



**The New York City Council,  
Committees on General Welfare and Justice System  
November 27, 2018**

*“Oversight – Removals from Parents and Caretakers in Child Welfare Cases”*

**Testimony by  
New York City Administration for Children's Services**

**David A. Hansell, Commissioner**

Good afternoon Chair Lancman, Chair Levin, and members of the Committees on the Justice System and General Welfare. I am David Hansell, Commissioner of the New York City Administration for Children's Services (ACS). With me today are William Fletcher, Deputy Commissioner for the Division of Child Protection (DCP), Alan Sputz, Deputy Commissioner for the Division of Family Court Legal Services (FCLS), and Julie Farber, Deputy Commissioner for the Division of Family Permanency Services. We are pleased to join you today to share more about the crucial mission of ACS to protect and promote the safety and well-being of New York City's children and families.

Every day- 24 hours a day, 7 days a week- Child Protective Specialists (CPS) are the first responders for children and families in crisis. CPS staff respond to calls, assess the safety of children, and offer services to support and strengthen families, throughout the five boroughs. While CPS often do not get the recognition they deserve, their decisions literally save the lives of children. I want to take this opportunity to thank the more than 1,800 CPS and their supervisors and managers for the work that they do.

Our top priority for every family we encounter is the safety of the children. When an investigation reveals circumstances that indicate imminent risk or safety concerns, CPS staff work to help families address any underlying issues that compromise safety and will also meet with ACS's Family Court Legal Services (FCLS) unit of attorneys to determine whether court intervention is necessary. I also want to thank the 251 FCLS attorneys and their supervisors and managers for the critical work they do every day presenting these cases to the Family Court.

The job of both CPS and FCLS is challenging. Together they work tirelessly toward the goal of making the right decision in every case to keep children safe, offer services and supports to enable children to remain in their homes whenever possible, and remove

children only when necessary to address imminent danger and after other possible safety interventions have been exhausted. My testimony today will provide an overview of the work done by our child protective and legal staff, as well as the reforms we have put in place to give our CPS and FCLS staff the tools and skills they need to enhance decision-making.

### **Child Protective Investigations**

I'd like to begin by giving you an overview of our investigative process. When a person suspects that a child is being abused or maltreated, he/she makes a call to the State Central Register (SCR). The SCR is administered by our state oversight agency, the Office of Children and Family Services (OCFS). Whenever OCFS accepts a report related to a New York City child, ACS is required by state law to conduct an investigation. Each year, the ACS Division of Child Protection investigates approximately 60,000 reports of suspected child abuse and neglect made to the SCR, involving nearly 80,000 New York City children. All families and children are different, and our staff is charged with making highly individualized, nuanced assessments based on risk and strengths, and to then take appropriate actions to ensure child safety.

CPS must commence a child protective investigation and attempt to contact the source of the SCR report and other people with information about the child's safety within 24 to 48 hours of receiving the SCR report.

The investigation includes reviewing the family's prior history with ACS; contacting the person who made the report; visiting the home; and interviewing the child, parents, household members, and other important people in the child's life such as teachers and neighbors. A child protective team has up to 60 days to complete the investigation and

make a determination about whether there is credible evidence to support allegations of maltreatment.

Because many family situations involve complex challenges and multiple risk factors, ACS has specialized consultants stationed in each of the 17 DCP Borough Offices to assist the child protective staff throughout the investigation. The ACS Clinical Consultation Program includes Domestic Violence Consultants, Credentialed Alcoholism and Substance Abuse Counselors (CASACs), Early Childhood and Adolescent Consultants, and Medical and Mental Health Consultants who support the work of CPS. ACS also employs Investigative Consultants, who are former law enforcement professionals trained to assist the CPS by analyzing criminal and domestic violence history, and providing crucial information to aid in safety and risk assessments and in creating safety plans to promote the safety and well-being of children that remain in the home with their families.

In the summer of 2017 we piloted a new Heightened Oversight Protocol (HOP), which we made permanent and expanded this past summer. This new protocol combines the expertise of our CPS staff with our Investigative Consultants, in the most high-risk investigations: when the SCR report involves allegations of physical or sexual abuse of a child under the age of three, or involves a child under three where that child or any siblings had been placed in foster care prior to the current investigation.

Under state law, when ACS concludes its child protective investigation, we are required to “indicate” the case if we found “some credible evidence” of maltreatment or to “unfound” it when we have not. ACS “indicates” approximately 40% of the cases we investigate. Consistent with our goals, the law requires us to keep children at home with their parents or caretakers whenever risk can be mitigated, so CPS works with the family

to provide supports and respond to service needs that are identified as a result of the investigation or requested by the family in order to address underlying issues creating the risk and to prevent the need for a removal.

