016, when the 6-month average between the two periods increased by 69% from 26 to 44 cases. A variety of factors contributed to this increase, including the deadline for visa applications for the citizens of El Salvador, Guatemala, and Honduras (announced in February 2016); recent political rhetoric related to US immigration policy coinciding with the presidential primaries; and an increased awareness by attorneys in the local, geographical area about the court's improved processing of its SIJS caseload. Additionally, an increase in custody cases with SIJS requests occurred in October 2014 coinciding with new case law and a change in Maryland Law expanding the definition of a child for the purposes of SIJS factual finding determinations.

As the number of cases filed with SIJS requests increased so did the number of pending cases leading to the court's review and revision of its management approach. The evolution of the court's SIJS case management efforts are discussed in relation to three time periods: Pre-January 2014, January 2014-September 2015, and October 2015-September 2016.

3.1. Pre-January 2014

While cases with SIJS requests filed at Montgomery County Circuit Court date back to 2007,²⁵ increased attention on these cases did not occur until 2013. Between 2007 and 2012, a total of 41 custody and guardianship cases were filed with a SIJS

²⁴ Cases may have more than one SIJS request filed, which is usually reflected as an amended request. Cases and not SIJS requests were the unit of analysis.

²⁵ It is likely that cases with SIJS requests pre-date 2007; however, based on searching for cases with the word "immigrant" contained in the case management system between 2006 and 2009, no more than 3 cases had a SIJS request filed or referenced in the docketed pleadings.

request. Given the small caseload (7 cases per year), a single judge presided over these cases. Attorneys primarily coordinated hearing dates with the judge's chambers, and there was minimal pre-hearing review of case documents by the court to ensure the case was in the proper posture for the judge to make factual findings on the SIJS request at the initially scheduled hearing.

During 2013, the court received a total of 69 custody and guardianship cases with a SIJS request, reflecting a 68% increase from the prior 6 years. The increase in SIJS requests, new case law addressing issues related to guardianship appointment (e.g., *In re Guardianship of Zealand W. and Sophia W.* 220 Md. App 66, 2014)²⁶ and the retirement of the judge presiding over these cases presented an opportunity for the court to examine its management practices in relation to these cases.

3.2. January 2014 – September 2015

The average number of family cases with a SIJS request doubled from 5 to 13 per month in 2014 (see Figure 1). In early 2014, court personnel developed separate procedures for processing custody and guardianship cases with SIJS requests because of their different statutory requirements. The court also adopted a two-judge management approach where one judge presided over the custody or guardianship matter while the other presided over the SIJS matter. Separating out the custody/guardianship and SIJS matters was to offer a more focused review of these distinct issues. Also, having a single judge preside over the SIJS requests added a level of standardization and consistency in the factual finding determinations.

3.2.1. Custody cases with SIJS requests

After filing a petition for custody and a request for SIJS findings with the court,²⁷ clerk personnel determined if service was achieved based on the additional papers filed with the petition. Following this initial service determination, family case managers²⁸ conducted their service review process pursuant to Maryland Rules 2-121 to 2-126 and removed the scheduling hearing from the magistrate's docket (once service was established).²⁹ The case file was then sent to the judge designated to preside over the custody issue. Judge's chambers contacted the party's attorney to coordinate the scheduling of the hearing. After the custody order was docketed, the file was sent to the judge designated to preside over the SIJS request. Similarly, the scheduling of the hearing for factual findings on the SIJS request was made in coordination with the attorney's schedule.

3.2.2. Guardianship cases with SIJS requests

When a party filed a guardianship petition with a SIJS request, clerk personnel docketed both pleadings in the case management system and the adoption-guardianship case manager reviewed the file pursuant to Maryland Rule 10-201 ensuring service was achieved and consent obtained. The adoption-guardianship case manager then issued a show cause order and set a hearing date on the calendar of the judge assigned to hear the guardianship matter. Following the docketing of the guardianship order in the case management system, the case file was forwarded to the judge designated to hear the SIJS matter. That judge then scheduled a hearing on the SIJS request in coordination with the party's attorney.

While the two-judge approach reduced the likelihood that a single judge's docket would become overwhelmed by an increasing SIJS caseload, receipt of complete and accurate documents and the timely scheduling of key events in these cases continued to challenge the court. For instance, attorneys, unfamiliar with custody and guardianship rules of procedures and/or immigration law, would submit incomplete or insufficient paperwork resulting in delayed court proceedings or case dismissals. Furthermore, evolving case law³⁰ related to SIJS factual findings and amendments to Maryland statute that occurred during this period underscored the need for continued monitoring of the court's case management processes to ensure compliance with legislative, rule, and policy changes.

