



At the Crossroads

Better Infrastructure, Too Few Results

A Decade of Child Welfare Reform in New York City

July 2007



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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 Team¹ 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.²

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

¹ 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].)

² 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.³

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 2002,⁴ 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."⁵

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.⁶

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."⁷

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

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

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

⁵ *Ibid*, at 3.

⁶ *Ibid*.

⁷ *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.⁸

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).

⁸ 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, 2006.⁹ 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.

⁹ 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.

CHAPTER 1:
Child Protective Services

CHILD PROTECTIVE SERVICES: HIGHLIGHTS

Data

STAFFING AND CASELOAD Responding to the massive increase in reports following the death of Nixzmary Brown, ACS increased the numbers of CPS staff by 44% in less than a year. Prior to the increase in reports, the average caseload of CPS workers had held steady for four years at 12 cases (which is the standard recommended by the Child Welfare League of America). In 2006, the average caseload shot up to a high of 21. By February 2007, average caseloads were just over 16. In addition to caseload, continuing challenges exist in terms of the level of experience of CPS staff and turnover. Forty-nine percent of CPS caseworkers have less than one year of experience and ACS expects the annual turnover rate to increase from 18% in 2006 to 30% in 2007.

TIMELINESS OF INITIATING AND COMPLETING INVESTIGATIONS Initiating and completing investigations of child abuse and neglect allegations in a timely fashion is critical to child safety.

- ACS is required to initiate investigations within 24 hours of a report and to complete investigations within 60 days. The proportion of investigations initiated within 24 hours is generally high, but has declined slightly over the past ten years, from 99% in FY 1996 to an average of 96% percent during the period between FY 2002 and FY 2005. The rate dropped further to 94% in FY 2006, likely reflecting the significant increase in reports following the death of Nixzmary Brown.
- Between FY 1999 and FY 2005, less than 70% of investigations were completed within 60 days. In FY 2006, likely in relation to the large increase in reports, the proportion of investigations completed within 60 days dropped dramatically to 42% and continued at this level of performance for the first six months of FY 2007.

FAMILIES' RECEIPT OF SERVICES When ACS indicates an abuse or neglect report (i.e., finds evidence of abuse or neglect), it is responsible for providing services to reduce the risk that children will be victimized again.

- The proportion of children with indicated investigations that does not receive any services has been improving. During the 2nd quarter of CY 2006, 38% of indicated investigations were closed without services. By May 2007, the proportion was reduced to 14%.
- More than one-third of families referred by ACS to contract preventive services providers do not receive services within 30 days.
- 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, which may suggest a shift in ACS' threshold for placing children in foster care.

REPEAT MALTREATMENT An increasing proportion of children are being repeatedly abused and neglected. The rates of repeat investigations and repeat maltreatment have been rising during the past five years.

- The proportion of children involved in completed investigations (regardless of investigative finding—i.e., allegations could be indicated or unsubstantiated) 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.
- ACS data indicate that the proportion of children who are abused and neglected and then abused and neglected again within six months increased from 5.9% in 2000 to 9.2% in 2005, a 56% increase. Due to differences in data analysis methodology, the data compiled by ACS cannot be compared to national data. However, OCFS utilizes the federal methodology to calculate repeat maltreatment for each county in New York State and, in 2006, reported that repeat maltreatment in all five counties in New York City was greater than the national rate of 8.1%. The findings ranged from 8.4% in Kings County to 11.3% in Bronx County.

QUALITY OF WORK WITH CHILDREN AND FAMILIES Important data reflecting the quality of case practice in conducting investigations of child abuse and neglect (e.g., whether all appropriate persons are interviewed during the course of an investigation, whether children are interviewed separately, whether decisions are based on a thorough assessment of safety and risk, etc.) are not presented in this chapter. ACS collects this kind of information through a case record review process and additional data are also generated through the ChildStat initiative. These data were requested for this report, but ACS declined to provide them.

Reform Efforts

During the last 16 months ACS has initiated significant reform efforts aimed at improving CPS practice.

- ACS began ChildStat, which brings together ACS senior management from the central office, including Commissioner Mattingly, and CPS managers from the local offices on a weekly basis to examine data trends and individual cases in order to identify and address CPS practice concerns. The Commissioner and his top aides question local area office managers about both their aggregate data and the casework in the individual cases presented. Through this process, the local offices are held accountable and at the same time receive supportive technical assistance from senior management on both systemic and clinical matters. The ChildStat process is impressive. If it ultimately proves successful in improving practice and outcomes, it may have the makings of a national model for quality improvement.
- ACS enhanced staff training, provided workers with resources, such as cell phones and additional cars, created a Safety First office to facilitate communication between CPS staff and other City agencies regarding safety concerns and took steps to improve collaboration with the Police Department and the Department of Education.

I. Introduction

In New York State, reports of suspected child abuse and neglect are made to the New York State Central Registry (SCR), which forwards these reports to the local jurisdiction for investigation. In New York City, the Administration for Children's Services' (ACS) Child Protective Services (CPS) caseworkers must investigate allegations of child abuse and neglect, make assessments of safety and risk and decide which services, if any, are needed to keep the children involved safe from harm. The quality of these investigations, assessments and services is critical to ensuring the safety and well-being of children.

ACS must conduct timely and thorough investigations of reported allegations and determine whether the reports should be "indicated" or "unsubstantiated." An indicated report is one that "upon investigation, was determined to have credible evidence of abuse or neglect."¹⁰ An unsubstantiated abuse or neglect report is one that "upon investigation, was determined to lack credible evidence of abuse or neglect."¹¹ While investigating allegations of abuse and neglect, ACS must also assess the level of risk of future abuse or neglect. CPS caseworkers must make appropriate decisions based on both the validity of the allegations and a thorough assessment of family functioning and key risk factors.

A CPS investigation can result in the child being placed into foster care, the child and family being provided preventive or other community-based services, or the case being closed with no further action. Preventive services, which are discussed in detail in Chapter 2 of this report, are services provided by ACS or private contract agencies to families in an effort to address the needs of the family and prevent the removal of the children from the home.

Key elements of an investigation of child abuse and neglect include:

- Initiating the investigation quickly after a report is received;
- Visiting the home to determine if the conditions in the home present safety concerns;
- Observing/interviewing the children in the family, including the allegedly maltreated children, as well as other children in the household who may not be named in the report;
- Interviewing children separately;
- Interviewing the alleged perpetrator and other adults living in the household;
- Contacting appropriate "collateral" sources, such as a neighbor or a teacher;

¹⁰ New York City Administration for Children's Services. *Top 12 Performance Report, Outcomes and Indicators, Outcome 5: Low Repeat Maltreatment*. (New York, NY: The City of New York, 2006).

¹¹ Ibid.

- Arranging for medical and mental health evaluations, when necessary;
- Making a determination regarding whether abuse and neglect has occurred;
- Assessing the risk of future harm to children;
- Assessing whether the children can remain safely at home or should be placed into foster care;
- Identifying appropriate services to ameliorate risk factors and making a referral to those services; and
- Completing the investigation in a timely manner.

The CPS worker has a critical function within the public child welfare system. A worker must make determinations about whether child abuse and neglect has occurred as well as assess future risk. At the same time, these workers must develop a rapport with families in order to increase the likelihood that they will engage in services to reduce the risk of future harm.

When the *Marisol v. Giuliani* class action lawsuit was filed in 1995, serious concerns were raised regarding ACS' ability to carry out its child protective responsibilities, including many of the investigative functions described above. A case record review performed by the Marisol Joint Case Review Team in 1997 identified key performance areas that fell below both legal and good practice standards. These performance areas included the timeliness and comprehensiveness of investigations and the quality of risk assessments, decision making and case supervision.¹²

¹² Marisol Joint Case Review Team. *Marisol v. Giuliani Case Record Review. Report #1, Investigations of Reports of Suspected Child Abuse and Maltreatment by New York City's Administration for Children's Services (ACS) (1997)*, at 3.

