



**At the Crossroads**

# **Better Infrastructure, Too Few Results**

*A Decade of Child Welfare Reform in New York City*

July 2007

Executive Summary





# Acknowledgements

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New York City's child welfare system has undergone significant change during the last ten years. There have been improvements in terms of infrastructure. However, it is troubling that safety and permanency outcomes for many children and families have not significantly improved during the past decade, and in some cases, have worsened.

We hope that this assessment and our analysis further informs and helps to propel the reform efforts, with the ultimate goal of ensuring that children who come to the attention of the public child welfare system are safe and have the opportunity to grow up in permanent families.

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# Introduction

This report presents an assessment of the performance of New York City's child welfare system in meeting its responsibilities to investigate and respond to reports of child abuse and neglect; provide services to children and families to prevent children's entry into foster care whenever possible; provide services to children while in foster care; and ensure that children in foster care exit care in a timely fashion to grow up in permanent families. These are the essential functions of a public child welfare agency. In New York City, the Administration for Children's Services (ACS) is the public child welfare agency responsible for these functions, in conjunction with the New York City Family Court. The child welfare system is funded with a combination of federal, state and local funding. In addition to the state's role in providing funding, the New York State Office of Children and Family Services (OCFS) is responsible for regulating and monitoring the quality of child welfare services statewide and ensuring compliance with federal law. OCFS is also responsible for CONNECTIONS, the automated information system that tracks key data on all children and families served, and runs the hotline that accepts reports of child abuse and neglect.

Children's Rights collected data and other relevant information regarding the performance of the child welfare system over the past decade, with a particular focus on the past three years. Children's Rights' activities included the following:

- Review of publicly available data and additional data requested from ACS and OCFS;
- Attendance at dozens of meetings, conferences and hearings pertaining to the child welfare system from January 2006 to July 2007, where information about various activities of the child welfare system was presented and/or discussed by ACS and other stakeholders (see Appendix C for additional description); and
- Meeting with more than 20 major stakeholders—including advocacy organizations, service providers and others—specifically for the purpose of this assessment and with the promise of confidentiality, to gain their perspectives on the workings of the system.

This report includes five chapters focusing on 1) child protective services (CPS); 2) preventive services; 3) foster care; 4) Family Court; and 5) child fatalities. Each chapter provides relevant data on child welfare practice and child and family outcomes, as well as a summary of recent reform efforts. Whenever possible, the data provided span the past decade, back to the time when

Children's Rights and Lawyers for Children filed *Marisol v. Giuliani*, a class action lawsuit on behalf of children involved with the New York City child welfare system. However, for many key indicators, data became available and/or publicly reported only in 1999; thus, many of the data charts span the period from 1999 to 2006/2007.

*Marisol v. Giuliani* is a federal class action lawsuit that was filed in 1995 and alleged that the legal rights of children involved with the system were being violated due to the system's failure to carry out its legally mandated responsibilities. Identified problems included untimely and inadequate investigations of child abuse and neglect reports; lack of preventive services; untimely and incomplete case plans; shortage of appropriate foster care placements; long delays in achieving reunification and adoption; poor foster home oversight; failure to provide children with needed medical, mental health and educational services; a poorly designed independent living program; inadequate caseworker training, support and supervision; high caseloads and frequent worker turnover; lack of supervision of the private contract agencies; and inconsistent administrative and judicial reviews of children's cases.

Following in-depth case record reviews conducted by the Marisol Joint Case Review Team<sup>1</sup> in 1996 and 1997, which found significant deficiencies in the agency's practice, the *Marisol* case was settled in 1999. The Settlement Agreement established an advisory panel of child welfare experts, the Special Child Welfare Advisory Panel.