In July 2015, the court observed an increase in pending family cases with SIJS requests. At that time, there were 240 pending custody and guardianship cases with SIJS requests, and the average age of those pending cases was 199 days

²⁶ The Court of Special Appeals in Maryland concluded that the circuit court did not have the authority to appoint a third party as a guardian of a child when a parent is alive and parental rights have not been terminated under Md. Code, Estates & Trusts Article, section 13-702. This ruling shifted the type of cases in which SIJS requests were primarily filed. Prior to the decision at the end of October 2014, the guardianship-custody breakdown was 53%-47% (N=177) whereas following the decision it was 29%-71% (N = 741).

²⁷ In instances where an emergency petition for custody was filed along with a request for SIJS findings, the case file was sent directly to the judge presiding over the custody matter to determine if the hearing was to proceed immediately or be scheduled at some later date.

²⁸ The court has five family case managers including a supervisor who support the Family Division as referenced in Maryland Rule 16-307.

²⁹ Scheduling hearings were automatically set in these cases by the court's case management system per the Family DCM plan (http://www.montgomerycountymd.gov/circuitcourt/Resources/Files/FamilyDivision/Family_Division_Case_Management_Plan.pdf [accessed 07 March 2017]).

³⁰ See *In re: Dany G.*, 223 Md. App 707 (July 2015) (<http://www.mdcourts.gov/opinions/cosa/2015/1096s14.pdf> [accessed 07 March 2017])

(see Figures 2 and 3). The average age of the pending caseload continued to increase, reaching 214 days by September 2015. Of all 560 SIJS closures during the 3.5 year period, only 27% (151) occurred during the first 2.4 years (May 2013-September 2015) despite 46% (N=422) of the 918 SIJS case filings during the same period.

3.3. October 2015-September 2016³¹

By November 2015, the pending SIJS caseload reached 300 cases highlighting the need for action by the court. In addition, the percent of the SIJS pending caseload that was backlogged increased to 22% in November 2015 (and remained at that level in December 2015) from no more than 5% between May 2013 and January 2015.³² At the end of December 2015, the court's Family Judge In-Charge implemented a special docket to address a portion of the court's pending SIJS cases. As a result, the average number of cases closed between December 2015 and September 2016 increased to 39 cases per month from 5 cases per month during the previous 6-month period. In addition, as shown in Figure 3, the average age of pending cases decreased by 44% from 233 days in December 2015 to 130 days in September 2016. The clearance rate,³³ which was 32% in FY2014 and 37% in FY2015 substantially improved to 90% in FY2016.

During this period, the two-judge management approach from the previous period was modified into a three-judicial officer approach where the same two judges independently presided over guardianship cases with SIJS requests while a single magistrate presided over custody cases that had an accompanying SIJS request. Case preparation efforts were expanded to ensure that service was properly established, consent was obtained (in guardianship cases), documents and accompanying translations were complete and accurate, and case preparation worksheets and critical reviews were completed prior to the scheduled hearings. These tasks were performed by the adoption-guardianship case manager for guardianship cases and by the magistrate's administrative assistant for custody cases. In addition, the task of scheduling events shifted from an attorney-driven approach to one managed by the court. For example, in custody cases, the custody and SIJS hearings were automatically set by the case management system to occur within 125 days of service being achieved.