From 1996 through 2003, ACS implemented a variety of CPS reforms. ACS hired additional caseworkers¹³ and enhanced its training curriculum for caseworkers and supervisors,¹⁴ implemented quality practice standards and guidelines, increased its managerial capacity and created a system to routinely evaluate case practice and provide feedback to front-line staff.¹⁵ ACS also instituted Family Team Conferences in order to “engage families and their support networks in a multi-disciplinary, joint decision-making process” in order to “create or modify plans for protecting children and helping families.”¹⁶ To enhance practice related to domestic violence, substance abuse and mental health, Clinical Consultation Teams, comprised of specialists in each of these areas, were placed in field offices to provide expert assistance and training to CPS staff.¹⁷

Some stakeholders have reported that reform efforts in more recent years have been focused primarily on reducing the numbers of children in foster care and that less attention has been paid to the quality of CPS practice. The 2006 death of Nixzmary Brown and other recent high profile cases brought to light CPS case practice deficiencies that mirror those identified a decade ago—including untimely and inadequate investigations, incomplete assessments and inadequate caseworker training, support and supervision.

Recognizing that these deficiencies were systemic and not limited to individual cases such as Nixzmary’s, ACS responded promptly to these concerns, announcing an array of initiatives in 2006—including increased staffing and improved training, improved collaboration with other New York City agencies, creation of a Safety First Office and the implementation of ChildStat, a quality assurance strategy involving the review of data trends and individual cases in different ACS offices each week, attended by the Commissioner himself.¹⁸ During the ChildStat meeting, the Commissioner and his top aides question local area office managers about both their aggregate data and the casework in the individual cases presented. Through this process, the local offices are held accountable, while at the same time receiving supportive technical assistance from senior management on both systemic and clinical matters. If ChildStat ultimately proves successful in improving practice and outcomes, it may have the makings of a national model for quality improvement.

¹³ New York City Administration for Children’s Services. *Six Years of Reform in Children’s Services, 1996-2002 Reform Update*. (New York, NY: Administration for Children’s Services). New York City created new civil service positions specifically for child welfare workers, increased the salary scale and initiated merit increases linked to performance.

¹⁴ New York City Administration for Children’s Services. *A Renewed Plan of Action for the Administration for Children’s Services* (New York, NY: Administration for Children’s Services, 2001), at 117. ACS began requiring new supervisors to have at least 30 graduate school credits toward a Master of Social Work degree and implemented a scholarship program to assist caseworkers in obtaining the degree.

¹⁵ Ibid.

¹⁶ New York City Administration for Children’s Services. *2003 Year End Review: Protecting Children, Strengthening Families, Supporting Communities* (New York, NY: Administration for Children’s Services), at 10.

¹⁷ Ibid, at 11.

¹⁸ Each of these initiatives is discussed in detail in the “Reform Efforts” section of this chapter.

This chapter provides a summary of CPS data over the past ten years and a brief description of recent reform efforts. It should be noted that this chapter does not present important data reflecting the *quality* of current CPS case practice, such as the proportion of cases in which children were interviewed separately, whether appropriate collateral contacts were made or whether sufficient information was gathered to assess safety. These data were requested for this report, but were not provided by ACS.

II. Data

A. Number of Reports of Child Abuse and Neglect

Chart 1.1 below provides the number of child abuse and neglect reports during the period from FY 1996 to FY 2006.¹⁹ Following four years during which the number of reports decreased, FY 2006 saw a 22% increase over FY 2005.²⁰ Public attention to deaths resulting from child abuse and neglect often results in an increased number of reports, as individuals are reminded of their responsibility for the safety and well-being of children. However, the sustained nature of the increase in New York City has surprised key stakeholders in the system. Six thousand more reports were made during the first six months of FY 2007 than during the first six months of FY 2006.²¹

Following four years of declining numbers of child abuse and neglect reports, the high-profile death of Nixzmary Brown led to a 22% increase in reports from 50,251 in FY 2005 to 61,376 in FY 2006.

This significant increase in the number of reports impacted CPS staff's ability to conduct timely and thorough investigations. CPS units were inundated with new reports and ACS temporarily transferred staff from other programs into CPS units to assist with the workload.

ACS predicts a decline in the number of reports it will receive in FY 2007 relative to the number received in FY 2006, but, at the same time, expects that the number of reports will still be 20% higher than in FY 2005.²²

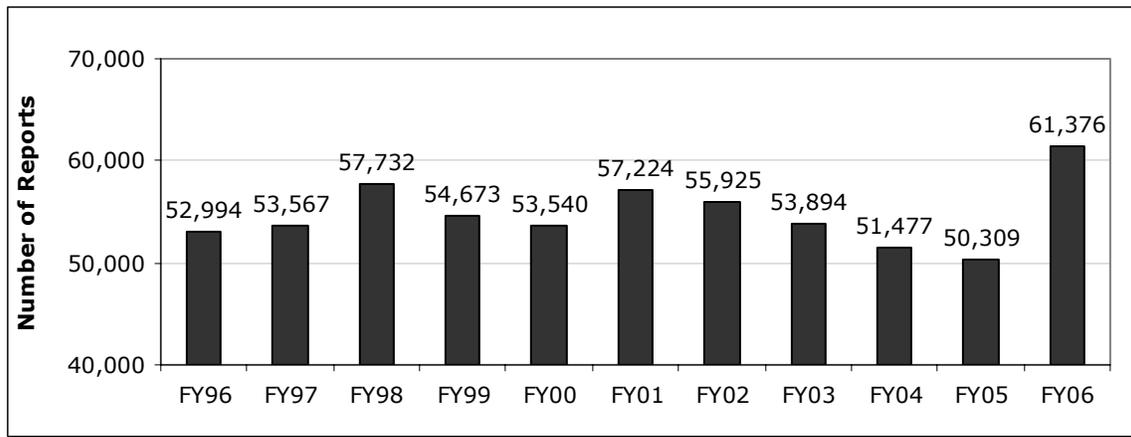
¹⁹ City of New York. *The Mayor's Management Report, FY 1999* (New York, NY: Mayor's Office of Operations), at 95 (Data for FYs 1996-1998). New York City Administration for Children's Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 1 (Data for FY 1999 and FY 2000). *ACS June 01 Update, FY 2001*, at 1. *ACS Update, June 02, FY 2002*, at 1. *ACS Update, June 03, FY 2003*, at 1. *ACS Update, June 04, FY 2004*, at 1. *ACS Update, June 05, FY 2005*, at 1. *ACS Update, June 2006, FY 2006*, at 1.

²⁰ New York City Administration for Children's Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 1. In FY 2006, 61,376 reports of alleged abuse and neglect, involving 89,577 New York City children, were made to the SCR. In FY 2005, 50,309 reports of alleged abuse and neglect, involving 72,629 children, were made.

²¹ New York City Administration for Children's Services. *ACS Update, December 2006, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 1.

²² Roberts, E. Statement at the New York City Administration for Children's Services Quarterly Preventive Services Directors' Meeting. July 18, 2006.

