



DATE: March 11, 2022

Mary B. Jones, ACF/OPRE Certifying Officer. [FR Doc. 2022–00238 Filed 1–10–22; 8:45 am]
BILLING CODE 4184–29–P

Re: Request for Public Comment on the Children’s Bureau, Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to collect data for a new descriptive study, Judicial, Court, and Attorney Measures of Performance (JCAMP).

Dear Ms. Jones,

Thank you for the opportunity to provide comments on data collection for a new descriptive study, Judicial, Court and Attorney Measures of Performance (JMCAP). Casey Family Programs (Casey) was founded in 1966 and is the nation's largest operating foundation focused on safely reducing the need for foster care in the United States. Casey’s perspectives are informed by our own experiences working with child welfare agencies in all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and 16 American Indian tribal nations to improve outcomes for children and families. Casey also works directly with children and families in our nine field offices to develop and demonstrate effective, practical solutions to safely reduce the need for foster care, improve well-being, and secure safe and lifelong families for every single child in our care. Casey partners with child welfare systems, policymakers, youth and families, community organizations, national partners, philanthropy, American Indian and Alaska Native tribes, and courts to support practices and policies that increase the safety and success of children and strengthen the resilience of families. Our mission is to provide and improve – and ultimately prevent the need for – foster care.

The Casey Family Programs Judicial and National Engagement team partners with courts to support the development of a framework for a 21st Century Child and Well-Being system, designed to improve the lives of children and families. This work is directly related to our commitment to build Communities of Hope, a nationwide effort to safely prevent the need for foster care by supporting families in raising safe, happy, and healthy children. Our judicial engagement activities focus ensuring child safety and supporting excellence in our court systems through technical assistance and joint problem-solving to advance the safe reduction of children in the foster care system. Lessons learned from this engagement has greatly informed our understanding of the key role that courts play in the lives of children and families.

The Court Improvement Program (CIP) has been a critical element to state court systems to promote coordination of the legal community and other partners to better serve vulnerable families and help improve child welfare outcomes. Among other things, state courts use of CIP funding has been used to address improvements in the timeliness and quality of hearings, the reduction of attorney and judicial caseloads, enhance the quality of legal representation, and develop and improve computer technology and management information systems to integrate best practices and daily routines of state court systems.

Courts play a crucial role in the transformation of child welfare and court practices to uphold the law. The passage of the Family First Prevention Services Act (Family First) represents a fundamental shift in how federal resources are used to support children and families, through enabling the funding for prevention services to families of children at imminent risk of entering foster care as well as safely reducing the inappropriate use of non-family based placements known as congregate care. Courts play an essential role in the decisions regarding the placement of a child in the least restrictive, most family-like setting that is committed to meet the child's best interest and needs, including educational, medical, and behavioral needs. The education of judges, attorney, and court personnel in the role of court decision making and monitoring under the law was essential, including understanding new procedures for placement of children in Qualified Residential Treatment Placements (QRTPs) and court timelines and benchmarks regarding QRTP placement. Understanding data on how court management and practice and capacity of the court has impacted child placement in non-family settings and increased family engagement, and outcomes on the impacted families will be extremely important to better understand whether current court practices and the new law is impacting congregate care placement.

The COVID-19 pandemic greatly impacted courts and the children and families they serve. We have seen during the COVID-19 pandemic many challenges accessing court and postponement of judicial oversight, which led to unnecessarily long stays in foster care and delays in reunification and adoption. Ensuring the continuity of services and providing timely court access to children, parents and caregivers is essential in providing what is best for the child. There are significant gaps in the availability to access these data among child welfare partners. Having access to quality data on court docketing, practice and the outcomes for children and families is critical to better understand current and future capacity needs of the courts to serve families in a timely and appropriate manner. These are just two examples where data can help inform future court management and practice.

Equally as important is an understanding of a child and parents' experience across the court process continuum and how this bears on court case outcomes. We believe that systems improvement can be advanced by listening to, partnering, and co-designing solutions with those with lived experience. In our work, we have seen increased engagement and significant investments at the state and local level in consulting with youth, parents, kin caregivers, and resource parents, and believe that the courts would benefit from this input as well. Understanding how case management and scheduling can help a court be more trauma-informed, or understanding parent voice, and how client engagement and legal representation

can impact case outcomes would be significant information to collect. We would hope that any revisions to the JCAMP study could recenter the data collection to include parent experience in the examination of court management and practice. We also would recommend additional studies to better examine how this influences court outcomes.

To the specific matters highlighted in the Request for Comment, we offer the following:

Judicial, Court and Attorney Measures of Performance (JMCAP) – Whether it is necessary and practical utility

The importance of comprehensive data collection and analysis as a tool for improving court systems is essential for advancing improvements in court practice. The proposed data elements will offer key insights into the technical functioning and procedural compliance of dependency courts to their legal mandates. This information is important from an oversight, accountability, performance management and continuous quality improvement standpoint.

As mentioned above we believe there would be great utility to include parent experience in data collection which is looking at court performance and management.

Burden of the proposed collection of information (94 per year)

Among the courts, infrastructure and capacity for data collection and management vary widely. The burden estimate HHS has provided is accurate, for well-resourced, highly technologically advanced dependency courts systems. However, it is important to note that there is vast inconsistency across the nation in terms of the ability to perform within the estimated hours allocated. The burden will be higher for dependency courts without an agile data management system.

Secondly, the burden estimate will be contingent upon how robust and lengthy the data elements and sub-elements will be for each of the six categories of measurement described in the Request for Comment.

Quality, utility, and clarity of the information to be collected

Additional specificity regarding the sub-elements, variables, and items which will comprise the six categories of measurement is necessary to effectively comment on the quality, clarity, and usability of the data. For example, category six (cross-cutting themes), under which equity is given as an example, offering explicit conceptual definition of what this means within the stated context and how it will be measured will determine the quality and utility of the data. In addition, offering more specificity and standardization within the six categories of measurement reporting may allow for longitudinal and cross court comparison.

Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Understanding that the burden of collection may be contingent on the capacity of court infrastructure, new and refreshed data management systems could increase data reliability and interoperability and the ability to interface with public child welfare data collection systems -- thereby reducing data collection burden. HHS should continue to facilitate information sharing among states on promising practices of building and funding court data collection and information management systems, including data exchanges between child welfare and the courts. HHS should examine current barriers to state court and child welfare efforts to improve data infrastructure and management systems, and provide guidance and technical assistance as needed.

To close, data collection of court systems is vital for improving court performance, yet there is recognition that there remains more to be done in the area of coordination, collaboration, and information sharing between child welfare agencies and the courts, and a subsequent understanding of how the data could improve processes and child and family outcomes. For many states and courts, the data collected differ (case level in the courts versus child and family data compiled by child welfare agencies) and there are limitations on the ability to securely share appropriate data. We encourage the Department to continue to provide technical assistance and guidance to courts and child welfare agencies in this area, so there is a better understanding of how agency and court processes affect the lives of children and families and can influence outcomes.

Thank you for the opportunity to provide these comments. Please contact Christine Calpin, Managing Director of Public Policy (703-963-2175, ccalpin@casey.org) should you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David Sanders", written in a cursive style.

David Sanders
Executive Vice-President of Systems Improvement