



David A. Hansell, Commissioner
Testimony to the New York City Council
Committee on General Welfare
October 31, 2019

Child Welfare Bills:
Int. 1715, 1716, 1717, 1718, 1719, 1727, 1728, 1729, 1736- 2019
Resos. 736-2019 and 1036-2019

Good afternoon Chair Levin and members of the Committee on General Welfare. I am David Hansell, the 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), Sandra Davidson, Assistant Commissioner in DCP, and Stephanie Gendell, Acting Deputy Commissioner for the Division of External Affairs.

We at ACS appreciate the Committee and the Progressive Caucus focusing on the children, youth and families who come to the attention of the child welfare system. ACS takes very seriously our obligations to assess child safety and provide families with the supports and services they need so that children can be safe in their homes whenever possible. At the same time, we recognize and respect parents' rights, as well as their bonds with and love for their children. We also know that deep-rooted structural racism exists in our country, and that the child welfare system has historically had a disproportionate impact on low-income families and communities of color.

Since I joined ACS as Commissioner, we have faced these issues directly by: focusing on the safety of the children who come to our attention; providing high-quality community-based services to families in need; elevating the voices of family and community to inform and improve our work; and continuing to shape New York City's child welfare system as a progressive national model that addresses historical disproportionalities. We are proud of the progress we have made, but there is much more to do, and we appreciate the Council's focus on these important issues.

The bills that are the subject of this hearing reflect a set of core principles to which ACS is committed:

- Parents should be fully-informed about the child protective investigative process, at all stages;
- We should provide the supports to families that enable parents and caregivers to address challenges that affect children’s well-being, and we should do so while keeping families together whenever safely possible;
- We must confront head-on the history of racial disproportionality in the child welfare system, and ensure that we are treating all families equally; and
- We must listen to the perspectives of parents and others with lived experience in the child welfare system, to inform our efforts to improve our work.

I would like to explain what we are doing in each of these areas, before turning to the specific bills under consideration.

Keeping Children Safe and Well Cared for at Home

ACS’s Child Protective Specialists (CPS) are the first responders for keeping children safe and supporting families, 24 hours a day, 7 days a week. When a concerned citizen or mandated reporter is worried about a child’s safety, he or she calls the New York Statewide Central Register of Child Abuse and Maltreatment (more commonly known as the child abuse hotline or SCR). Whenever the State accepts a report of alleged abuse or maltreatment regarding a New York City child, ACS is legally

required by statute to conduct an investigation and assess the safety of the child. This past year, ACS investigated approximately 55,000 reports of abuse or neglect involving over 90,000 children.

ACS understands that when a child protective worker comes to a family's home, after there has been a report alleging possible abuse or neglect, it can be a stressful event for parents, caregivers and children. Our staff are highly trained to engage with families from a strengths-based perspective and using trauma-informed techniques such as motivational interviewing. Core values of respect, empathy, and genuineness are reinforced with CPS throughout their training and in daily practice. All of this helps us assess safety, lessen the stress of the child protective investigation, and partner with parents and families to best connect them, as needed, with services and supports.

New York State Social Services Law requires that "after seeing to the safety of the child or children," ACS notify the subject of the report and other persons named in the report in writing of the existence of the report and their rights during and after the investigation. In addition to verbally explaining to parents why they are at the home and need to see the children, child protective staff give parents the State Office of Children and Family Services (OCFS) produced form, called the "Notice of Existence" and the ACS "Parent's Guide" to a child protective investigation. The State-required Notice of Existence includes information about the investigation process, information on how to appeal at the end of the investigation, how to request a copy of the case record, and the contact information for the caseworker and supervisor. In response to ACS's request,

the State made this form available in multiple languages, including NYC's 10 designated languages.