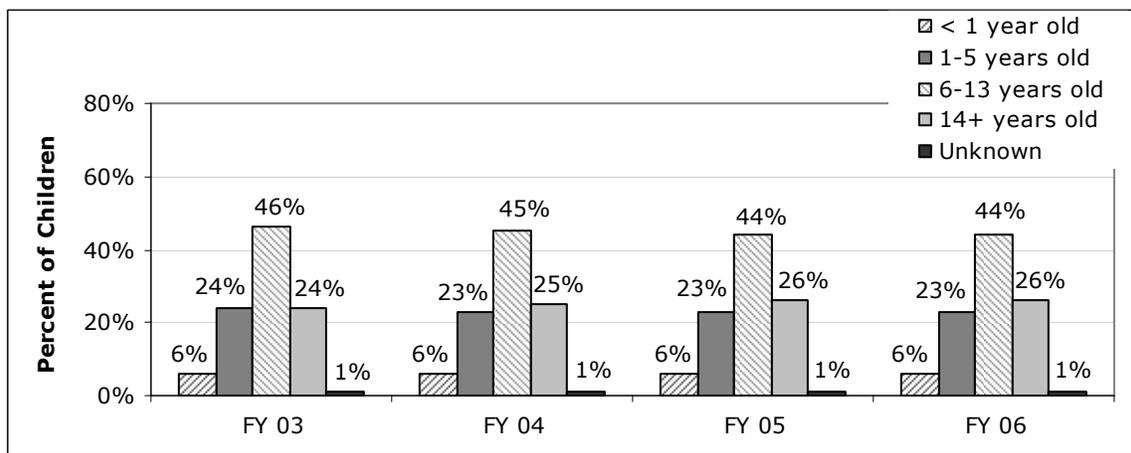
CHART 1.1
Number of Child Abuse and Neglect Reports, by Fiscal Year



B. Age of Children in CPS Investigations

Chart 1.2 below provides the ages of the children who came into contact with ACS through a CPS investigation from FY 2003 through FY 2006.²³ In FY 2006, 29% of children were up to age five, 70% were age six or older. The proportions of the various age groups have remained relatively constant during the past four years.

CHART 1.2
Age of Children in CPS Investigations, by Fiscal Year



²³ Data provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. March, 2007. [Children in CPS Investigations by Age, FY 2003-FY2006].

C. Staffing

On February 27, 2007, ACS reported that it had 1,310 “frontline caseworkers and other child welfare investigators” and that this amounted to a 44% net increase in casework staff since the death of

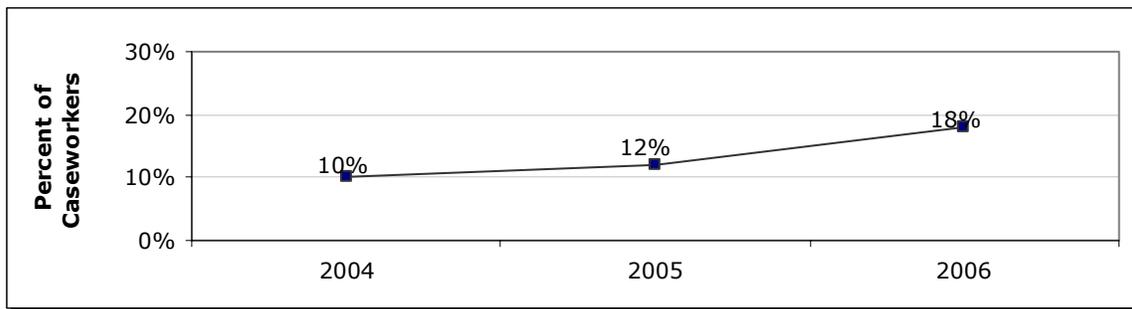
As of February 2007, ACS had 1,310 caseworkers and other child welfare investigators on staff, a 44% increase that was accomplished in less than a year.

Nixzmary Brown.²⁴ This met the goal that Commissioner Mattingly had announced in December 2006—to have more than 1300 caseworkers on staff within a couple of months.²⁵

However, worker turnover and level of experience are challenges. Chart 1.3 below provides data on turnover of ACS’ CPS workers from 2004 through 2006.²⁶ The proportion of CPS workers who left their positions increased by 80% in two years, from 10% in 2004 to 18% in 2006.

CHART 1.3

Turnover: Proportion of CPS Caseworkers Who Left Their Positions, by Calendar Year



The Child Welfare League of America (CWLA) reports that the national turnover rate for CPS workers was 22.1% in 2004.²⁷ Thus, compared to national turnover data, ACS has maintained a relatively low rate; however, in March 2007, ACS Commissioner John Mattingly testified before the New York City Council Committee on General Welfare that the turnover rate for CPS workers is expected to be “30% for the year.”²⁸

²⁴ New York City Administration for Children’s Services. *Mayor Bloomberg and ACS Commissioner Mattingly Graduate 230 New ACS Caseworkers and Challenge Albany to Take Next Steps to Protect New York’s Most Vulnerable Children*. (New York, NY: Administration for Children’s Services Press Release, February 27, 2007). Retrieved March 1, 2007, from http://www.nyc.gov/html/acs/html/pr_archives/pr07_02_27.shtml

²⁵ Mattingly, J. B. Interview with ACS Commissioner. *NY1 News* (December 11, 2006). Retrieved December 11, 2006, from <http://www.ny1.com/ny1/content/index.jsp?stid=1&aid=64939>

²⁶ Data provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. January, 2007. [CPS Attrition].

²⁷ Child Welfare League of America. *National Fact Sheet 2007: The Nation’s Children*. (Washington, DC: Child Welfare League of America). Retrieved June 19, 2007, from <http://www.cwla.org/advocacy/nationalfactsheet07.htm>

²⁸ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 15, 2007.

CWLA also reports that, on average, it takes public child welfare agencies 10 weeks to fill a vacant CPS position.²⁹ Caseworker vacancies impact caseloads; as workers leave, other workers must absorb their caseloads and, when new workers arrive, they are not immediately able to carry full caseloads.

As noted above, CPS workers have the difficult job of making determinations about whether child abuse and neglect has occurred and assessing future risk, while, at the same time, developing a rapport with families so that they are more likely to participate in needed services. This requires significant clinical skill, maturity and savvy. However, as of the end of December 2006, 49% of CPS workers had less than one year of experience.³⁰

D. Caseload

Reasonable caseloads are critical to ensuring that CPS staff can perform timely and comprehensive investigations of allegations of abuse and neglect and adequately assess the safety of each child. CWLA recommends caseloads of 12 active investigations per month per caseworker for workers responsible for initial assessment and investigation in child protective services.³¹ Chart 1.4 below provides average CPS caseloads in NYC from FY 1996 through FY 2006.³²

Between FY 2002 and FY 2005, CPS workers had an average caseload of 12. During several months in 2006, caseloads shot up to a high of 21. By February 2007, caseloads were just over 16, as a result of a major hiring effort.

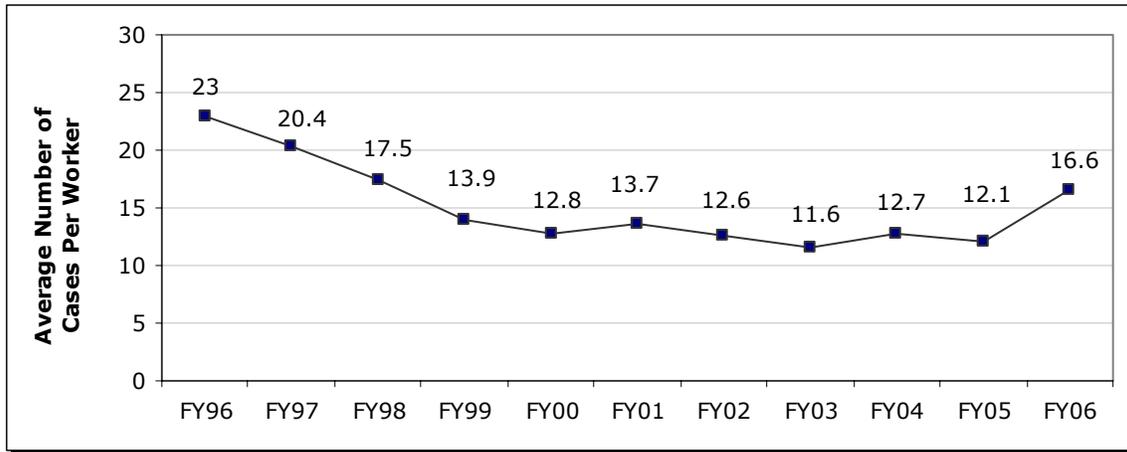
²⁹ Child Welfare League of America. *National Fact Sheet 2007: The Nation's Children*. (Washington, DC: Child Welfare League of America). Retrieved June 19, 2007, from <http://www.cwla.org/advocacy/nationalfactsheet07.htm>

³⁰ New York City Administration for Children's Services. Report to the New York City Council. *Child Welfare Indicators, Quarterly Report, 4th Quarter 2006 (Oct-Dec 2006)* (New York, NY: Administration for Children's Services, 2007), at 2.