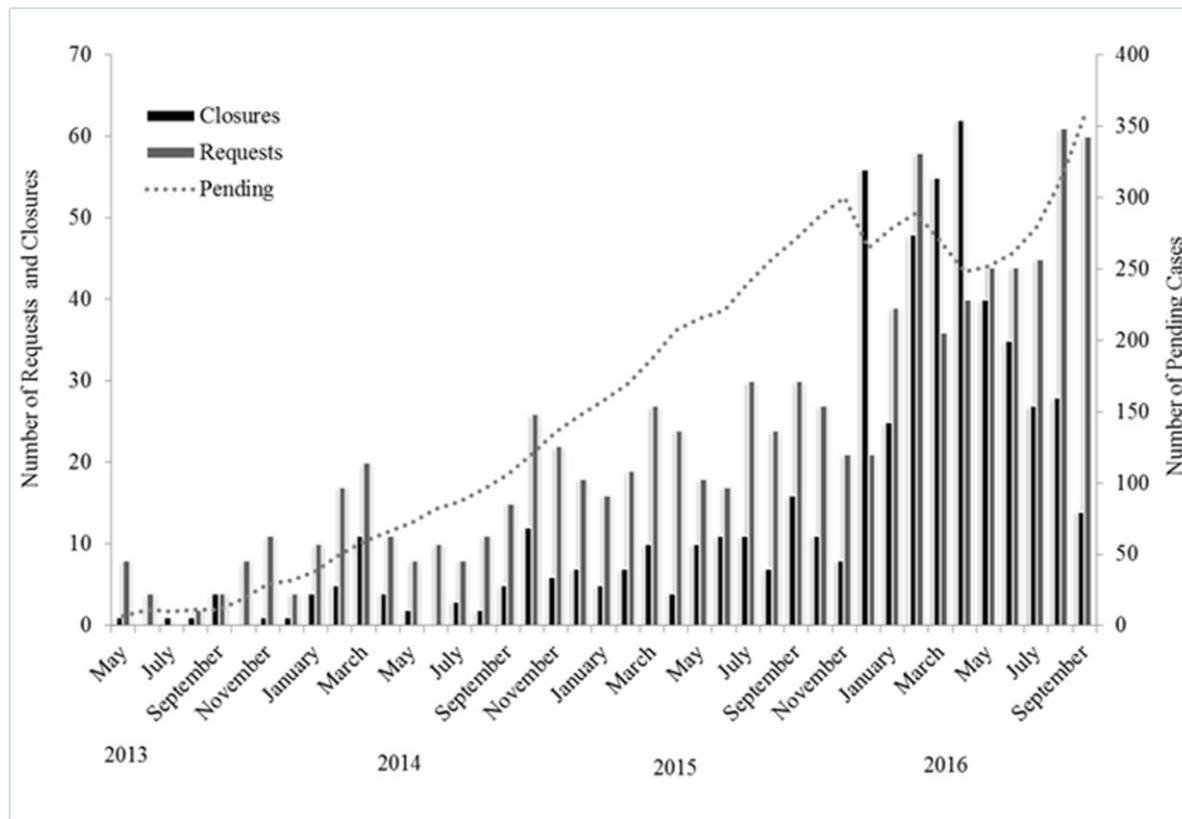


Figure 2 – Number of Requests, Closures, Pending Custody and Guardianship Cases, May 2013-September 2016

³¹ See Appendices A and B for flow charts of the pre-hearing processes in custody and guardianship cases with SIJS requests, respectively, during this period.

³² A pending case is considered backlogged when its age is greater than 365 days per the Maryland Judiciary's case time standard for family law cases.

³³ The clearance rate was calculated by dividing the number of cases that received a SIJS order or were otherwise disposed by the number of cases where a SIJS request was filed.

While the pending SIJS caseload initially declined to 248 cases by the end of April 2016, it started increasing in May 2016 and reached 358 cases by September 2016. This increase was impacted by two factors. First, the number of SIJS requests surged in January 2016. The 6-month average of SIJS requests in custody and guardianship cases, which increased from 26 in the July-December 2015 period to 44 in the January-June 2016 period increased further to 55 between July and September 2016. The number of SIJS requests filed in guardianship and custody cases between January and September 2016 totaled 427, which was a 108% increase over the same 9-month period in 2015. Second, the number of SIJS closures started to decrease beginning in May 2016. Case closures reached 62 in April 2016 exceeding the 56 closures achieved in December 2015. In May 2016, there was a 35% decrease in closures from the previous month. By September 2016, closures decreased by 77% to 14 cases. A likely reason for the decrease in SIJS closures is the disruption in the management of SIJS cases between August and September 2016 that resulted from turnover of personnel directly involvement in the management of these cases.