The Panel was charged with evaluating and reporting on the City's progress toward reform. The Panel issued a final report in 2000 and a concluding report in 2002. These reports identified positive changes that had been achieved by the City including a decrease in the foster care population; the development of an ambitious plan to reconfigure all foster care services along neighborhood lines; a sharp increase in staff training and salaries; and the establishment of family conferences at important points in a child's case.<sup>2</sup>

The Panel praised the City for its accomplishments in revamping the child welfare system, but noted that much more work was needed before children and families would reap the benefits of these and other efforts. In its 2002 concluding report, the Panel identified six major strategies for continuing to advance the reform efforts: 1) neighborhood-based services; 2) family engagement; 3) better training, supervision and retention of qualified staff; 4) developing a better system of care for adolescents and their families; 5) working with the leadership of the Family Court to promote permanency and

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<sup>1</sup> The Marisol Joint Review Team included the Center for the Study of Social Policy; the United Way of New York City; and the New York State Department of Social Services. (In 1998, the Department of Social Services was merged with the Division for Youth to form the current New York State Office of Children and Family Services [OCFS].)

<sup>2</sup> Special Child Welfare Advisory Panel. *Final Report*. (New York, NY: Special Child Welfare Advisory Panel, 2000). Special Child Welfare Advisory Panel. *Concluding Report*. (New York, NY: Special Child Welfare Advisory Panel, 2002).

safety for children; and 6) improving the treatment of thousands of children as they come into foster care each year.<sup>3</sup>

When the Special Child Welfare Advisory Panel ended its work in March 2002, the New York City Child Welfare Advisory Panel (NYCCWAP) was formed. The NYCCWAP was chaired and staffed by the Citizens' Committee for Children (CCC) of New York and included local and national child welfare experts.

The NYCCWAP issued one report in August 2003, which described two phases of child welfare reform occurring between 1996 and 2002,<sup>4</sup> and then focused specifically on assessing ACS' progress in improving family engagement. The NYCCWAP wrote, "Phase I of child welfare reform, which occurred from January 1996 through December 2001, reflected a big vision in its focus on system improvement, accountability, public reporting, planning and quality monitoring. Less visible during Phase I was the simultaneously occurring and ongoing work to create ACS as a new city agency: separating it from the Human Resources Administration (HRA), winning a ballot measure that established ACS in the City Charter and creating ACS as a stand-alone permanent children's agency with internal management, information systems and operations structure to conduct the programmatic and support functions of the city's child welfare system."<sup>5</sup>

The NYCCWAP went on to state that "Phase II of child welfare reform began in January 2002... In contrast to Phase I of reform, during which the agency benefited from more than \$600 million in additional funding, Phase II has been marked by the city's fiscal crisis and loss of resources totaling \$300 million between January 2002 and June 2003." The NYCCWAP noted that, in the context of budget cuts, several new initiatives were undertaken including "consolidating contract, fiscal and facilities functions in ACS' central office, beginning a federal revenue maximization initiative and realigning foster boarding home rates," as well as implementing "Neighborhood Based Services in high need Community Districts, establishing Clinical Consultation Teams to enhance CPS assessments, reducing congregate care beds" and creating permanency initiatives for adolescents and infants.<sup>6</sup>

The NYCCWAP's assessment of ACS' progress in improving family engagement concluded that ACS had made strides in implementing a new case conferencing model and having parents attend, but that the conferences "had not yet become the family engagement and family decision-making vehicles that ACS envisioned."<sup>7</sup>

Twelve years after the *Marisol* lawsuit was filed, five years after the last Special Child Welfare Advisory Panel report, and four years after the final NYCCWAP report, this assessment provides a

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<sup>3</sup> Special Child Welfare Advisory Panel. *Concluding Report*. (New York, NY: Special Child Welfare Advisory Panel, 2002).

<sup>4</sup> New York City Child Welfare Advisory Panel. *Report on Family Engagement*. (New York, NY: New York City Child Welfare Advisory Panel, 2003).

<sup>5</sup> *Ibid*, at 3.

<sup>6</sup> *Ibid*.

<sup>7</sup> *Ibid*, at 9.

long-term view of the performance of the NYC child welfare system, examining key data over the past decade and highlighting, in particular, the reform efforts implemented during the last three years. Certainly, ACS, the private contract agencies, Family Court, birth parents, foster parents, attorneys, advocates, youth involved in the child welfare system and others are already aware of many of the issues highlighted in this report. We hope that this assessment and our analysis further inform and help to propel the reform efforts, with the ultimate goal of ensuring that children who come to the attention of the public child welfare system are safe and have the opportunity to grow up in permanent families.