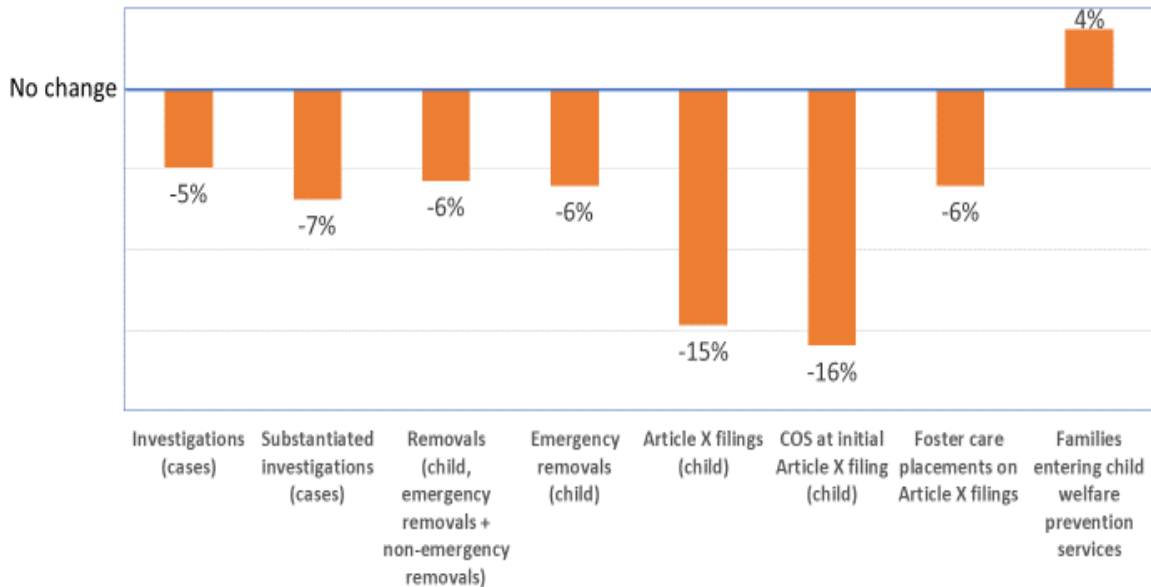
The ACS Parent's Guide, which is written in plain language, explains the child protective process to parents and caregivers, gives information about prevention services, explains the definitions of abuse and neglect, includes ACS caseworker contact information, and provides information on how to appeal if the report is indicated. The Parent's Guide also informs parents about the ACS Office of Advocacy, which is a resource for parents, children, and others impacted by the child welfare system. As recommended by the Foster Care Task Force, ACS worked with providers, parents and advocates to revise the guide to make it more user-friendly. We are so thankful to the parents and advocates whose feedback has been incorporated into the newly updated Parent's Guide that we are including with our testimony today.

In approximately 63% of the cases we investigate, ACS finds no credible evidence of abuse or neglect. In those instances, we "unfound" the case and take no further action, although we may offer the family voluntary services. In the vast majority of investigations where we do identify safety concerns, we address them by connecting parents to services that can keep children safe at home. In most cases, ACS works with our community-based prevention service providers to deliver trauma-informed services like substance abuse counseling, domestic violence intervention, and mental health services so families can remain safely together.

ACS's robust, nationally-recognized continuum of prevention services served almost 20,000 families with more than 45,000 children in FY 2019. As a result of the unprecedented investment in prevention services, we have seen a dramatic reduction in the number of children in foster care in New York City to historically low levels—currently about 8,300. This is a momentous shift from 25 years ago when there were nearly 50,000 children in foster care in New York City, and from even just 10 years ago, when there were almost 16,000 children in foster care. Through the new set of prevention programs we will implement next year, we will establish uniform access to every prevention model in every community citywide. Providers will be required to engage families, incorporate their feedback, and offer meaningful opportunities for their voices to shape the services they receive.

The data show that our efforts to transform NYC child welfare are working. As you can see in the chart below, from FY2018 to FY2019, reports to the SCR, the ACS indication rate, the number of children removed, court filings, new court ordered supervision cases, and foster care entries all decreased, while the number of children receiving prevention services increased. In other words, we are identifying safety concerns, and initiating court action and child removals in fewer cases, while engaging more families in prevention services – trends we hope and expect will continue in future years.