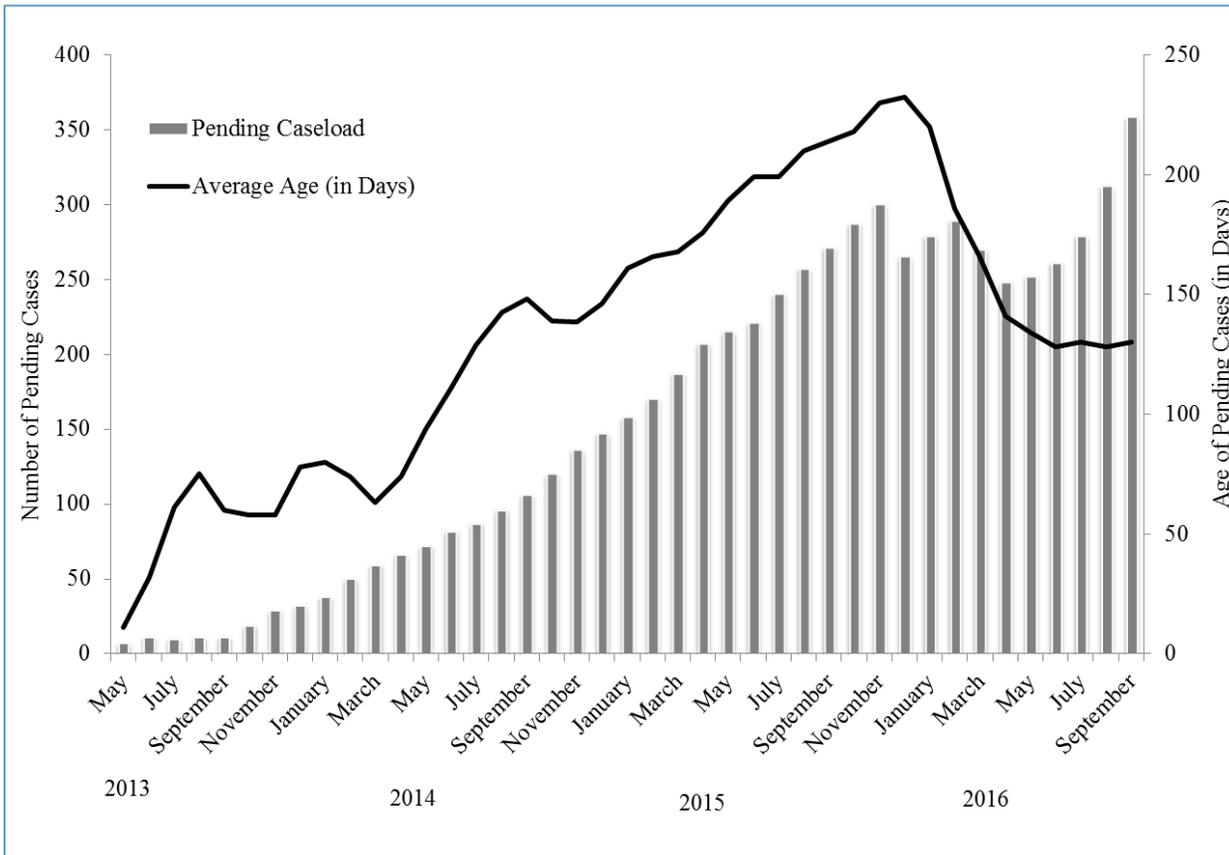


Figure 3 – Number of Pending Custody and Guardianship Cases and their Average Age (in Days), May 2013-September 2016

More active oversight and management of this caseload including greater use of data occurred during this period. Simultaneously, discussions took place regarding the role of family case managers in the monitoring of the progress of custody cases with SIJS requests since management of these cases was primarily undertaken by judicial administrative assistants. To assist the work of case managers and administrative assistants, the court developed a SIJS database that would draw data from the court’s case management system and automate certain operations that were manually performed by staff, including generating critical review sheets. The critical review sheets inform judicial officials about the posture of the case prior to the custody (or guardianship) and SIJS hearings.

4. Discussion

Over the past four fiscal years as Montgomery County Circuit Court’s SIJS caseload grew, the examination and re-examination of its case management practices became essential to ensure efficient processing and adherence to the rule of law. These reviews of practices required collaboration and teamwork among staff at all levels of the organization and a recognized value by court leadership in the use of data to inform management decisions. The court’s case management efforts are not solely about meeting a performance goal or being efficient at any cost but rather ensuring meaningful events produce meaningful outcomes within the context of timely justice. The commitment to these case management tenets

cannot be overstated especially when presiding over cases involving minors seeking factual findings to support a SIJS application for temporary immigration relief.

Custody and guardianship cases with SIJS requests increased in volume by 5% over the court's existing family caseload between FY2014 and FY2016. Increases in case volume have minimal impact to the extent that they can be managed within the court's existing resources, docket capacity and operational framework. However, if the caseload increases to the point of adversely impacting operations and timely, quality justice, the court must undertake a more focused review its case management policies and practices.

In the present study, data was used to initiate and guide the court's SIJS case management efforts. A performance management approach was invoked whereby the court sought an improvement over its current situation (Ostrom and Hanson, 2010) and drew upon data to inform, assess and demonstrate those improvements. While few would argue with a data-driven approach to operations management, many courts continue to be challenged by a lack of capital or investment in the utilization of data. As discussed in the High Performance Court Framework (Ostrom and Hanson, 2010), the value of court capital in relation to the people, organization, information, and technology is realized in the practical application of the court's mission.

At this Maryland court, leadership made investments in those capitals as a means to support and demonstrate the value of data. For example, in relation to human capital, as positions became available targeted recruitment of individuals with specific-skills believed to support the vision for the organization occurred. Efforts were made to identify grant funding opportunities and partner with the State's Administrative Office to invest in resources that the local jurisdiction was unable to support alone. The acquired investments were reflected in the court's infrastructure, organizational structure and policies. The court's development and implementation of a case management system, its establishment of core administrative departments (e.g., case management, data quality control, and research), its hiring of case management professionals (e.g., DCM Coordinator and family case managers) as well as the institutionalization of case management policies (e.g., DCM) are all examples of organizational capital. These systems, departments, personnel and policies guide management and operations. Ideally, the cumulative impact of the court's leadership, organizational structure, policies and processes is reflected in the service delivered at the front counter and the justice delivered in the courtroom. Further, acquiring and sustaining these investments is more easily achieved when there is a shared vision of the value of data among leaders within the organization.

Even when a court has established a level of organizational capital to collect and use data to inform management decisions, performance management is not always easily implemented or sustained. While most court leaders and managers acknowledge the value of data, potential roadblocks exist in translating that acknowledged value into a practical reality. For example, key case-related data may not exist in a court's case management system. If the data exists, it may not be easily accessible. If the data exists and is easily accessible, courts may not have personnel who understand the data and know how to use it in a way that informs their management and business decisions. When these data challenges arise, courts should mobilize and seek additional resources or assistance to identify and implement solutions. This is where courts committed to data-driven management establish a plan for performance measurement and management as well as explore their capacity to engage in and use evaluation (see Bourgeois and Cousins, 2013).