# Executive Summary of Findings

New York City's child welfare system has undergone significant change during the last ten years. There have been improvements in terms of infrastructure and an orientation toward neighborhood-based services. There have also been important improvements in certain aspects of case practice: the timeliness of initiating investigations; CPS and preventive services caseworker caseloads; the proportion of indicated investigations that are closed without services; the placement of children in foster care with their siblings and with relatives; and the frequency of visiting between children in foster care and their parents.

However, certain key infrastructure problems persist, including, in particular, the CONNECTIONS data system, which is a state responsibility. CONNECTIONS is the system in which all case documentation must be recorded and should also provide aggregate data to identify trends and inform agency management and case practice. CONNECTIONS has far exceeded estimated costs, is reportedly slow and confusing and has serious technical problems that have resulted in federal funds being withheld.

But, most importantly, safety and permanency outcomes for many children and families and many key process measures have not significantly improved during the past decade, and in some cases, have worsened. Repeat maltreatment rates have increased; children's length of stay in foster care remains very long; placement moves have increased; foster care caseworker caseloads are double what they should be; and Family Court remains chaotic and its key participants are under-resourced.

Much credit has been given to the New York City child welfare system for the significant reduction in the number of children in foster care. Indeed, the number of children in care on any given day has declined dramatically during the last 16 years, from a high of more than 49,000 in 1991 to less than 17,000 today. It is important to closely examine this decline, in order to understand both its causes and correlates.

Although many factors may contribute to the declining numbers of children in foster care (and these are discussed in more detail in the full report), a contributor in recent years appears to be the significant reduction in the number of abused and neglected children that ACS deems should be placed in foster care. In 1999, for every 100 children found to be abused and neglected, 36 children were placed in foster care. By 2005, the number dropped to 14. Assuming that the nature of the cases arriving at ACS' door did not change significantly, (i.e., become much less serious, which would require additional analyses to determine), this may suggest a shift in ACS' threshold for placing children in foster care.

There is no magic formula in terms of what number of abused and neglected children *should* be left at home and what number *should* be brought into foster care. We do not know if 36 is the "right" number or if 14 is, or if there even is a "right" number. Decisions about placement of children in foster care must be made on an individual basis, using appropriate clinical judgment and based on a child and family's particular circumstances. Certainly, the preference is and should be to maintain children safely with their families whenever possible.

A well-functioning child welfare system ensures that children are safe and that children and families receive appropriate services to address identified issues, whether a child is in foster care or at home. However, several key indicators, which are discussed in greater detail in the findings listed below, raise serious questions about whether this is currently happening in the New York City child welfare system. As the foster care population has declined, 1) there has not been a commensurate or even a relatively close increase in the number of children being served in preventive services, at home with their families; 2) the rate of repeat maltreatment has increased; and 3) the rate of re-entry into foster care has increased. This raises questions about decision-making during investigations, determinations regarding the need for services, including foster care placement, and the quality of both preventive and foster care services, when they are provided.

The sections below summarize improvements and areas of concern based on Children's Rights' review of data pertaining to child welfare practice and outcomes spanning the past decade.<sup>8</sup>

## Improvements

1. **The majority of Child Protective Services (CPS) investigations are initiated within required timeframes.** With the exception of the period following the death of Nixzmary Brown, the vast majority of CPS investigations are initiated within 24 hours.
2. **CPS caseloads have improved.** In 1996, CPS workers carried an average caseload of 23 investigations. By FY 2000, this had dropped to 13 cases and caseloads then hovered between 12 and 13 for the next six years, until 2006 when caseloads shot back up. Twelve is the maximum caseload recommended by the Child Welfare League of America (CWLA).

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<sup>8</sup> Children's Rights reviewed available data on numerous indicators. For some measures, data spanning the past decade was available. However, for some measures, data was available for only more recent years. Whatever data were available are provided in this report.