To work with families to develop plans that keep children safe, ACS holds a series of Family Team Conferences, which parent advocates often attend. The Family Team Conference approach brings families to the table to discuss the safety concerns and collectively brainstorm realistic interventions that can be put into place to mitigate risk to the child. These conferences provide an opportunity for ACS and families to develop a plan that will keep children safe, which can include services, excluding someone from the home, identifying resources to assist with caring for the children, and/or court-ordered supervision, potentially avoiding the need for a removal. If there are no interventions that can assure the child's safety and imminent risk of harm to the child remains, ACS will request authority from the Family Court to remove the child from the home.

### **Addressing Child Safety and Risk with Prevention Services**

ACS promotes child safety and family stability through the City's unprecedented investment in prevention services. Over 19,000 families per year receive prevention services and supports targeted to the family's individual needs, such as substance abuse, mental health, and domestic violence, among others. Over the past 3 years, ACS has been a forerunner in launching innovative new programs and approaches to continuously improve the way we serve children and families. The overall number of child welfare prevention slots has increased from 11,994 in FY2015 to 13,596 in FY2019. In expanding our continuum of prevention services, we have made a deliberate effort to bolster services for our higher-needs families receiving court-ordered supervision or at immediate risk of

court intervention, including 960 new prevention slots specifically created for court-ordered supervision cases. Our deep commitment to supporting and strengthening families in the community through prevention services has allowed the City to reduce the number of children in foster care to a historic low of under 8,500 children—a momentous shift from the nearly 50,000 children in care 25 years ago and nearly 17,000 a decade ago. The decline in our foster care population has continued even as national foster care caseloads have increased since 2012. ACS believes strongly that children should only be placed in foster care when it is necessary and only for as long as necessary. Research shows that children have the best outcomes when they are with their families and so we at ACS work to prevent foster care placement whenever it is safe to do so and to safely reunify children as quickly as possible.

### **ACS Filings in Family Court**

Throughout every investigation, CPS are always assessing the safety and risk of the children. If CPS believes that the safety and well-being of the children would benefit from services while also remaining safely at home, the CPS worker can refer the family to non-contracted community-based services and/or an ACS prevention program. If due to heightened safety concerns, the CPS worker feels that court intervention is necessary, the CPS worker will schedule a Child Safety Conference to discuss safety interventions and plans that can be put into place to address the safety concerns identified; one such outcome could be court-ordered supervision.

If during the Child Safety Conference, the Facilitator and the Child Protective Team are not in agreement with the recommended outcome, the Deputy Director will bring the CPS team and Conference Facilitation Specialist together to make a decision on the recommendations from the Child Safety Conference. If CPS, in consultation with FCLS,

finds that the safety of the children requires ACS to monitor the safety of the home and/or for the court to order the family to participate in services, FCLS will file a petition in court and seek court-ordered supervision. If the CPS worker, with approval by his or her supervisor, manager and Deputy Director, believes that a child is at imminent risk of harm and there is not enough time to seek a court order in advance, such as on the weekends or when there is no intervention to keep the children safe prior to going to court, the law allows CPS to conduct an emergency removal. Whenever possible, ACS will seek a court order prior to removing children from their families. All removals and court-ordered supervision must be sanctioned by a Family Court judge. Of the approximately 60,000 investigations conducted each year, ACS files cases in Family Court involving fewer than 20% of the children in those investigations, and approximately 70% of the filings are for court-ordered supervision. Attorneys in the ACS Division of Family Court Legal Services (FCLS) represent ACS in child maltreatment cases, permanency hearings, certain juvenile delinquency hearings and other child welfare proceedings in the New York City Family Courts. FCLS attorneys work collaboratively with the Division of Child Protection (DCP), foster care agency case planners, and other child welfare stakeholders to further the agency's mission on behalf of children, youth and families.

To request authorization from the court to conduct a removal or court-ordered supervision, the FCLS attorney will work with CPS to file a court petition that states the abuse and/or neglect allegations and the basis for such allegations. When ACS has conducted an emergency removal before coming to court, the petition is filed on the same day of the removal or, at the latest, by the very next court day if there is not enough time to file the same day or if removal occurs outside of court hours. During the first court appearance, ACS will ask the Family Court judge to issue an order authorizing the

intervention ACS is seeking. If ACS is recommending a remand to foster care, the CPS must inform the Family Court judge of the basis for the removal, including why reasonable efforts to prevent the removal have been exhausted or could not be made under the circumstances. Each parent and all children are also represented by attorneys, who will present information on their behalf. The judge will then determine what living arrangement—such as release to a parent with court-ordered supervision, release to another appropriate relative or caregiver, or temporary placement in foster care—is safe for the child, and the court may also issue other orders to protect the child’s safety.