Key FY 2018 - 2019 Trends



Equity

Over the past 30 years, numerous studies have highlighted racial and ethnic disparities in the child welfare systems throughout the country, and have generally shown that children of color are more likely to be reported, investigated, substantiated, and placed in care, and that they stay longer in care and are less likely to be reunified with their families.¹ As data from the national Adoption and Foster Care Analysis and

¹ See, e.g., Child Welfare Information Gateway. (2016). *Racial disproportionality and disparity in child welfare*. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau; and Chapin Hall Center for Children at the University of Chicago. *Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice*. Chapin Hall Center for Children, 2008. Chicago: Chapin Hall Center for Children at the University of Chicago.

Reporting System (AFCARS) reports show, racial and ethnic disparities in the child welfare system—at each stage—is a national issue.

Throughout my tenure as ACS Commissioner, it has been a central priority to address racial disproportionality and other inequities throughout ACS, and to provide staff with a deeper understanding of how implicit bias and institutional racism impact the way we engage with and provide services to families. The truth is: the causes of disproportionality and inequity are multiple and deeply rooted within the history and fabric of our country. The child welfare system does not exist in a vacuum, and it is connected to larger political, social, historical, and economic structures.

We recognize that fundamental to the work of ACS is to help address the systemic inequities that affect our work and the families we serve. It is crucial for us to build trust, engagement, and relationships in order to make a meaningful impact on disparities – infusing this across everything we do. While I am pleased to say that ACS is at the forefront nationally in tackling this issue head-on, we have a great deal of work to do.

We are addressing disproportionality through a comprehensive set of both internal and external activities. Internally, we have created institutional structures to focus our attention on these issues, developed implicit bias training programs for all of our staff, and developed and begun implementing an Equity Action Plan – a Plan that will allow us to measure our progress. Externally, we are investing in community-based strategies in historically marginalized neighborhoods to reduce child welfare

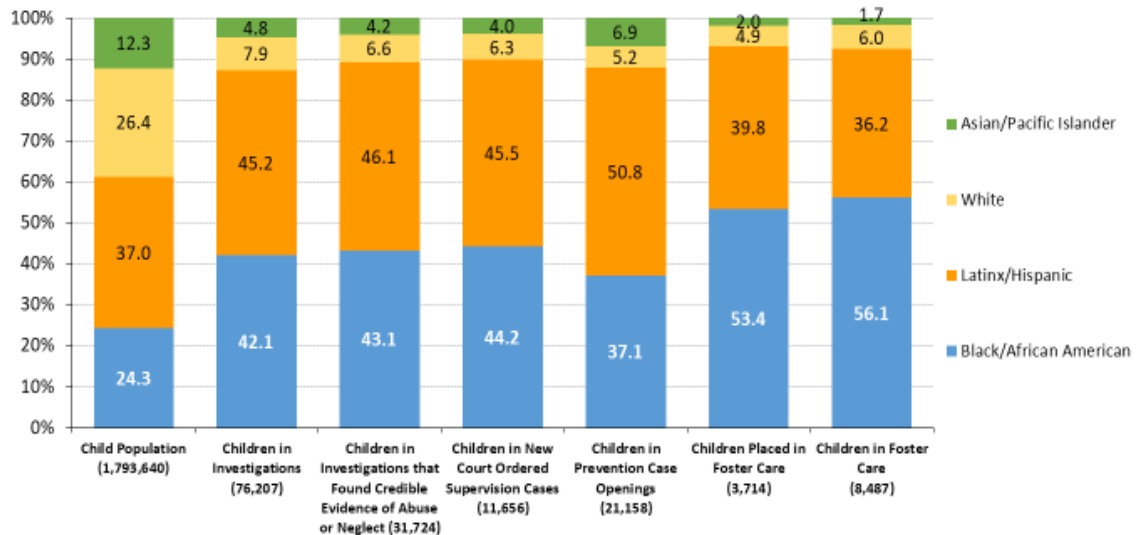
involvement, addressing concerns about implicit (or explicit) bias in the reporting of possible maltreatment by mandated reporters, and supporting legislative reforms to reduce unnecessarily onerous impacts of the investigative system on low-income families and families of color. Let me describe each of these activities in more detail.