ACS responded quickly to the massive increase in reports in 2006, increasing the numbers of CPS staff by 44% in less than one year.

3. **Preventive Services caseworker caseloads have improved.** In June 2006, the New York City Council approved \$4.2 million in additional funding for contract preventive services providers in order to reduce caseloads from 15 to 12 cases per worker. These funds are included in the FY 2008 city budget and should be maintained to continue these lowered caseloads going forward.
4. **ACS has reduced the proportion of indicated investigations that are closed without providing services to the family.** During the past year, the proportion of indicated investigations—cases in which child abuse and neglect has been documented—that are closed with no services provided dropped from almost 40% to 14%.
5. **More sibling groups are placed together in foster care.** There has been an increase in the proportion of sibling groups that are placed together, from 59% in 2001 to 63% in 2006.
6. **More children in foster care are visiting with their families.** There has been a substantial increase in the proportion of children in foster care with a goal of reunification having bi-weekly visits with their parents. In 1997, only one-third of children had bi-weekly visits with their parents. This improved significantly by 2003 when approximately two-thirds of children had bi-weekly visits with their parents. However, practice has remained at this level since 2003, with no further improvement. Research has shown that children in foster care who visit more frequently with their parents are more likely to be successfully reunified with their families. The required frequency of visitation should be increased to weekly and significant attention paid to this issue.
7. **Upon entry into foster care, a greater proportion of children are being placed with relatives and a smaller proportion placed in congregate care (i.e., group care facilities).** The proportion of children who are placed with relatives upon entry into foster care has grown from 21% in FY 1999 to 26% in FY 2006, a 24% increase. During the same period, the proportion of children placed in congregate care facilities when entering care decreased from 24% in FY 1999 to 21% in FY 2006, a 13% improvement. However, as discussed below, the overall proportion of children living in congregate care has grown significantly from 12% in FY 1999 to 18% in FY 2006.

## Areas of Concern

1. **The rates of children experiencing repeat abuse and neglect investigations and repeat maltreatment have been rising during the last several years. ACS is expending significant time and resources repeatedly investigating the same families and thousands of children are experiencing repeated harm. These findings raise questions about the quality of investigations and services, when they are provided.**

- The proportion of children involved in completed investigations (regardless of investigative finding) with repeat investigations (regardless of investigative finding) within one year has increased from 18.5% in 2000 to 22.4% in 2005, a 21% increase. In terms of actual numbers, this translates to an increase from 13,817 children who experienced repeat investigations in 2000 to 15,219 children in 2005.
- The proportion of children who are abused and/or neglected and then abused and/or neglected again within one year has grown from 9.3% in 2000 to 14.8% in 2005, a 59% increase. In terms of actual numbers, this translates to an increase from 2,454 children who experienced repeat maltreatment in 2000 to 3,298 children in 2005.
- ACS data indicate that the proportion of children experiencing repeat abuse and neglect within six months has risen from 5.9% in 2000 to 9.2% in 2005, a 56% increase. It is not possible to compare the data reported by ACS to national data because ACS uses a different methodology than the federal government to calculate repeat maltreatment. However, OCFS also analyzes repeat maltreatment data for each county in New York State utilizing the same methodology as the federal government and reports that, in 2006, the rate of repeat maltreatment within six months in all five counties in New York City was worse than the national average of 8.1%.

**2. While the number of children in foster care has declined dramatically, there has not been a significant increase in the number of children and families receiving preventive services. During this same time period, the proportion of children involved in repeat investigations and repeat maltreatment has increased, as described above.**

- From 1999 to 2006, the number of children in foster care on any given day declined by 57%, from 38,441 to 16,706. During this same time, the number of children being served in preventive services cases increased by only 10% from 24,931 to 27,304.
- The proportion of children receiving voluntary services who experience repeat maltreatment has been growing. Repeat maltreatment among children receiving voluntary services has grown by 29%, from 13.7% of children in CY 2000 to 17.7% in CY 2004.
- Recent data indicate that more than one-third of families referred by ACS to contract preventive services providers do not actually receive services within 30 days.

