

**New York City Administration for Children's Services  
Pamela Lee, Assistant Commissioner, Office of Special Investigations,  
Division of Child Protection  
Testimony to The New York City Council  
Committees on General Welfare and Health  
November 10, 2011**

**“Oversight: Coordination Between The Department Of Health And The  
Administration For Children's Services When Inspecting And  
Monitoring Child Care Centers In New York City”**

Good morning Chair Palma, Chair Arroyo, and members of the Committees on General Welfare and Health. I am Pamela Lee, Assistant Commissioner in the Office of Special Investigations in the Division of Child Protection at the New York City Administration for Children's Services (ACS), and joining me is Gilbert Taylor, Deputy Commissioner for Family Court Legal Services. Thank you for giving us the opportunity to speak to the coordination between the Department of Health and Mental Hygiene (DOHMH) and the Administration for Children's Services when inspecting and monitoring child care centers and investigating child abuse and maltreatment allegations, respectively, and to share with you how the two agencies work with each other on this important issue.

ACS is responsible for investigating allegations of child abuse or maltreatment that are called into the New York Statewide Central Register (SCR) of Child Abuse and Maltreatment. We investigate approximately

60,000 reports of suspected abuse or maltreatment annually. The focus of these investigations is always the reported children called into to the State Central Register.

In the event of a call to the SCR involving a New York City child care provider, the New York State Office of Children and Family Services (OCFS) assigns the investigation to ACS, Office of Special Investigations (OSI). OSI is the branch of the Division of Child Protection that investigates any allegation of child abuse or maltreatment that involves a day care center, a family day care home, a group family day care home, a foster care home, or highly sensitive cases.

When OSI receives the case from OCFS involving a child care center, we first go to the DOHMH website to confirm the existence of the center. We call DOHMH to confirm that the center is licensed. After redacting the source's information, we send the intake report via fax to the DOHMH Compliance Unit liaison. As in all investigations, ACS checks to see if there are prior cases on all the reported children and searches other data systems based on what we find.

Once the case is assigned to an ACS unit, the supervisor contacts the DOHMH intake unit to request a complaint number and the contact information for the assigned Borough office. During this initial contact, OSI

and DOHMH discuss when the last monitoring visit occurred and if there were any present concerns and/or violation history.

Within 24 hours of the SCR report, ACS notifies the parents of the reported child of the existence of the NYS Child Abuse and Maltreatment report, and the parents are asked for their cooperation in the investigation process. The parents are informed that the investigation will require immediate contact with the reported child or children so that a Child Protective Specialist (CPS) may assess the child's safety. During this interview, details of the SCR report are discussed with the parents. In investigations involving child care providers, no child can be interviewed without their parents' permission. This includes the reported child. Parents are interviewed to determine if they have any knowledge of the reported incident, and if they have any concerns about the care and supervision that the child receives at the child care center. ACS requests permission to interview/observe their child within 48 hours of the report being made to the SCR.

ACS coordinates with the DOHMH Borough Office to identify the assigned inspector and to coordinate an initial visit to the child care facility. If the inspector and/or CPS are unavailable to coordinate a joint visit (JV), then supervisors will share cell numbers for follow-up contact. If DOHMH

and OSI are unable to coordinate a joint visit, the assigned staff will proceed with their respective investigations.

The CPS worker conducts a face-to-face visit to assess the safety and risk of the reported child either at the child care center or the family's home depending on the circumstances of the case. All children under the care of the alleged subject must be fully identified, observed, and their parents' contact information must be obtained during the initial visit.

During the course of the investigation, contact must be made with the parents of other children who are in the reported child's "class" to find out if they have any concerns about the care, and/or supervision that their children have received at the reported day care facility, and to request their permission to interview their children.

The CPS visits the child care facility and interviews the Center Director, the subject(s) of the report, and all staff who have knowledge of the incident, alleged subject, or reported child or children. The CPS worker requests copies of the facility's license, the roster of children, and the parents' contact list. The worker reviews the reported child's file and the alleged subject's personnel file. The CPS requests a copy of the reported child's medical history, copies of the SCR, and fingerprint clearance of the alleged subject as well as any personnel files.

The CPS worker interviews collaterals which may include parents, neighbors and children receiving child care services.

During the course of the investigation, OSI confers with DOHMH as to the status and/or outcome of their inspection. The DOHMH inspection may result in citing violations of regulations or center closing. The DOHMH inspection report and/or consultant reports are submitted to OSI prior to the completion of the OSI investigation.

During the investigation, the CPS worker completes and submits ongoing safety assessments on the reported child or children which will assist in the evaluation of the child's safety.

In concluding the case determination, the CPS reviews the reported concerns and facts gathered during the investigation. The CPS assesses the caretaker's behavior and how it impacts on the reported child (ren). There is also a review of the standards of care provided to the child and how the non-compliance with DOHMH polices may have contributed to the lack of supervision or inadequate guardianship of the reported child. The CPS must assess whether the subject's actions or failure to act caused abuse or maltreatment of the reported child, as defined by the law. The determination is submitted by the CPS worker and reviewed and approved by their Supervisor and/or Manager in CONNECTIONS -- the New York State child

welfare information system of record. If the case is indicated, which means there is “some credible evidence” that the child was abused or maltreated, all subjects are mailed the notice of indication, which is generated by CONNECTIONS. If the case is unfounded, the unfounded notification is issued by OCFS.

Upon completion of the investigation, OSI notifies DOHMH of the case determination. The notice of determination is sent via email and OSI forwards a hard copy file to the DOHMH Intake liaisons, borough manager and the day care director. If the case is indicated and requires corrective action, OSI develops recommendations to address safety and risk concerns identified during the investigation and submits those recommendations to DOHMH. DOHMH takes into consideration the ACS recommendations and findings to formulate the final assessment and corrective action plan.

In the case that was brought to the attention of the City Council, ACS followed the protocol described above once a report was made to the SCR on April 12, 2011. The SCR report alleged that a child died on March 25, 2011 at the Kiddie Academy and “there is concern that day care staff did not check on [the child] and did not act in a timely manner when child was having difficulty breathing.” The record indicates ACS was informed that the Kiddie Academy had submitted a corrective action plan to DOHMH on

March 29, 2011. In keeping with our protocol, ACS called DOHMH and informed them of the SCR call.

ACS conducted a thorough investigation of the allegations over the course of sixty days that included three separate safety assessments as it related to the reported child. The investigation is focused on the circumstances at the time of the incident. When we make a finding of inadequate guardianship we are basing that decision on several factors including the age, capacity and condition of the child and the duration of time when the basic needs of the reported child went unmet. ACS did find credible evidence of “Inadequate Guardianship” against two of the child care staff as it relates to the reported. We cannot discuss the facts of that “indication” since that finding has been appealed by the two staff involved, is currently awaiting a fair hearing, and is therefore in litigation.

ACS and DOHMH followed the joint protocol described in this testimony. You heard from the Department of Health and Mental Hygiene regarding the role that they play in overseeing child care centers in the City, and I hope that I have clearly described ACS’ responsibility to investigate allegations of abuse or maltreatment in child care centers. While we have two distinct roles, we work closely together to share information from our respective investigations, which informs the work of the other. At the same

time, given our distinct roles, responsibilities, governing regulations, and mandates, there may be different outcomes from our assessments and investigations.

Thank you for this opportunity to testify. My colleague from DOHMH will conclude his testimony and then we will be available to answer your questions.