Successful case management evolves over time. It is an iterative process that frequently requires continuous review of policies and procedures with data to reach and maintain a level of high performance (Ostrom and Hanson, 2010). Montgomery County Circuit Court experienced this in its management of custody and guardianship cases containing SIJS requests. While data was used to varying degrees between May 2013 and September 2016, it was only in the last case management period in 2016 where data was actively used to inform not only case management initiatives but also operations management. As the court moves forward, focus is on developing a database to allow personnel to track case progress and run workload and data quality reports, as well as print case-specific critical review sheets for judges as they prepare for related case events. Additional functionality is underway to automatically schedule the SIJS hearing and issue scheduling orders in these custody cases from the case management system. In an ideal situation, the court would not have needed to modify its case management approach because our first approach would have been the best, most appropriate response given the existing organizational capital. However, this is not realistic since the environment that surrounds the court is constantly changing. What the court has learned and invested in is the importance of recognizing and capitalizing on improvement opportunities when they arise.

A few areas that courts may explore further as it relates to SIJS case management, in particular and data-informed case management, more broadly include:

- Identification of key metrics for SIJS case management and the reporting of those metrics from a database (possibly external to a case management system for ease of analysis). At a minimum those metrics should include: number of cases with SIJS requests, number of pending cases with SIJS requests, average (and median) case age, cases with SIJS hearings scheduled/held, case processing time of closed and active cases with SIJS requests by month and year. It is also important to establish linkages between the SIJS caseload and the court's other operations, such as interpreter usage and case processing performance.
- Collaboration and innovation in the use of data and case management practices to improve the administration of justice. As with most courts, challenges exist in getting personnel to move beyond their work silos and collaborate on solutions. In late 2016, Montgomery County Circuit Court instituted a technical advisory board that brings together managers across functional areas to discuss efficiency gaps in business processes and in search of possible technical solutions. These meetings provide an opportunity for exchanges of ideas to occur with a focus toward innovation.
- Gather intelligence to better anticipate and prepare for possible changes in caseload. For instance, the change in Maryland Law in October 2014 that expanded the circuit court's jurisdiction for custody and guardianship cases where SIJS findings are requested could have been identified as a harbinger for the influx of SIJS cases. Internal and external outreach efforts should be undertaken to coordinate information, estimate future caseload and resource needs, as well as identify possible responses to an anticipated influx of these cases.
- Education and training are important for court personnel on the role of state courts in SIJS cases (CPPS and NCSC, 2015; Feerick Center for Social Justice, 2014; Junck, 2012; Slayton, 2014). Courts across the US differ in their interpretation and understanding of their role in cases with an immigration nexus (such as those requesting SIJS factual findings); therefore, dialogue with immigration attorneys, development of SIJS fact sheets and the use of data to inform caseload impacts are all useful tools to support state courts.