**3. While the number of children in foster care has declined dramatically, there has not been significant improvement in outcomes for children in foster care. Few children are placed in their own neighborhoods, many experience multiple placements and many do not achieve permanency in a timely fashion. The rate of abuse and neglect of children in foster homes in New York City is high.**

- From CY 2001 to CY 2006, the proportion of children in foster care who transferred placements at least once during the year increased by 46%, from 21.3% to 31.1%.
- The proportion of children in foster care placed within their own borough has increased from only one-third in FY 1999 to almost three-fourths in FY 2006. However, the

proportion of children placed within their own Community District, which is more akin to a neighborhood, remains very small. In FY 2006, only 17% of children in foster care were placed within their own Community District (up from 5% in 1999).

- As noted above, the proportion of children who are placed in congregate care when they *enter* foster care is improving (i.e., coming down), however, the overall proportion of children living in congregate care on any given day has grown by 50%, from 12% in FY 1999 to 18% in FY 2006. Nationally, 18% of children in foster care are placed in congregate care.
  - New York City continues to have one of the longest average lengths of stay in foster care in the country and a higher proportion of children in NYC than nationally exit foster care without a permanent family.
    - In FY 2006, the average length of stay in foster care in NYC was 45.8 months (3.8 years), a slight improvement from 48.1 months in FY 1999. Nationally, the average length of stay is 29 months.
    - Fifty-two percent of children discharged from foster care in NYC are reunified; 28% are adopted and 13% are discharged to independent living (i.e., they exit foster care without a legal family). Nationally, only 9% of children exit the foster care system to independent living.
  - The rate of children abused and neglected in family foster homes in NYC was 0.94% in FY 2006. It should be noted that this statistic excludes children placed in congregate care. Even without including children abused and neglected in congregate care, this is a high incidence of abuse and neglect in care; nationally, 0.39% of children are abused and neglected in care.
  - The proportion of children who were in foster care and returned home within 90 days and re-enter foster care within one year is high and increased from 18% in 2000 to 21% in 2005.
4. **Foster care caseworker caseloads and worker turnover are high, compromising the quality of casework.** Foster care caseworker caseloads average 22-24 children per worker. A study issued by OCFS in November 2006 calls for caseloads of 11-12 children. CWLA standards call for a maximum caseload of 12-15 children. The Council of Family and Child Caring Agencies (COFCCA) has reported annual worker turnover rates in the private agencies of 40%.
  5. **The New York City Family Court is chaotic and its participants are under-resourced.** Stakeholders report that many families and attorneys wait the better part of a day for their hearings to be called; fact finding hearings are frequently long delayed, sometimes resulting in permanency hearings being scheduled prior to the court even having made the finding that abuse and/or neglect has occurred; and permanency hearings are not occurring in a timely fashion. Model Court parts have been established with certain promising practices; however, these have not been institutionalized throughout the Family Court.

The “permanency law” passed in 2005 was well-intentioned and established important requirements including more frequent hearings for all children in foster care and comprehensive permanency reports to inform the parties and the court. However, the law was passed with no provision of additional resources and no planned evaluation of its impact. Data regarding compliance with the new law are minimal. Other significant problems with the functioning of the Family Court remain unaddressed.

- New York State Chief Judge Judith Kaye and advocates have called for an increase of 39 Family Court judges across New York State, including a significant increase in the number of judges in New York City, which has remained at 49 since 1991, despite an increase in the court’s workload.
- According to the Juvenile Rights Practice of the Legal Aid Society of New York, law guardians representing children in foster care frequently carry upwards of 250 cases. The National Association of Counsel for Children’s recommended maximum caseload is 100. Currently, legislation is pending in the New York State Legislature that would require the Office of Court Administration (OCA) to determine an appropriate caseload cap for law guardians. This legislation is a step in the right direction and should be passed. Once an appropriate caseload cap is determined, the necessary funding must be provided to implement it.
- Attorneys representing ACS in court have an average caseload of 85, above the maximum caseload of 60 recommended by the American Bar Association.
- On a positive note, \$10 million was recently obligated to support legal representation of parents involved in child abuse and neglect and permanency proceedings by organizations with specific expertise in this area. This is an important step to improve the availability and quality of parent representation and efforts should continue in this direction.