Internal Strategies to Address Racial Disproportionality and Implicit Bias

ACS recently created an Office of Equity Strategies to provide focus and direction to our work in this area. The Office leads ACS's efforts to develop and advance specific policies and practices that reduce disparities in outcomes for children and families that are the result of bias based on race, ethnicity, gender and gender expression, and/or sexual orientation.

Our data confirm that much like the national data, racial disproportionality exists in New York City's child welfare system. This begins with the racial composition of children and families that are reported to the SCR and ACS is then obligated to investigate, and continues through case indication, foster care placement, and length of stay in foster care. At all stages, there are disparities for children of color, particularly Black/African American children and families. This does not mean that decisions made by mandated reporters, caseworkers and others are incorrect on individual cases. However, it does mean that more broadly, Black families experience child welfare differently from White, Hispanic and Asian families.

Race/Ethnicity and Path through the Child Welfare System, CY 2018



Note: Missing values and other race are excluded from percent calculations.
 Data sources: Connections, CCRS, PROMIS and U.S. Census Bureau, 2012-2016 American Community Survey

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As required by Local Law 174 of 2017, ACS developed an Equity Action Plan as part of our commitment to confront and address inequities identified in our Equity Assessment. The Mayor’s Office released the Equity Action Plans just last month, but ACS has many concrete actions already underway. For example, we have begun to take a deeper look into SCR reports in several pilot communities so that we can better understand the drivers, as a first step towards developing partnerships with key stakeholders and mandated reporters.

The ACS Workforce Institute developed its “Understanding and Undoing Implicit Bias” learning program to help staff identify the connection between institutional racism,

structural inequity, and implicit bias, and to begin to surface and address implicit bias in decision-making and in conversations with co-workers. All child protective staff learn about implicit bias as part of the core training they take when they begin their jobs. All direct service employees and supervisors at ACS have been required to take a new full-day, instructor-led program on implicit bias. ACS also launched a new e-learn course that is mandatory for all ACS employees to complete—including me. Child welfare agencies from other parts of the state and country have been reaching out to us to learn more about our implicit bias trainings so that they can bring them to their jurisdictions.

ACS's Racial Equity and Cultural Competence Committee (RECCC) includes a diverse representation of ACS staff, external stakeholders, and professionals who are committed to promoting racial equity throughout the child welfare, juvenile justice and early care systems. Among other things, the Committee informs policies, training, hiring practices, and program practice guidelines where needed to ensure continuity and sustainability in promoting fairness in process, and equitable outcomes for children, families, and staff.

Strategies to Address Racial Disproportionality and Implicit Bias Beyond ACS

We are also focusing on external factors that drive disproportionality in child welfare involvement. Our Division of Child and Family Well-Being (CFWB), created in 2017, is dedicated to making our communities stronger. We believe that a key approach to address disproportionality is through primary prevention, a strategy to

invest in marginalized communities to prevent child welfare involvement in the first place.

Some of the core components of our community-focused investment work include our Community Partnership Programs in 11 high-need neighborhoods across the City, as well as our three Family Enrichment Centers (FECs), which are open-door, walk-in facilities, with no connection to other child welfare services. A major tenet of this work is a two-generation/whole family engagement approach, which recognizes the need to work together in the areas of education, economic security, social capital, and health to improve family well-being across generations. The Community Partnership Programs and FECs are designed to promote family strength and stability by building community connections and by helping families meet concrete needs.

All programming in the FECs is community-led and designed with input from the community and parent leaders. Each FEC offers “Parent Cafes,” where participants share personal experience and knowledge to identify ways to promote protective factors. Parents are engaged to lead the Parent Cafes, and program ideas arise from these discussions. Programs have included financial empowerment classes, mommy & me, stress release activities, family game nights, and more.