5. Conclusion

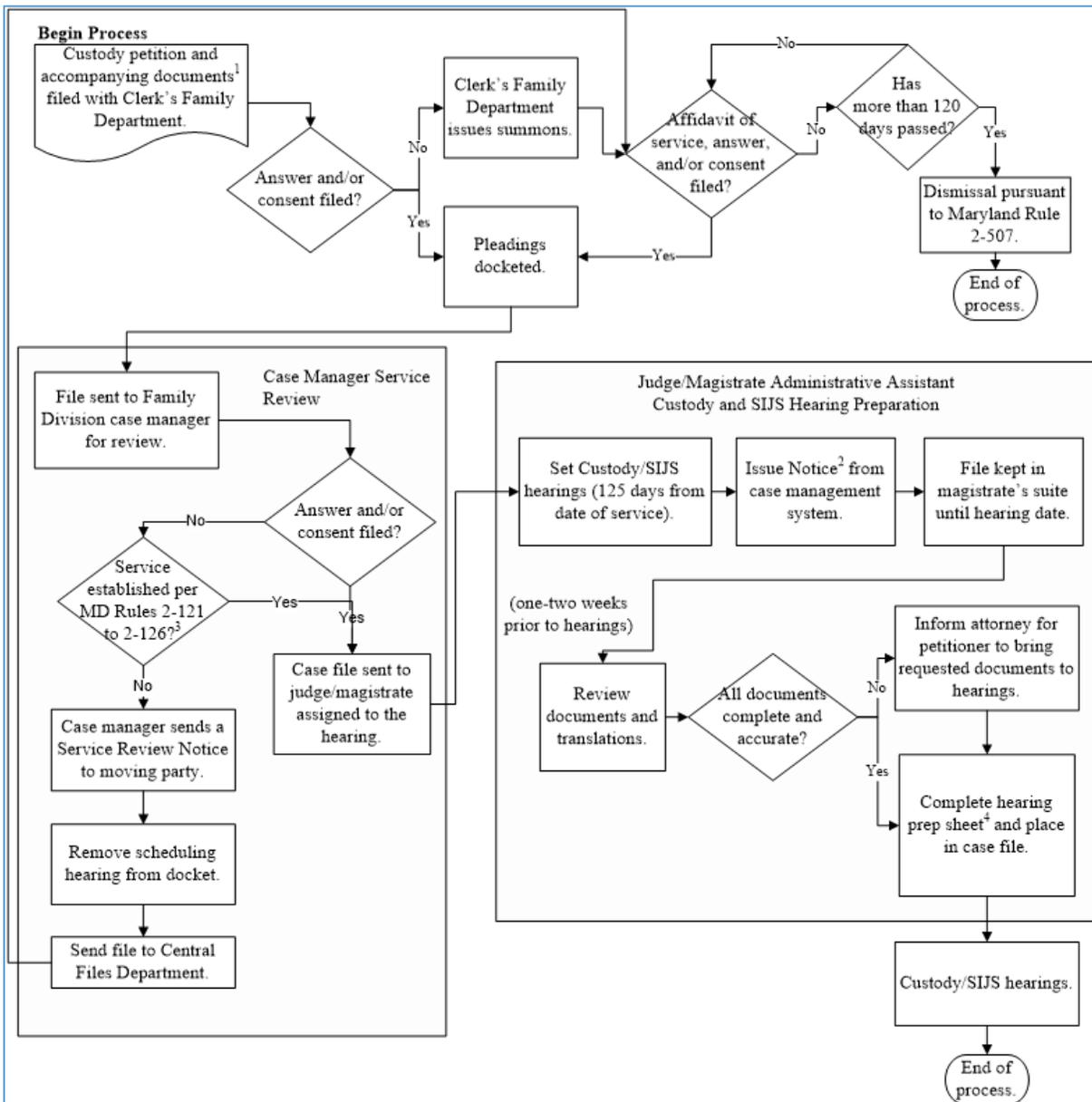
In the United States, trial courts play an important role in cases seeking temporary immigration relief through receipt of a predicate order containing SIJS factual findings. These cases highlight the link between state courts and the federal immigration system and potentially add a layer of complexity to the court system's response. Therefore, increased understanding and engagement in regard to the management of these cases among personnel at all levels of the organization is important. The collection and utilization of data to identify, inform and evaluate management practices and processes cannot be over-stated as a critical success factor. These cases afford courts an opportunity to demonstrate their commitment to the rule of law and their values of providing fair, accessible, efficient and effective justice. Delivering quality justice to a fragile population in need of relief may ultimately increase public trust and confidence in courts and the judiciary, more broadly.

6. References

- Baum, J., Kamhi, A. & Russell, C. M. (2012). Most in need but least served: Legal and practical barriers to special immigrant juvenile status for federally detained minors. *Family Court Review*, 50 (4), 621-628.
- Bourgeois, I. & Cousins, J. B. (2013). Understanding dimensions of organizational evaluation capacity. *American Journal of Evaluation*, 34 (3), 299-319.
- Catangay, G. E. (2016). Abandoning the status quo: Towards uniform application of special immigrant juvenile status. *UC Davis Journal of Juvenile Law and Policy*, 20 (1), 39-84.
- Center for Public Policy Studies (CPPS) & National Center for State Courts (NCSC). (2015). *Guide for State Courts in Cases Involving Unaccompanied Immigrant Children*. Retrieved from http://www.sji.gov/wp/wp-content/uploads/15-167_NCSC_UICGuide_FULL-web1.pdf [accessed 07 March 2017]
- Chishti, M. & Hipsman, F. (2014). *Dramatic surge in the arrival of unaccompanied children has deep roots and no simple solutions*. (Migration Policy Institute Publication). Retrieved from <http://www.migrationpolicy.org/article/dramatic-surge-arrival-unaccompanied-children-has-deep-roots-and-no-simple-solutions> [accessed 07 March 2017]
- Donato, K. M. & Sisk, B. (2015). Children's migration to the United States from Mexico and Central America: Evidence from the Mexican and Latin American migration projects. *Journal on Migration and Human Security*, 3 (1), 58-79.
- Feerick Center for Social Justice. (2014). *New York unaccompanied immigrant children project family court working group*. (Fordham University, The School of Law Feerick Center for Social Justice Publication). Retrieved from https://www.fordham.edu/download/downloads/id/3019/findings_from_a_survey_of_lawyers_representing_immigrant_youth_eligible_for_special_immigrant_juvenile_status_in_nys_family_court.pdf [accessed 07 March 2017]