³¹ New York City Council. *Oversight: New York City's Child Welfare System* (New York, NY: New York City Council, Governmental Affairs Division, Committee on General Welfare, 2006), at 12-13, from Recommended Caseload Standards excerpted from CWLA Standards of Excellence for Child Welfare Services, at <http://www.cwla.org/programs/standards/cwsstandards.htm>

³² New York City Administration for Children's Services. *2003 Year End Review: Protecting Children, Strengthening Families, Supporting Communities* (New York, NY: Administration for Children's Services), at 8 (Data for FYs 1996-1998). New York City Administration for Children's Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 1 (Data for FY 1999 and FY 2000). *ACS June 01 Update, FY 2001*, at 1. *ACS Update, June 02, FY 2002*, at 1. *ACS Update, June 03, FY 2003*, at 1. *ACS Update, June 04, FY 2004*, at 1. *ACS Update, June 05, FY 2005*, at 1. *ACS Update, June 2006, FY 2006*, at 1.

CHART 1.4
Average CPS Caseload, by Fiscal Year



Caseloads decreased significantly between FY 1996 and FY 2000. During the following five years, there were small fluctuations in the average caseload of CPS workers, either just above or below the recommended 12 investigations per worker. In FY 2006, likely due to the significant increase in reports, the average caseload increased to 16.6. In fact, the average caseload of CPS staff for the five-month period from February to June 2006 was 20-21 investigations per worker.³³ As additional staff was hired, trained, and moved to CPS units, the average caseload decreased; in September 2006 the average caseload had dropped to 11.8.³⁴ However, in October 2006, caseloads began to rise and in February 2007, caseloads again averaged just over 16 cases per worker.³⁵

It is important to note that average caseloads may not provide the best measure for assessing caseloads. Experienced workers may be carrying very high caseloads while less experienced workers may be carrying considerably smaller caseloads. When these caseload numbers are averaged, the average caseloads may appear reasonable while masking the actual caseloads of individual staff.

Accordingly, in the second quarter of 2006, ACS began reporting the numbers of CPS workers with caseloads of more than 15.³⁶ As shown in Chart 1.5, in the second quarter of 2006, 43% of CPS

³³ New York City Administration for Children’s Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 1.

³⁴ New York City Administration for Children’s Services. *Safeguarding Our Children: Safety Reforms Update* (New York, NY: Administration for Children’s Services, 2006), at 8.

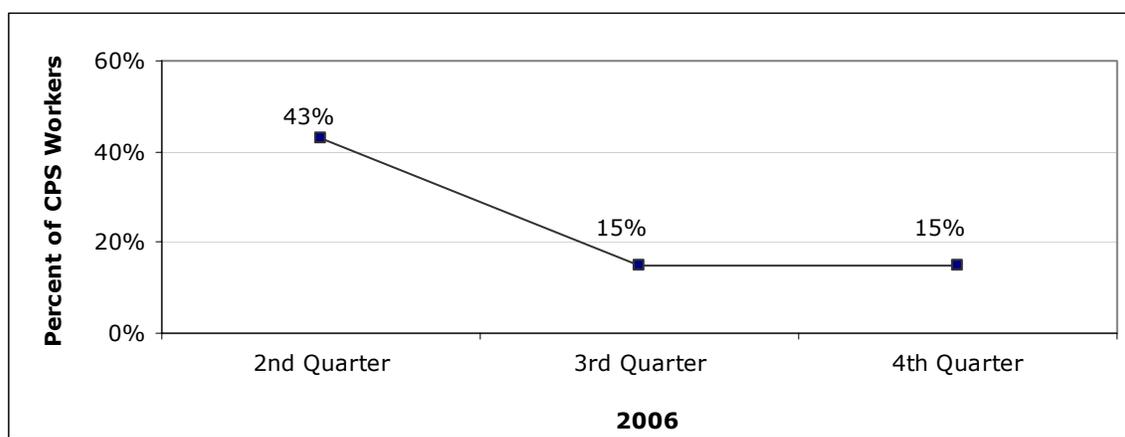
³⁵ Data provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. March, 2007. [Caseload].

³⁶ New York City Administration for Children’s Services. Report to the New York City Council. *Child Welfare Indicators Annual Report 2006*. (New York, NY: Administration for Children’s Services, 2007). Children’s Rights’ calculation: number of CPS workers with average caseloads greater than 15 as of the last day of the quarter divided by actual number of staff as of the last day of each quarter. ACS did not report these data prior to the second quarter of 2006.

workers had caseloads above 15. ACS was able to reduce that proportion to 15% by the third quarter, which is a significant improvement, but still a concern. It should be noted that these data do not provide specific information regarding exactly how many investigations these workers were carrying, only that they had more than 15 investigations. In January 2007, ACS reported that experienced CPS workers had between 20 and 30 investigations, while new staff typically had less than 10 investigations.³⁷

It should also be noted that these data do not indicate the proportion of CPS workers that had caseloads above the CWLA standard of 12 cases per worker.

CHART 1.5
Proportion of CPS Caseworkers with Caseloads Above 15, by Quarter, 2006



ACS also reports the number of caseworkers who are carrying more than 30 cases at one time. No child protective worker can do what is necessary to ensure the safety of children in 30 different investigations at one time. Chart 1.6 below provides the average number of caseworkers carrying more than 30 cases from FY 1999 through FY 2006.³⁸

In the seven years prior to FY 2006, ACS was very successful in keeping the numbers of workers carrying more than 30 cases very low. The number of caseworkers with more than 30 active cases increased dramatically from FY 2005 to FY 2006, and peaked during the month of April 2006 when 137 caseworkers were carrying more than 30 cases.³⁹ By December 2006, the number of caseworkers

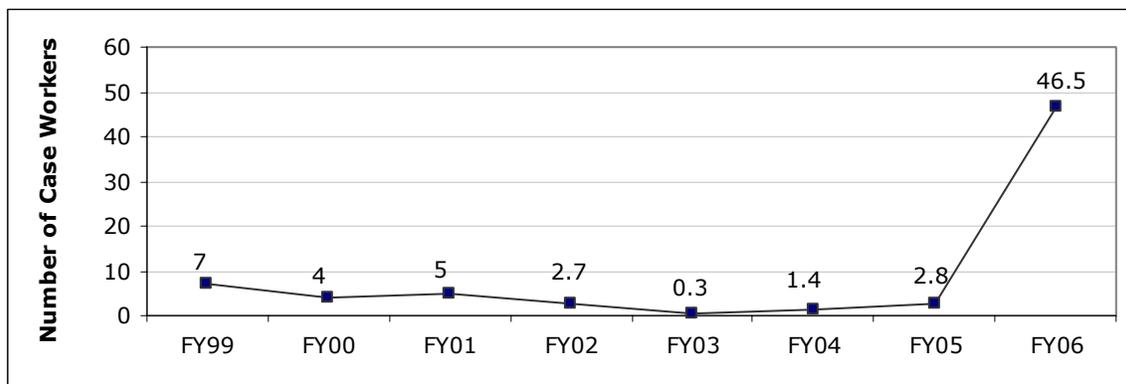
³⁷ Flory, J. Statement at the New York City Administration for Children's Services Quarterly Preventive Services Directors' Meeting. January 16, 2007.