Our primary prevention work also includes strong efforts to inform parents about important ways to keep children safe. We’ve provided information on safe storage of potentially dangerous medications, reducing fire hazards in homes, “Look Before You Lock” to ensure that infants aren’t left alone in cars, and of course safe sleep for

newborns and infants to help prevent accidental, sleep-related infant deaths in New York City. Today marks the end of “Safe Sleep Awareness Month.” This past year, the state passed a law banning crib bumper pads, which are dangerous because they increase the risk of suffocation. To help publicize the new law, explain the danger of crib bumper pads, and remind New Yorkers about safe sleep, ACS organized a crib bumper safe sleep “swap” for parents to exchange crib bumpers for wearable blankets to safely keep babies warm.

While there is much that we can do at ACS and in New York City to both strengthen the child welfare system and address disparities, there are also state budget, legislative and policy barriers, making it critical for NYC to have a voice in Albany. This past year, many of our colleagues worked together to put forward a proposal to reform the SCR system to heighten the indication standard from “some credible evidence” to “a fair preponderance of the evidence,” which is more consistent with national practice; to reduce the length of time an individual with an indicated case remains on the register for employment screening; and to expand due process rights for those seeking to overturn or expunge an indicated case. ACS was pleased to see the passage of a bill aimed at bringing more fairness and equity to the child welfare system, and reducing the collateral consequences of having an indicated SCR case, and we hope it will be signed into law.

ACS will also be working at the state level to have training on implicit bias added to the mandated reporter training, which is provided by the State. We believe that it is imperative for the thousands of school personnel, medical personnel, law enforcement

professionals, social workers and others who are mandated reporters to be aware of how implicit biases can impact decisions about reporting suspected abuse or neglect, so that reports to the SCR are objective and result in help for children when truly needed.

With internal strategies such as implicit bias training, affirming policies, and specific efforts to ensure that our services are culturally appropriate, along with external strategies such as primary prevention and impacting state law, we are taking important steps to address the systemic issues that contribute to disproportionality.

Listening to, Elevating, and Incorporating Family Voice

ACS has a tremendous responsibility to serve children, parents and the public. For our efforts to be successful, we must build relationships with communities so that we can provide the right services to the right families at the right time—to both prevent tragedies and ensure families have what they need long before there is a crisis. The only way for us to do this is to listen to, elevate, and incorporate the voices of parents, caregivers and children, including those who currently or previously experienced a child protective investigation, participated in prevention services, served as foster parents, or were in our foster care system.

ACS has long understood and valued the role parent advocates can play early on in our cases when parents coming to the attention of our system understandably have many questions and concerns. To provide support for parents during the Initial Child Safety Conference where families and the ACS child protective team meet to develop a

child safety plan, ACS contracts with two community-based organizations to provide parent advocates. Parent advocates can draw on their extensive personal and professional experiences to support, counsel and guide parents.

This past spring, we achieved a new milestone with the addition of a new staff position at ACS, Parent Engagement Specialist, to increase the crucial work of empowering and engaging parents with lived experience in the design, development and implementation of ACS policies and programming. Sabra Jackson, a highly experienced parent advocate with lived experience, who previously worked at the Child Welfare Organizing Project (CWOP) and the Center for Family Representation (CFR), has served in this role since April. She has brought her wealth of experience and invaluable perspective to the agency, including through spearheading a new Commissioner's Parent Advisory Council.

While we at ACS want to hear directly from parents and children, we also meet regularly with advocates and lawyers for children and parents, so that we can hear their concerns, suggestions and feedback. We greatly value the role our colleagues play in bringing their expertise and experience on the ground to our attention. We regularly engage in collaborative problem-solving together and believe strongly that these joint efforts benefit the children and families we collectively serve.

The interdisciplinary team approach used in New York City, with parent advocates working side by side with lawyers and social workers at the parent legal organizations, was recently evaluated and shown to decrease foster care length of stay.

We are strongly encouraging other child welfare programs to adopt NYC's model of multidisciplinary parent and child representation, especially with new federal funding now available for that purpose. For example, I was part of a NYC delegation with representatives of the Family Court and the Center for Family Representation that provided guidance to child welfare leadership in Oakland, California on our representation model.

City Council Legislation

The large package of bills that we are here to discuss today certainly shows that the City Council shares our vision of ACS as the progressive child- and family-serving agency that we strive every day to be. I will comment briefly on each of the bills, and we look forward to working with you on them in more depth.