6. **The case practice issues identified in families known to ACS in which a child fatality ultimately occurs reflect broader systemic case practice issues potentially affecting thousands of children and families.** Children’s Rights reviewed OCFS Child Fatality Reports covering 49 child deaths in families known to ACS that occurred during the 21-month period between July 1, 2004 and March 21, 2006.<sup>9</sup> A significant portion of these families had repeated involvement with ACS prior to the fatality, reflecting, in some cases, missed opportunities to intervene. Approximately one-third had a prior indicated investigation with no post-investigation services provided. These and other case practice issues identified in the fatality cases are reflected in system-wide data, as described above.

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<sup>9</sup> This time period was selected in order to focus on recent practice and based on which Child Fatality Reports were available at the time of Children’s Rights’ Freedom of Information Law Request (FOIL).

## Conclusion

New York City's child welfare system has undergone significant change during the last ten years. There have been improvements in terms of infrastructure and an orientation toward neighborhood-based services. There have been some important improvements in certain aspects of case practice. However, safety and permanency outcomes for many children and families and many key process measures have not significantly improved during the past decade, and in some cases, have worsened. Fixing these serious problems is the joint responsibility of ACS, OCFS and the Family Court.

The quality of case practice—the daily activities of caseworkers who are charged with engaging families, conducting risk and safety assessments, developing and implementing case plans, assessing progress toward permanency and taking appropriate steps to ensure children achieve it—must be improved. High worker turnover must be addressed with focused attention to caseloads, training, supervision, salaries and other critical workforce supports. A robust and intensive quality assurance system must be established and adequate resources made available to support reasonable caseloads and the provision of needed services.

ACS Commissioner John Mattingly brings a wealth of valuable child welfare experience and expertise to New York City, and he has assembled an experienced and committed management team. Several ambitious reform efforts have been initiated during the past three years, including ChildStat, the initiative to improve child abuse and neglect investigations, and the recently announced Improved Outcomes for Children (IOC) plan, to improve the quality and effectiveness of preventive and foster care services.

ChildStat brings together ACS senior management, including the Commissioner, and managers from the local field offices on a weekly basis to examine data trends and individual cases. Local offices are held accountable and at the same time receive supportive technical assistance on both systemic and clinical matters.

IOC is a system-wide strategy to overhaul the way ACS oversees, collaborates with and funds the private agencies that provide preventive and foster care services. ACS management indicate that the ongoing collection and use of performance data by ACS to both monitor and provide technical assistance to the private provider agencies represents a significant shift in the way business has been done at ACS and will create a new dynamic between ACS and these agencies that ACS believes will prove effective in improving results for children and families. However, stakeholders are concerned about the delegation of authority to the private agencies, a lack of adequate resources at both ACS and the private agencies to carry out the initiative and the shifting of financial risk to the private agencies.

Detailed descriptions of these and other reform efforts that are currently being implemented are provided in the full report. It is critical that these reform efforts are supported with the necessary funding. However, whether these are the right strategies, whether the scope of these reforms is sufficient and whether they are being implemented adequately must be judged by their impact on children and families.

The city and state must commit to regular, frequent and rigorous monitoring of both the quality and outcomes of services provided; the results of this monitoring should be made public; and these monitoring results must be used to make any necessary adjustments to the scope and focus of the reform efforts in order to ensure that they are, in fact, responsive to identified problems. So far, a decade of reform efforts has yet to produce better results.

Although child fatalities are relatively few in number, they are jarring and tragic, and the occurrence of a child fatality is usually what triggers attention to a “crisis” in child welfare. However, the poor outcomes that have persisted for at least the past decade for tens of thousands of children and families in NYC also constitute a crisis and demand immediate and focused attention.



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