³⁸ New York City Administration for Children's Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 1 (Data for FY 1999 and FY 2000). *ACS June 01 Update, FY 2001*, at 1. *ACS Update, June 02, FY 2002*, at 1. *ACS Update, June 03, FY 2003*, at 1. *ACS Update, June 04, FY 2004*, at 1. *ACS Update, June 05, FY 2005*, at 1. *ACS Update, June 2006, FY 2006*, at 1.

³⁹ New York City Administration for Children's Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 1.

carrying more than 30 cases was reduced to six;⁴⁰ however, in January 2007, the number rose to 30 caseworkers, higher than it had been in the previous five months,⁴¹ but dropped down to one by April 2007.⁴²

CHART 1.6
Number of Caseworkers Carrying More Than 30 Cases, by Fiscal Year



E. ACS/NYPD Joint Investigations

In 1998, in an effort to improve the quality of investigations of severe abuse and maltreatment, an Instant Response Team (IRT) Protocol was implemented. The Protocol requires a prompt, joint response in specified cases of child abuse and maltreatment, including joint agency interviews of the

child and coordinated efforts between ACS and New York City Police Department (NYPD) throughout the investigation.⁴³ An additional goal of the protocol is to improve communication between these agencies, as well as communication with the District Attorney’s Office.

During the past six years, ACS and the New York City Police Department have collaborated on approximately 5-6% of child abuse and neglect investigations.

The circumstances of the Nixzmary Brown case raised serious concerns regarding the collaboration between ACS and the NYPD. When ACS received maltreatment allegations regarding Nixzmary six

⁴⁰ New York City Administration for Children’s Services. *ACS Update, December 2006, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 1.

⁴¹ New York City Administration for Children’s Services. *ACS Update, January 2007, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 1.

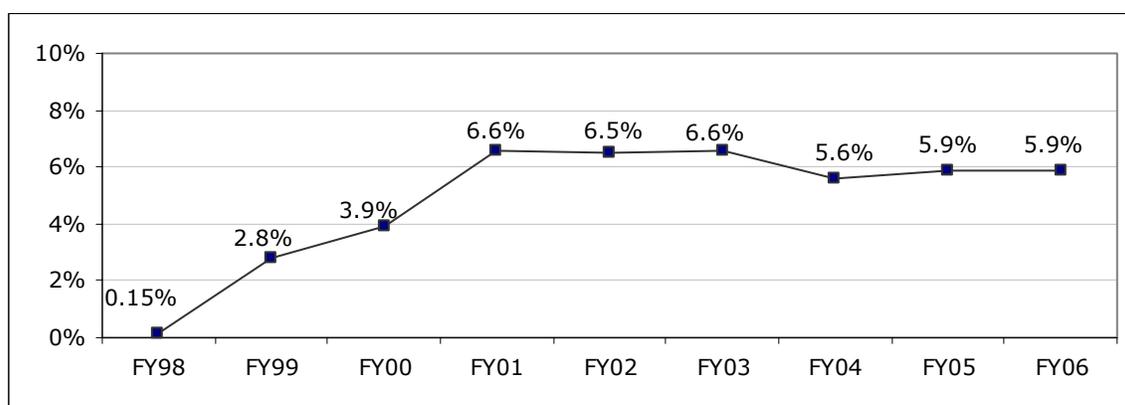
⁴² New York City Administration for Children’s Services. *ACS Update, April 2007, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 1.

⁴³ City of New York, Office of the Deputy Mayor for Health and Human Services. *Report of the Interagency Task Force on Child Welfare and Safety* (New York, NY: The City of New York, 2006), at 19.

weeks before she died, a CPS supervisor and an NYPD detective discussed the allegations prior to beginning the investigation and a decision was made that the investigation would not be a joint investigation.⁴⁴ After Nixzmary's death, significant questions arose regarding the decisions that had been made by ACS and the NYPD early in the investigation and whether or not the protocol and procedures needed to be revised. A discussion of IRT-related reforms that were implemented following Nixzmary's death can be found in the "Current Reform Efforts" section of this chapter.

Chart 1.7 below provides the rate of IRT investigations since FY 1998.⁴⁵

CHART 1.7
Proportion of Instant Response Team (IRT) Investigations, by Fiscal Year



It should be noted that, in the second half of FY 2006, the average number of IRT investigations increased from 201 per month to 360 per month.⁴⁶ Although this is a significant recent increase in the *numbers* of investigations, the proportion of IRT investigations out of all investigations has remained consistent over the past three years.

⁴⁴ New York City Council. *Oversight: Coordination between the Police Department and the Administration for Children's Services in responding to reports of child abuse and neglect* (New York, NY: New York City Council, Governmental Affairs Division, Committee on General Welfare, 2006).

⁴⁵ City of New York. *The Mayor's Management Report, FY 1999* (New York, NY: Mayor's Office of Operations), at 96 (Data regarding number of SCR intakes for FY 1998). New York City Administration for Children's Services. *ACS, June 2000 Update* (New York, NY: Office of Research and Evaluation), at 1 (Data regarding number of SCR intakes for FY 1999 and FY 2000). *ACS June 01 Update, FY 2001*, at 1. *ACS Update, June 02, FY 2002*, at 1. New York City Administration for Children's Services. *2003 Year End Review: Protecting Children, Strengthening Families, Supporting Communities* (New York, NY: Administration for Children's Services), at 9 (Data regarding numbers of IRT cases for FYs 1998-2002). *ACS Update, June 03, FY 2003*, at 1. *ACS Update, June 04, FY 2004*, at 1. *ACS Update, June 05, FY 2005*, at 1. *ACS Update, June 2006, FY 2006*, at 1. Children's Rights calculation: for FYs 1998-2004—number of IRT cases divided by number of SCR intakes; for FYs 2005 and 2006 – number of IRT cases divided by number of SCR consolidated investigations. ACS began consolidating certain reports in January 2004, as per new OCFS procedures.

⁴⁶ New York City Administration for Children's Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 1.

What is not apparent is whether the IRT Protocol is being followed in all appropriate cases.⁴⁷ It will be important to monitor whether the IRT-related initiatives discussed later in this chapter result in an increase in the percentage of IRT investigations, thereby increasing the collaboration among city agencies and the quality of investigations.

F. Timely Initiation of Investigations

Once a report of suspected abuse or neglect is received, ACS must begin the investigation and conduct a preliminary assessment of the safety of the children within 24 hours. One effect of high caseloads may be a decline in the number of cases in which the investigation and initial safety

ACS is responsible for initiating investigations of suspected abuse and neglect within 24 hours in order to immediately assess the safety of the children involved.

The proportion of investigations initiated within 24 hours is generally high, but has declined slightly over the past ten years, from 99% in FY 1996 to an average of 96% percent during the period between FY 2002 and FY 2005. The rate dropped further to 94% in FY 2006.

assessment are begun within 24 hours, as required. Chart 1.8 below provides the percentage of cases in which “significant 24 hour contact” was made during the period between FY 1996 and FY 2006.⁴⁸

The proportion of cases in which ACS responded to allegations of abuse and neglect within 24 hours decreased slightly from 96.4% in FY 2005 to 94.3% in FY 2006.⁴⁹ This means, that, in 2006, there were approximately 3,500 reports of abuse and neglect in which the safety of the children was not assessed within 24 hours.⁵⁰ As shown, 94.3% is the lowest rate seen in the

past 11 years. This is a significant measure of the ability of CPS to carry out one of its most basic responsibilities, to immediately assess and ensure the safety of every child involved in a report of suspected abuse or neglect.

