Kathleen McHugh, Director, Division of Policy, US DHHS, ACF
330 C Street SW
Washington, DC 20024

RE: Request for Public Comments on streamlining the Adoption and Foster Care Analysis and Reporting System (AFCARS) data elements [Docket # 2018-05042 / RIN # 0970-AC72]

Dear Ms. McHugh:

The comments below derive from statistical research and policy and field implementations based on AFCARS and NCANDS data. Andy Barclay is a biostatistician working in child welfare for 20 years. Christopher Church is a mathematician and lawyer working in child welfare for 10 years. Melissa Carter is a clinical professor of law who has worked in child welfare as a lawyer and policy advocate for 16 years. Kaitlyn Barnes is a post-graduate fellow with two years of experience in the field of child welfare. Kevin White has worked as a case manager and assistant professor of social work for 8 years. Vivek Sankaran is a clinical professor of law who has worked in child welfare for 17 years. Tom Rawlings has worked as a lawyer, judge and child advocate for over 15 years. He is the state of Georgia's official ombudsman for children. These are the informed responses of individuals. With the exception of Mr. Rawlings, they do not represent the responses or opinions of any organizations, including organizations with which the individuals are affiliated.

Our responses will be confined to questions 3 through 5 of the ANPRM and, largely, to the 34 fields under the final rule heading "Child and family circumstances at removal" (1355.55(d)(6) i through xxxiv). However, we wish to express our strong support for all fields relating to all caretakers of foster children. The data concerning living arrangements, family structure, relationships to the child and demographics of caretakers are consistently strong predictors of primary foster care outcomes and reliably inform conceptual frameworks and field work.

Due process and family integrity are constitutional rights that merit the highest priority for data tracking.

Policy decisions (especially rulemaking) should weigh societal impact versus cost (a/k/a public health approach). Applying this premise to decisions to add or subtract AFCARS elements, we should use an objective, data-driven approach to evaluate each element's potential to inform policies that affect rights (due process and family integrity, among others) and outcomes.

Policies that influence efforts to prevent removal and the decision to petition a court for removal of a child from a home impact 100% of AFCARS and Family First Prevention Services Act (FFPSA) populations, and the individual effects are high-impact. Therefore, the measurement of reasonable efforts to prevent removal (a/k/a preserve family integrity) and protection of due process rights (procedural and substantive, by judicial and other branches) impact the largest proportion of the population with high-impact effects. Therefore, measurement of reasonable efforts merits the highest priority for data tracking.

Measurement should derive from a conceptual framework that posits testable links between the causes and effects that lead to removals and the reasonable efforts that modify them.

We are not aware of a useful conceptual framework describing efforts to prevent removal to foster care. We can only offer three basic, high-level research questions that might drive AFCARS element selection choices in 1355.55(d)(6):

1. Was there any evidence of efforts to prevent removal?
2. Were the efforts reasonable?
3. Why were the efforts unsuccessful?

In addition, we can offer some concrete examples of indicators of unsuccessful efforts to prevent removal (many of these have been implemented from AFCARS and NCANDS):

1. Absence or timing (same day? 3 days prior? 1 day after?) of a maltreatment report leading to removal.
2. Absence or timing of a maltreatment response leading to removal.
3. Absence or timing of a maltreatment investigation leading to removal.
4. Absence or timing of a substantiated or indicated maltreatment finding leading to removal.
5. Absence or timing of a petition to a court for removal.
6. Petitions for removal to foster care not originating with the state IV-E agency.
7. Judicial review of removal orders delegated by a judge to a court officer.
8. Dates and times of removal court orders.
9. Incomplete caretaker information (e.g. year of birth, race, marital status) on either or both caretakers at removal.
10. Placement into a trial home visit, relative or pre-adoptive home on the day of removal.
11. Relative proportions of weekday (on Monday to Friday, as well as Tuesday to Thursday) and business hours (9 to 5) removals.
12. Short time (measured in business days) from maltreatment report to removal.
13. Short time (measured in business days) from removal to placement with or discharge to a permanent family.
14. Sudden increases in rates of discharge at predetermined judicial review and hearing intervals.
15. Proxies for risk and protective factors with strong associations to removal.

The 34 fields under the circumstances at removal heading (1355.55(d)(6) i through xxxiv) in the final rule should be redesigned to inform policies aimed at improving the success of efforts to prevent removal to foster care.

This might also be an opportune time to replace the 19 fields currently in AFCARS related to "Circumstances associated with removal"[1] with a set of fields designed from the ground up to inform

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[1] https://www.acf.hhs.gov/sites/default/files/cb/afcars_elements_comparison.pdf visited 6/13/2018.

policies that support effective efforts to optimize the use of removal to foster care in promoting safety and permanence. Absent evidence that the 19 fields currently in AFCARS inform such policies, and absent a literature review and exploratory analysis, we suggest 6 fields that would make practical the implementation of the example indicators above:

1. Report ID of the NCANDS report record that led directly to this AFCARS removal episode.
2. Court filing date and time of successful or most recent petition for removal (the petition for removal).
3. Approval status of the petition for removal.
4. Role of the petitioner.
5. ID of court officer adjudicating the petition for removal.
6. Role of court officer adjudicating the petition for removal.

We thank you for your consideration of these comments.

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