- Int. 1717-2019: Demographic Reporting and Plan to Address Disparities

Int. 1717 would amend the administrative code of the City of New York to require ACS to produce an annual report of demographic information, including race/ethnicity, gender and income level for each step in the child welfare system by parent and by child, and then to create a plan to address the disparities.

As previously discussed today, ACS has conducted a thorough data analysis and created an Equity Action Plan. We look forward to meeting with the bill sponsors to discuss our current Plan and ACS's actions to address disparities in our system.

- Int.1716-2019 and Int. 1727-2019: Emergency Removal Data

Int. 1716 and Int. 1727 would both amend the Local Law 20 of 2006 child welfare indicators report to add a section on emergency removal data. Whenever possible, ACS seeks a court order prior to removing children from their families. As discussed more fully at last November's hearing focused on child protective removals, if the CPS worker, in consultation with his or her supervisor, manager and Deputy Director, believes that a child is at imminent and emergency risk of serious harm and there is not enough time to seek a court order in advance, the law authorizes CPS to conduct an emergency removal. This most often happens on weekends and at night, when the court is closed, and when there is no immediate intervention available to keep the children safe.

ACS looks forward to discussing the two proposed data reports on emergency removals with the City Council.

- Int. 1719-2019: Reporting on youth in foster care

Int. 1719 would amend the Local Law 20 of 2006 report to add a new section for ACS to report on the length of time between a child and parent's first contact after a child enters foster care, and to report on the number of foster youth placed into care in their home borough.

"Family time" is a key priority for ACS, and enhancing family time is an important recommendation from the Foster Care Task Force. We know that regular parent/child visits and contact can help minimize trauma and speed reunification. Given the

importance of having the first parent/child visit within two days of foster care placement, which is our policy, I directed my team to take a deep look into barriers that may inhibit this, so that we can address them. Through this analysis, it became clear that ACS is trying to accomplish many things in that initial two-day period: parent/child visit; parent to parent meeting with the foster parent and parent; transition meeting between child protection staff and foster care agency staff; and likely also a court appearance. Aside from mandatory court appearances, the parent/child visit is our top priority to meet within the two-day deadline. We are in the process of issuing revised guidance to ACS and agency staff that prioritizes the visit and should better ensure children see their parents within two days of removal. We also recognized the need for ACS and agency staff to implement more standardized data entry practices within the State Connections system, so that ACS can track the first visit in a way that can be aggregated for monitoring purposes.

As for borough-based placement, it is important to keep in mind that when children come into foster care there are a number of considerations when determining the best placement. While we want to place children in their home boroughs, our first priority is to place children with either a family member or someone else the child knows well, when they are available and willing. This preference for kinship placement, which research shows produces better outcomes for children and youth, is a key factor that often impacts whether or not a young person is placed in their home borough. ACS has focused on increasing placements with family members, and this past year, 40% of children and youth entering foster care were placed with kinship caregivers.

We look forward to discussing this bill further with the sponsors.

- Int. 1728-2019: Provision of Counsel at the First Point of Contact

Int. 1728 would direct ACS, subject to appropriation, to contract for legal services for parents and caretakers immediately after the initial point of contact. The bill defines legal services to be brief assistance or full legal representation.

As the Council is aware, New York City has a nationally recognized model of multidisciplinary parent advocacy and legal representation, one which we hope will be widely replicated with new federal funding. The institutional legal programs provide attorney and social worker teams, along with access to parent advocates, for all cases as soon as legal action in Family Court is initiated. ACS and NYC have long supported their work, and they are funded through the Mayor's Office of Criminal Justice (MOCJ).

We strongly believe that parents and children should have legal representation once legal proceedings begin, to ensure that their rights are protected and that the decisions of the Family Court are fully informed by all perspectives. We have a number of questions and concerns about the provision of legal counsel to parents and caretakers at the first point of contact by ACS. We are concerned that this approach conflates investigative and legal processes in a way that could unnecessarily increase burdens on families; that it would expand litigation and Family Court involvement dramatically; and that it would require enormous financial and personnel resources to implement.