- Government Accountability Office. (2015). *Central America: Information on migration of unaccompanied children from El Salvador, Guatemala, and Honduras*. (GAO Publication No. 15-362). Retrieved from <http://www.gao.gov/assets/670/668749.pdf> [accessed 20 March 2017]
- Government Accountability Office. (2016). *Unaccompanied children: HHS can improve monitoring of their care*. (GAO Publication No. 16-429T). Retrieved from <http://www.gao.gov/assets/680/675330.pdf> [accessed 07 March 2017]
- Hamm, D.L. (2004). Special immigrant juvenile status: A life jacket for immigrant youth. *Journal of Poverty Law and Policy*, September-October 2004, 323-328.
- Junck, A. (2012). Special immigrant juvenile status: Relief for neglected, abused, and abandoned undocumented children. *Juvenile and Family Court Journal*, 63 (1), 48-62.
- Kandel, W.A. (2017). *Unaccompanied alien children: An overview*. (Congressional Research Service Publication). Retrieved from <https://fas.org/sgp/crs/homesecc/R43599.pdf> [accessed 07 March 2017]
- Knoespele, H. (2013). Special immigrant juvenile status: A juvenile here is not a juvenile there. *Washington and Lee Journal of Civil Rights and Social Justice*, 19 (2), 505-534.
- Levinson, A. (2011). *Unaccompanied immigrant children: A growing phenomenon with few solutions*. (Migration Policy Institute Publication). Retrieved from <http://www.migrationpolicy.org/article/unaccompanied-immigrant-children-growing-phenomenon-few-easy-solutions> [accessed 07 March 2017]
- Martin, J.A., Weller, S., Price, D.A., Lederach, A., & Yoder, J. (2009). Addressing immigration in the state courts. *Court Manager*, 24 (1), 16-37. Retrieved from <http://library.niwap.org/wp-content/uploads/IMM-Qref-AddressingImmInstateCourts.pdf> [accessed 07 March 2017]
- Martin, J.A., Weller, S., Price, D.A., Lederach, A., & Yoder, J. (2010). Immigration and the State Courts Assessment and Measurement Framework. *Court Manager*, 25 (2), 33-44. Retrieved from <http://www.centerforpublicpolicy.org/file.php/203320/Immigration+and+the+State+Courts+Assessment.pdf> [accessed 07 March 2017]
- National Association for Court Management. (2015). *Court Governance Curriculum Design*. <http://nacmcore.org/app/uploads/Court-Governance.pdf>
- Ostrom, B. J., and R. Hanson (2010). *Achieving High Performance: A Framework for Courts*. Williamsburg, VA: National Center for State Courts. <http://ncsc.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/1874> [accessed 07 March 2017]
- Page, D.F. (2014). Closing the age-out gap? Assessing Maryland's recent expansion of equity court jurisdiction for potential special immigrant juveniles. *Georgetown Journal on Poverty Law & Policy*, 22 (1), 33-55.
- Pulitzer, J. (2014). Fear and failing in family court: Special immigrant juvenile status and the state court problem. *Cardozo Journal of Law & Gender*, 21, 201-228.
- Rosenblum, M. R. & Ball, I. (2016). *Trends in unaccompanied alien child and family migration from Central America*. (Migration Policy Institute Publication). Retrieved from <http://www.migrationpolicy.org/research/trends-unaccompanied-child-and-family-migration-central-america> [accessed 09 March 2017]
- Simich, L. & Mallozzi, K. (2015). *Struggle for identity and inclusion: Unaccompanied immigrant youth in New York City*. (VERA Institute of Justice Research Summary). Retrieved from https://storage.googleapis.com/vera-web-assets/downloads/Publications/struggle-for-identity-and-inclusion-unaccompanied-immigrant-youth-in-new-york-city/legacy_downloads/unaccompanied-youth-nyc-summary.pdf [accessed 07 March 2017]
- Slayton, D. (2014). How the unaccompanied minor crisis is affecting the state courts. *Future Trends in the State Courts, 2014*. Williamsburg, VA: National Center for State Courts. Retrieved from <http://www.ncsc.org/sitecore/content/microsites/trends/home/Monthly-Trends-Articles/2014/Unaccompanied-Minors-in-State-Courts.aspx> [accessed 07 March 2017]
- United States Customs and Immigration Services. (2004). *Memorandum #3 – Field guidance on Special Immigrant Juvenile Status Petitions*. Retrieved from https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static_Files_Memoranda/Archives%201998-2008/2004/sij_memo_052704.pdf [accessed 07 March 2017]
- United States Customs and Immigration Services. (2009). *Trafficking Victims Protection Reauthorization Act of 2008: Special Immigrant Juvenile Status Provisions*. Retrieved from https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static_Files_Memoranda/2009/TVPRA_SIJ.pdf [accessed 07 March 2017]
- United States Department of Health and Human Services. *Justification of Estimates for Appropriations Committees*. Retrieved from https://www.acf.hhs.gov/sites/default/files/olab/2016_acf_cj.PDF [accessed 07 March 2017]