In cases where the court sanctions a child’s removal and placement into foster care, ACS’s goal is to work with the parent(s) to safely reunify the family. The Family Court Act provides for a series of hearings and trials to reach judicial determinations on abuse or neglect allegations in ACS’s petition, and determinations on when the children in out-of-home care can safely be returned to the parents, as well as hearings focused on the permanency plan for the child and the efforts made by ACS and our foster care agencies to provide services to reunify the child and to ensure the child’s well-being. Throughout the entire court process, ACS and our contracted foster care provider agencies continually assess safety risks in the home and the necessity of the child’s continued placement in foster care. ACS regularly reports to the Family Court on our work with the family to help move them towards safe reunification, including referrals for services, the family’s participation in services, the quality of visits between children and their family members as authorized by the court, and any other assistance by ACS and the foster care provider to increase safety and promote well-being. When there is a question as to the necessity of continued placement, the Family Court may hold a hearing to decide whether the children

would be at imminent risk of harm if returned to the parent, and bases its decision on the testimony of caseworkers, parents and other witnesses.

### **The Child's Removal and Placement in Foster Care**

We know that children who have experienced abuse or neglect, and the further trauma of removal from their home, fare best when placed with a kinship foster care resource, whether this is a grandparent, aunt or uncle, close family friend, or other individual who is important to the child. Whenever a child needs to be removed from his or her home, ACS tries to minimize trauma by placing the child in a family-based setting known to them. We start by exploring kinship options with the parents and the children in the hopes of safely placing the child with kin whenever possible. When a kinship resource is identified, the foster care case planner works with the resource to certify their home as a foster home. If no kinship resources are identified as foster homes, ACS will seek to place the child in a non-relative foster home, or where appropriate to meet the child's needs, a residential placement setting.

Increasing placement with kin is a top strategy in the ACS Foster Care Strategic Blueprint and a recommendation in the 2018 Interagency Foster Care Task Force report that we are working tirelessly to implement. As of March 2018, ACS established 10 new kinship specialist positions to partner closely with DCP, with the dedicated function of finding and engaging kin caregivers for children entering foster care. ACS partnered with the nationally known kinship care organization A Second Chance to provide training to these staff that was delivered in June 2018. We have already seen an increase in the percentage of children placed with kin, growing from 31% to 37% this past year.

## **Trends in ACS Court Filings**

We understand that the City Council and advocates are interested in Family Court practice and trends. We have done a recent analysis of available data and want to share some of the trends related to ACS's removals and Family Court filings.

In late 2016, after the highly publicized deaths of two New York City children who died as a result of abuse, reports to the SCR increased. The total number of investigations ACS conducted in response to reports of abuse or neglect rose by more than 9% from calendar year 2015 to calendar year 2017.

As a national leader in prevention services, we know that in-home and community-based interventions can be the right choice for many families, both to minimize trauma and promote good outcomes, and so we seek court intervention only when we believe it is necessary to ensure child safety. As previously stated, to serve more families that come to our attention, we have been increasing the capacity of our preventive programs significantly. When children need to be placed in foster care, ACS works closely with our foster care provider agencies to make sure that families receive targeted services and supports to address risk factors and enable the family to reunify when safe and appropriate. As a result, the majority of children who enter foster care return home to their families. In FY 2018, 2,460 children reunified with their parents and 298 children exited care through kinship guardianship (KinGAP).

From 2015 to 2017, the number of children with court cases filed by ACS increased by more than 60%. Two of the factors driving this were an increase in the overall number of reports of suspected abuse or neglect and a sharp increase in the number of indicated investigations with domestic violence present in the home. Most of these filings sought court-ordered supervision to protect children remaining at home with their families.

In 2017, over 70% of the filings for court-ordered supervision involved an order of protection—most often because of domestic violence, but also for other reasons such as excluding the person who physically or sexually abused the child. Recognizing that violence poses a significant safety risk to children, ACS seeks court orders of protection, usually prohibiting the person causing harm from being in the home with the children, and ACS also seeks court orders to allow caseworkers to continue monitoring the families.