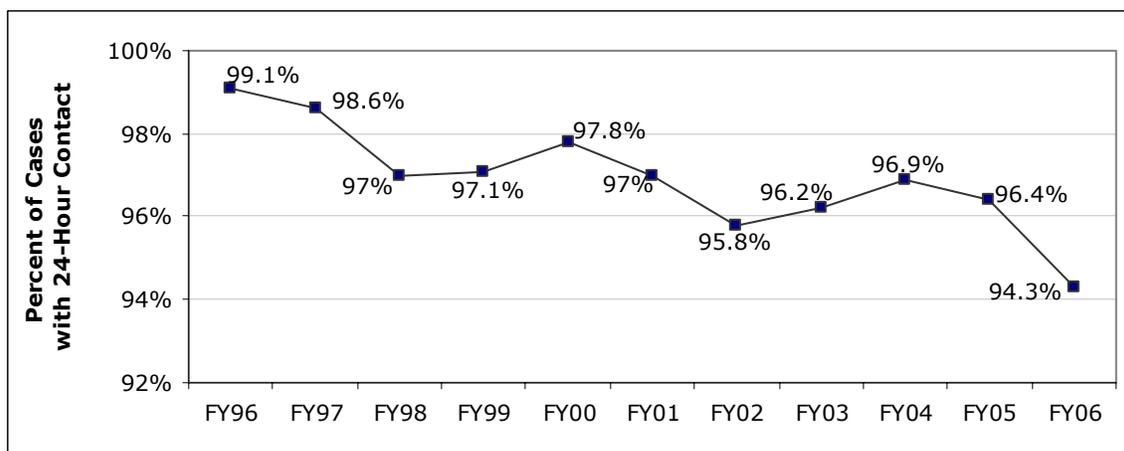
⁴⁷ Children’s Rights requested data regarding the proportion of cases that meet the criteria for IRT that actually receive IRT. ACS reported that these data are not available.

⁴⁸ City of New York. *The Mayor’s Management Report FY 1999* (New York, NY: Mayor’s Office of Operations), at 95 (Data for FYs 1996-1999). *The Mayor’s Management Report FY 2001*, at 127 (Data for FY 2000 and FY 2001), *The Mayor’s Management Report FY 2003*, at 26 (Data for FY 2002 and FY 2003), *The Mayor’s Management Report FY2004*, at 26. *The Mayor’s Management Report FY 2006*, at 22 (Data for FY 2005 and FY 2006). ACS defines significant 24 hour contact as “contact by any means with someone who can attest to the current safety and well-being of the reported [maltreated] child.” Information provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. July, 2007.

⁴⁹ New York City Administration for Children’s Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 1.

⁵⁰ Ibid. Children’s Rights calculation: number of SCR intakes multiplied by percent of reports that did not have 24 hour contact.

CHART 1.8
Proportion of CPS 24-Hour Contact, by Fiscal Year



G. Proportion of Investigations with a Finding of Abuse and Neglect

The “indication rate” is the proportion of abuse and neglect reports referred for investigation that are substantiated, i.e., credible evidence that abuse and neglect occurred was obtained during the investigation. Chart 1.9 provides the indication rates from FY 1998 through FY 2006.⁵¹

The proportion of indicated investigations has ranged from 33% to 37% during the past nine years. However, there was a small increase in the indication rate from FY 2005 to FY 2006 and the rate continued to increase, surpassing 40% in December 2006 (not reflected in Chart 1.9).⁵² If the

Approximately one-third of all investigations result in the finding that abuse and/or neglect has occurred. This proportion has not changed substantially over time.

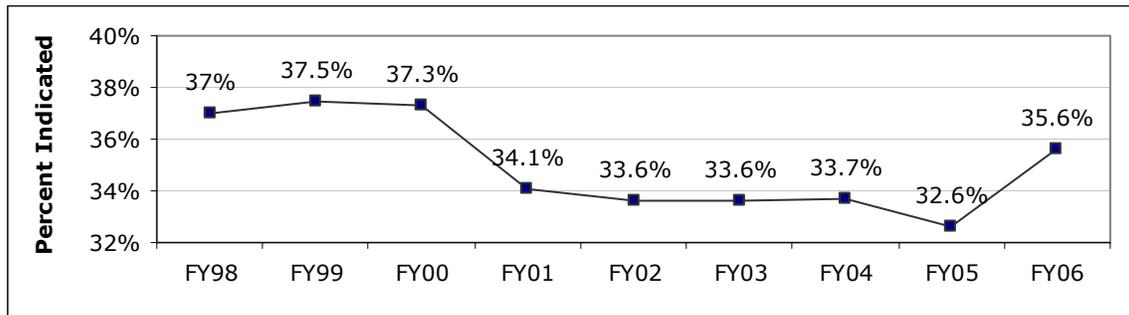
increase in the indication rate results from more thorough assessments of safety and risk and an understanding of what constitutes “credible evidence,” then, with the provision of appropriate services, the welfare of the children involved in these reports can be improved. At the same time, ACS must ensure that the negative publicity that followed the deaths of children that were known to

⁵¹ New York City Administration for Children’s Services. *Progress on ACS Reform Initiatives, Status Report 3* (New York, NY: Administration for Children’s Services, 2001), at 105 (Data for FY 1998 and FY 1999). New York City Administration for Children’s Services. *ACS June 01 Update, FY 2001* (New York, NY: Office of Research and Evaluation), at 1 (Data for FY 2000 and FY 2001). *ACS Update, June 02, FY 2002*, at 1. *ACS Update, June 03, FY 2003*, at 1. *ACS Update, June 04, FY 2004*, at 1. *ACS Update, June 05, FY 2005*, at 1. *ACS Update, June 2006, FY 2006*, at 1.

⁵² New York City Administration for Children’s Services. *ACS Update, December 2006, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 1.

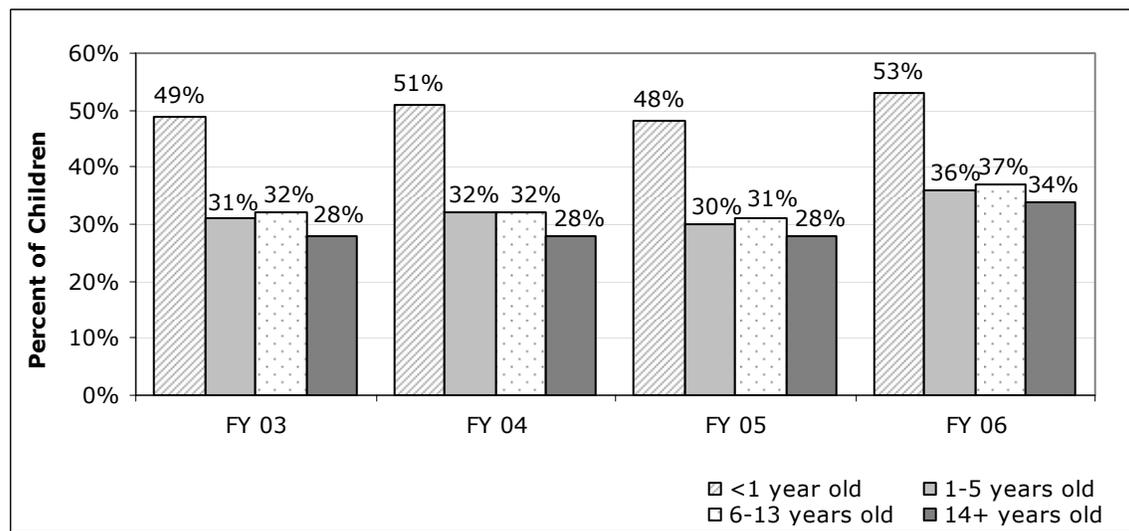
ACS did not result in CPS staff indicating some reports that were not thoroughly investigated or did not meet the credible evidence standard.