7. Appendix



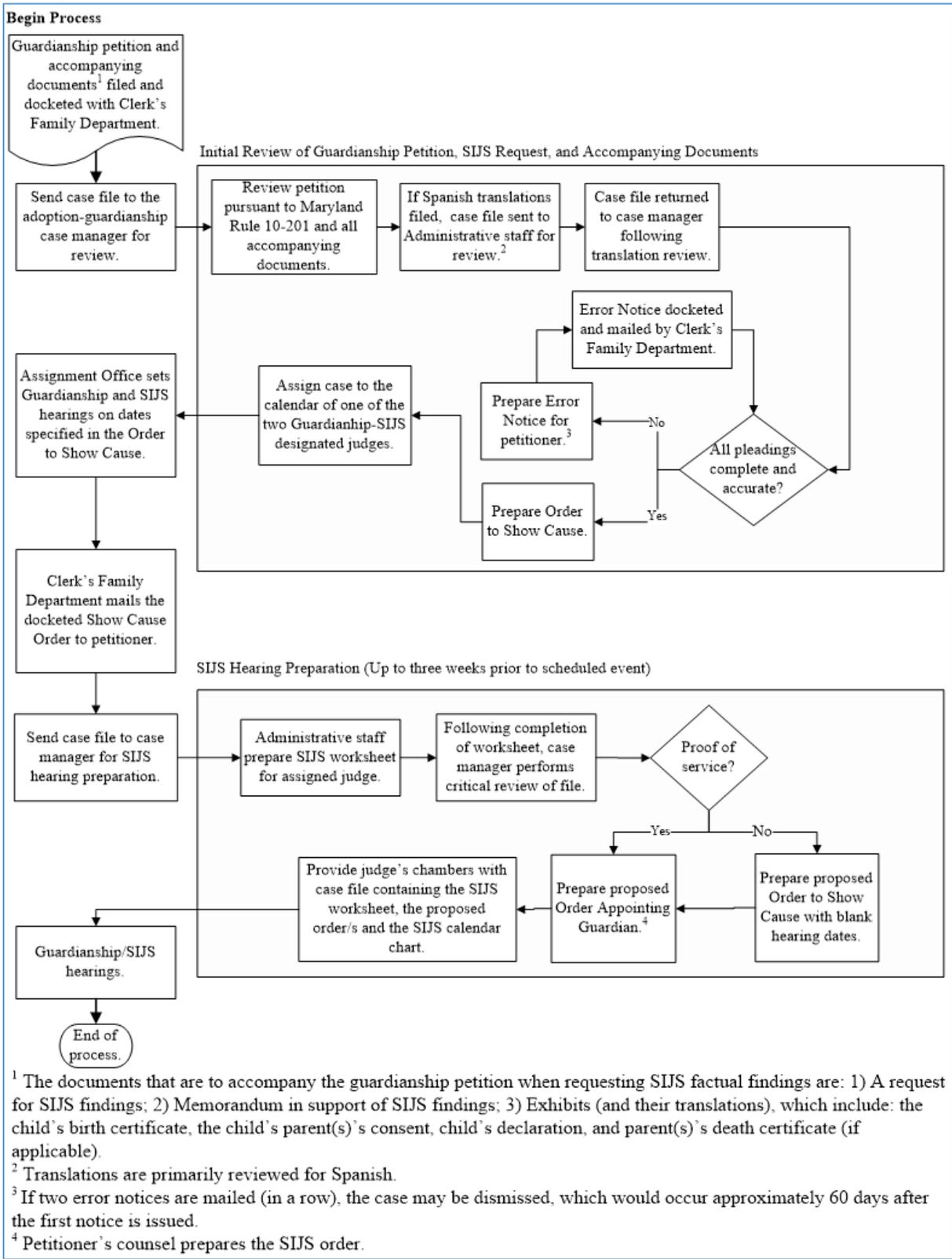
¹ The documents that are to accompany the custody petition when requesting SIJS factual findings are: 1) A request for SIJS findings; 2) Memorandum in support of SIJS findings; 3) Exhibits (and their translations), which include: the child's birth certificate, the child's parent(s)'s consent, child's declaration, and parent(s)'s death certificate (if applicable).

² The Notice issued from the case management system will include the following information: 1) case number, 2) case filing date, 3) hearing date, 4) documents required at the time of the hearing (as mentioned in the first reference note).

³ Once time to respond to service has expired, moving party may file for default if no answer/consent has been filed with the court.

⁴ The case prep sheet highlights all relevant information for both the custody and SIJS portions of the hearing, including service. It also notes what documents are in the file and at what docket entry.

Appendix A – SIJS Pre-Hearing Case Processing in Custody Cases (October 2015-September 2016).



Appendix B – SIJS Pre-Hearing Case Processing in Guardianship Cases (October 2015-September 2016).