ACS's filings in Family Court have begun to decrease in recent months. In the first six months of calendar year 2018, the number of children with court cases filed by ACS decreased nearly 17% from the same period in 2017. As a subset of this, the number of children removed on an emergency basis dropped more than 11% in the first 6 months of 2018, compared to the same period in 2017.

### **ACS's Efforts to Strengthen our Decision-Making and Ability to Keep Children Safe**

New York City's most important asset for protecting our children is our team of over 1,800 Child Protective Specialists (CPS) who work to protect children and support families in some of the most challenging situations. Given the complex process I have just described, it is essential that we make the best possible decision about child safety in each and every investigation. To that end, ACS has made critical investments to strengthen CPS investigations, by strengthening quality assurance and oversight, keeping caseloads manageable, enhancing training, and ensuring that CPS are equipped with state-of-the-art technology. We must also constantly review our policies and practices to ensure that they support our goals of keeping children safe while supporting families and minimizing trauma.

One of the first reforms I initiated when I became ACS Commissioner was to restructure and re-launch Child-Stat, a quality improvement process in which we regularly review high-risk cases under current CPS investigation and analyze performance data from each borough office. In addition, we created a new Quality Assurance Unit to improve case practice on investigations involving high-risk families, as this new unit provides frontline child protective staff with real-time feedback on safety assessments, decision-making and service provision. As I mentioned earlier, we have enhanced case review processes by implementing a new Heightened Oversight Protocol on SCR reports involving alleged physical or sexual abuse of a child under the age of three, or where a child or siblings have been previously removed. Under this new protocol, the Investigative Consultant supervisor and a Child Protection manager or supervisor conduct a joint case review prior to initiating an investigation. Investigative Consultants remain involved in these cases and participate in further reviews in the course of the investigation to provide enhanced support in these most serious cases.

We have also taken steps to ensure that we have a highly trained workforce of CPS staff. Through our ongoing recruitment of CPS staff, we are able to maintain average caseloads under 12, consistent with best-practice standards and significantly lower than most jurisdictions throughout the country and across New York State. We now also have clinical social workers at the Child Advocacy Centers, which are located in each borough and provide a child friendly, neutral and supportive setting where professionals from multiple disciplines, including ACS CPS workers and NYPD detectives, coordinate and expedite the investigation, prosecution, and delivery of treatment services in cases of child sexual abuse and serious physical abuse.

The enhanced training curriculum for our CPS staff includes a new Safety and Risk module to assist in developing stronger safety plans for children and reinforces the importance of treating all families equally regardless of race, ethnicity, sexual orientation or other factors. To support continuity from the training academy to the field, Staff Development Coordinators and “coaches” work with supervisors and managers in our DCP borough offices to bridge the transition and reinforce the extensive up-front training program. In addition to all of the internal quality assurance and improvement tools we have in place, I also believe it is imperative for myself, ACS Deputy Commissioners and other ACS staff to regularly hear feedback from advocates and providers. Since coming to ACS, I have been meeting routinely with parents, parent advocates and lawyers, children’s advocates, and attorneys for children and youth. Their feedback about ACS policy, practice and impact on them and the families they work with is critical information that helps us to strengthen our ability to keep children safe and support families. In addition, we have significantly expanded our efforts to formally engage the voices of parents across ACS’s work. For example, we contract with parent advocacy groups to review materials and trainings, and to create resources that can help parents know and exercise their rights in the child welfare system. ACS recently expanded our contract with Rise, a nonprofit organization that trains parents to write and speak about their experiences with the child welfare system to support and guide parents, and help child welfare professionals become more responsive to the families and communities we serve. As part of this new collaboration, Rise will deliver the Building Bridges curriculum to ACS and foster care agency staff. This workshop will introduce tools, developed with parents and foster parents, that agencies can use to inform and support parents, foster parents and frontline staff in navigating these complex relationships.

Since I have come to ACS, we have also taken important steps to strengthen and support child protective workers through technology. CPS now have additional transportation options, including ZipCar and the use of ZipCar's "local motion technology," which allows CPS to find and reserve cars online so that they can respond even more quickly and safely to reports of child abuse and maltreatment. More than 1,800 frontline CPS have received upgraded technology, including smartphones, new high-speed tablets, and "Safe Measures" software which can automatically identify and flag high-risk cases that need additional review by managerial staff.

### **Closing**

Thank you for the opportunity to discuss ACS' role in child protective investigations and the Family Court, and our interventions to keep New York City's children safe. I appreciate the Council's leadership and focus on this important topic, and we look forward to discussing with you ways to strengthen the system for the benefit of all children and families. We are happy to take any questions.