CHART 1.9
Indication Rate, by Fiscal Year



As shown in Chart 1.10 below, children under the age of one are most likely to have an indicated investigation. Approximately half of investigations involving children under the age of one are indicated, compared to only a third of investigations involving children older than one year old. This has remained consistent for the past four years.⁵³

CHART 1.10
Proportion of Investigations that Are Indicated, by Age of Child and Fiscal Year



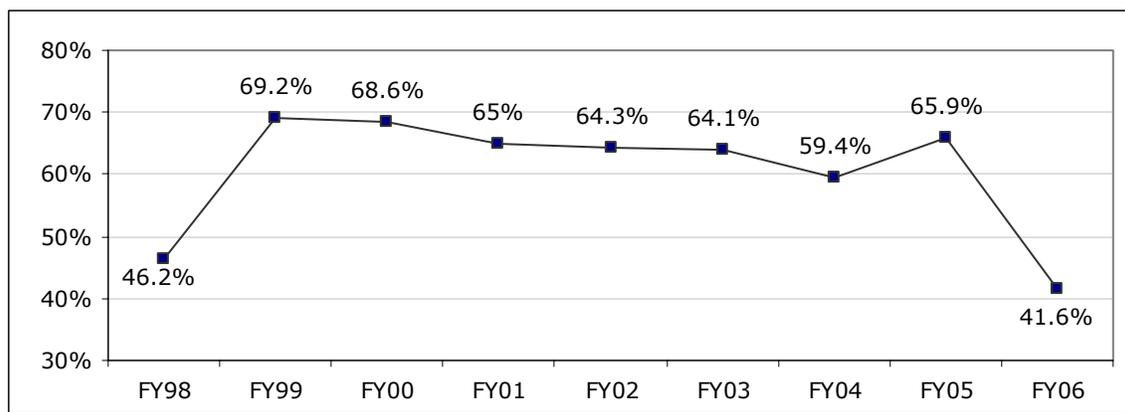
⁵³ Data provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. March, 2007. [Confirmed Victims in CPS Investigations by Age, FY2003-FY2006].

H. Timely Completion of Investigations

Within 60 days of receiving a report of suspected abuse or neglect, ACS must decide whether to indicate or substantiate the report and develop and implement a plan to ensure that the child is safe and will remain safe in the future. Chart 1.11 below provides the percentage of determinations that were made within the required 60-day time frame for FY 1998 through FY 2006.⁵⁴

Timely completion of investigations is necessary in order to quickly assess the safety of children and provide the necessary services to ensure they are safe in the future. Historically, fewer than 70% of investigations have been completed as required within 60 days. In FY 2006, likely in relation to the large increase in reports, the proportion of investigations completed within 60 days dropped dramatically to 42% and has continued at this level for the first six months of FY 2007.

CHART 1.11
Proportion of Investigations Completed within 60 Days, by Fiscal Year



Between 1999 and 2005, less than 70% of investigations were completed within 60 days. In FY 2006, the proportion of investigations completed on time dramatically decreased to 41.6% and continued at this level for the first six months of FY 2007.⁵⁵ These findings mean that thousands of investigations were not completed on time and thousands of children may have remained at risk

⁵⁴ Data provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. March and June, 2007. [CPS Investigations Completed within 60 days of Investigation, FY 1998 through 2006 and FY 2007, July through December].

⁵⁵ Data provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. March, 2007. [% of CPS Investigations Completed within 60 days of Investigation, FY 2006 and FY 2007, July through December].

because ACS was not able to thoroughly assess their circumstances and quickly initiate the services needed to ensure their safety and well-being.

I. Post–Investigation Service Provision

After CPS workers determine that there is evidence of abuse or neglect, they must determine what services, if any, are needed to address the abuse and neglect concerns and then refer the family for

ACS is increasing the number of families who receive services after child abuse and neglect has been documented. The proportion of families that received no services decreased from nearly 40% in the second quarter of 2006 to 14% in May 2007.

the services. When closing an investigation, the worker must document whether or not he/she referred the family for services. ACS case closures are documented as “completed with services,” “referred for community-based services only,” or “completed without services.” Completed with services means that preventive⁵⁶ and/or foster care services⁵⁷

were needed and had been initiated at the time the case was closed. Community-based services are services that are provided to the child and/or family by a service provider who does not have a contract with ACS, such as referral to the public assistance office for the provision of food stamps or a clinic for eyeglasses.⁵⁸ Completed without services includes families that CPS staff determined did not need further assistance in order to safely care for their child, families that refused services and families that could not be located or had moved out of New York City.

Chart 1.12 below provides the proportion of indicated reports that were completed with services, completed with community-based services only and completed without services during the second, third and fourth quarters of CY 2006.⁵⁹

⁵⁶ Preventive services are provided directly by ACS and/or by providers with whom it contracts. Preventive services are intended to “prevent” the need to remove a child from their home by providing the supports the family requires to safely care for the child at home. See Chapter 2 for a discussion of preventive services in New York City.

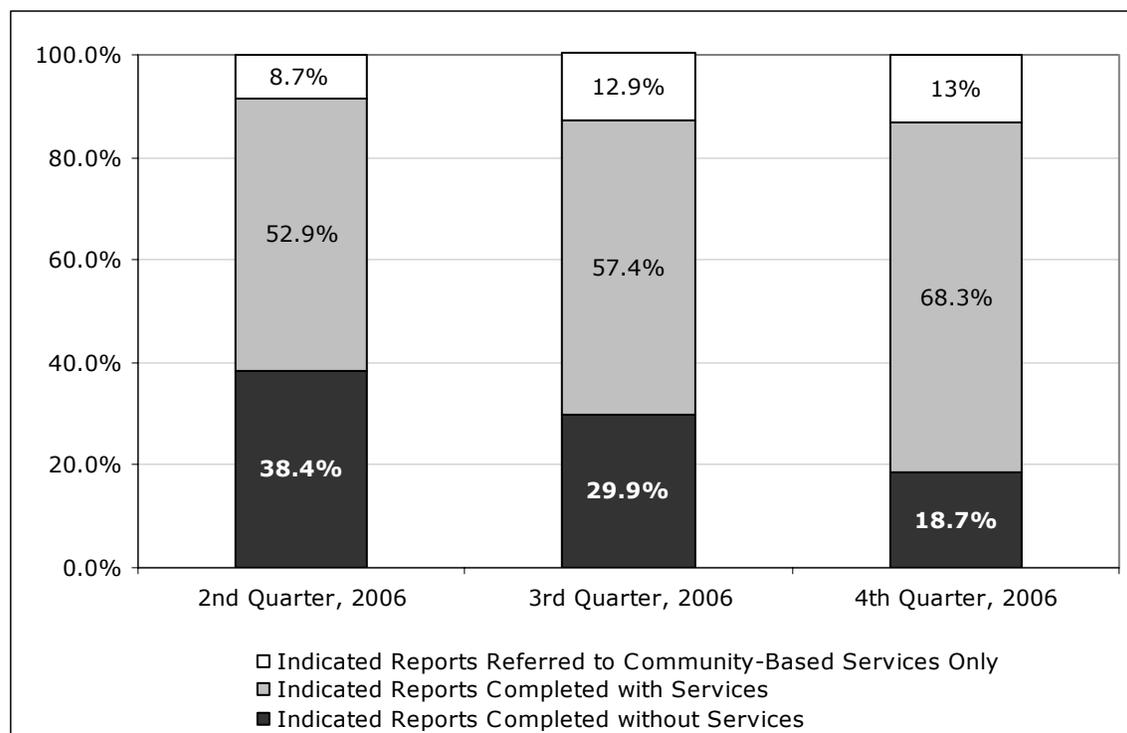
⁵⁷ Foster care is out-of-home care that is provided to children who ACS determines cannot safely remain at home. See Chapter 3 for a discussion of foster care services in New York City.