The goals of our initial investigation are to understand what may or may not have happened to a child, and to connect families to the services they need, and those steps

are dependent on our ability to engage parents and caretakers in a social work interaction. Invoking legal representation at this stage could undermine our ability to accomplish these steps. We also believe that it could violate the Social Services Law confidentiality provisions if ACS was to inform a lawyer, not yet representing a parent, of the name and/or address of a family about whom an SCR report was received.

In situations of imminent danger to children, the involvement of an attorney at the beginning of an investigation, who might feel obligated to minimize their client's risk and liability by advising a parent not to allow ACS into the home or to see the child, could create serious safety issues by slowing down the investigative process. It would also likely increase court filings, as ACS would be required to seek a court order to fulfill our legal obligations to assess child safety. The unintended consequence of this could be additional trauma for the children, because NYPD accompanies ACS when entry orders are needed. These additional court filings and adversarial processes will likely impact thousands of cases that currently never need legal intervention, as the majority of investigations are unfounded, and only a fraction of indicated investigations result in a court petition.

ACS conducts approximately 55,000 investigations each year, 7 days a week, 24 hours a day. If each parent or caretaker in the home, ACS, and the children were all to have a lawyer, each interaction could turn into a legal proceeding rather than social service engagement. It would create an explosive workload for attorneys and would consume enormous financial resources.

ACS appreciates the need for parents to understand their legal rights and the investigatory process. ACS also has an obligation to assess child safety, and children have a right to be free from abuse or maltreatment. We look forward to discussing ways to achieve all of these important goals with the bill sponsors.

- Int 1715-2019: Provision of Counsel at Fair Hearings Following an Indicated Report

Int. 1715-2019 would require ACS to establish a program to provide parents and persons legally responsible with access to legal services at fair hearings following an indicated report in an ACS investigation.

ACS appreciates the desire for parents to have legal representation at fair hearings, which in this instance are a legal proceeding for a state hearing officer to determine whether ACS's determination to indicate a case shall stand or be overturned. Given the volume of legal services this bill would entail, we believe it would be very expensive to implement, and we welcome further discussion with the bill sponsor.

- Int. 1729-2019, Int. 1736-2019 and Int. 1718-2019: Bills to Require ACS to Provide Information to Parents and Caretakers

ACS agrees that parents and caretakers should have information at the earliest stage about the child protection investigative process, as well as their rights during an investigation, after a case has been indicated, and the resources available to them, all in a language that they understand.

I discussed earlier how ACS child protective staff are extensively trained on communications with parents, at the initial point of contact. At that time, ACS gives

parents the state-required Notice of Existence form and an ACS-produced “Parent’s Guide,” which was recently revised to incorporate suggestions from parents and other advocates. Both the form and the guide are available in the 10 most common NYC languages. The Parent’s Guide also gives the parent information about our Office of Advocacy. When a case is indicated or unfounded, families receive a letter from State OCFS, which explains the case outcome and provides information on how to appeal or seek expungement.

ACS looks forward to discussing these bills, along with the information and documents already provided to families, with the bill sponsors.

Conclusion

We know that any child protective investigation can be an intrusive process. While we have a legal mandate to assess and protect child safety, we are mindful that government authority to take protective actions, up to removing children from their parents in the most serious cases, is an enormous responsibility. Balancing these two key matters—government intervention in families and protecting vulnerable children from harm—is both the challenge and the core of the work of child welfare. And we do all of this within a system that we know disparately impacts different communities, particularly communities of color.

I have talked today about the innovative ways that ACS is meeting this challenge, and we welcome the Council’s partnership in this effort. We believe that raising the indication standard from “some credible evidence” to “a fair preponderance of the evidence” will help to better calibrate this balance. Within ACS, we continue to enhance

training, supervision, monitoring, oversight and assessment tools, so that our child protective staff are equipped to make the best decisions possible when working with children and their families. Finally, with implicit bias training, affirming policies, and specific efforts to ensure that our services are culturally appropriate, we are working to reduce disproportionality and to build a 21st century child welfare system that better supports and strengthens all families.