⁵⁸ Staff, New York City Council, Committee on General Welfare (Personal communication, November 29, 2006).

⁵⁹ New York City Administration for Children’s Services. Report to the New York City Council. *Child Welfare Indicators Quarterly Report, 2nd Quarter 2006 (April–June 2006)* (New York, NY: Administration for Children’s Services), at 7, *Child Welfare Indicators Quarterly Report, 3rd Quarter 2006 (July–Sep 2006)*, at 7, *Child Welfare Indicators Quarterly Report, 4th Quarter 2006 (Oct–Dec 2006)*, at 7. Children’s Rights calculations utilizing data provided in these reports.

CHART 1.12

Disposition of Indicated Reports, by Service and by Quarter, Calendar Year 2006



As shown in the chart above, a significant portion of families with documented abuse and neglect were receiving no services, which raises concerns about the future safety of the children in these families. Acknowledging these concerns, ACS has recently begun to focus on decreasing the number of indicated investigations it closes without referring the family for any services.⁶⁰ In fact, the data in Chart 1.12 reflect a 51% improvement from the second quarter to the fourth quarter of 2006 and, by May 2007, the proportion of families that ACS determined had abused or neglected their child and did not receive any services decreased to 14%.⁶¹

As noted above, “completed with services” refers to families that received preventive and/or foster care services. Recent data, which is discussed in greater detail in Chapter 2, indicate that 35% of families referred for preventive services are not engaged in services within 30 days.⁶² This is problematic given that these referrals are being made due to concerns about children’s safety and their families’ ability to care for them.

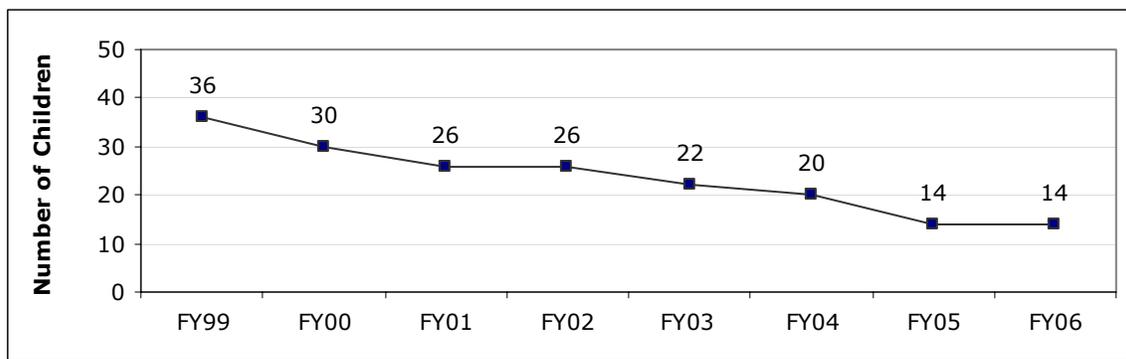
⁶⁰ Kaufman, L. After 7-Year-Old’s Death, Agency Monitors Cases More Aggressively. *The New York Times* (December 11, 2006).

⁶¹ Data provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. July, 2007.

⁶² New York City Administration for Children’s Services. *Preventive Services Program, Quarterly Program Status Report (July 2006 – Sept. 2006)* (New York, NY: Administration for Children’s Services, 2006), at 2.

In terms of foster care services, there has been a significant reduction in the number of abused and neglected children that ACS deems should be placed in foster care. As shown in Chart 1.13 below, in 1999, for every 100 children found to have been abused/neglected, 36 children were placed in foster care due to abuse and neglect. By 2005, the number dropped to 14.⁶³

CHART 1.13
 Number of Children Entering Foster Care as a Result of Abuse/Neglect
 for Every 100 Abuse/Neglect Victims, by Fiscal Year



This is a significant decrease and may suggest a change 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. 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.

What is critical is that children are safe and that children and families are receiving appropriate services to address identified issues, whether a child is in foster care or at home. In fact, several key indicators, which are discussed in greater detail in the following section and in Chapters 2 and 3, provide some cause for concern in these areas. For example, as the foster care population has declined 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. In addition, the rate of repeat maltreatment (i.e., the proportion of children who ACS determined were abused or neglected who are abused or neglected again) has increased. This raises questions about decision making during investigations and determinations regarding the need for services, including preventive services and foster care placement.

⁶³ Children's Rights' calculation. These data have been expressed as a ratio rather than a proportion because ACS indicated that the data come from two separate information systems; and ACS could not confirm that the numerator (number of children placed in foster care due to abuse and neglect) was an exact subset of the denominator (number of abused and neglected children).

J. Repeat Investigations & Repeat Maltreatment Rates

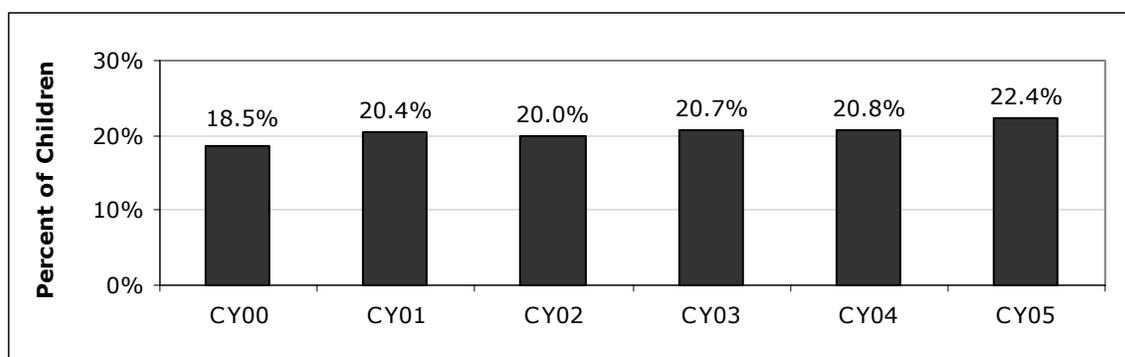
When a child who ACS determined was abused or neglected is abused or neglected again, this is known as repeat maltreatment. The rate of repeat maltreatment is a key indicator of the quality of child welfare practice. ACS states, "A critical measure of how well the system is performing [the] fundamental function [of protecting children] is the extent to which children who have been the subject of abuse/neglect allegations are

subjects of additional allegations at a later date."⁶⁴ ACS tracks incidents of repeat maltreatment that occur within six months and one year of the original investigation. It should be noted that the repeat maltreatment data provided below do not include children who entered foster care following an initial indicated investigation.

The rates of repeat investigations and repeat maltreatment have been rising during the past five years. Recent data indicate that one-fifth of children involved in ACS investigations are involved in another investigation within a year and 15% of children found abused and neglected are abused and neglected again within a year.

Chart 1.14 provides the proportion of children in families with completed (either indicated or unsubstantiated) investigations followed by a second completed investigation within one year. The calendar year (CY) headings in the chart refer to the calendar year of the initial investigation and the data provided span CY 2000 through CY 2005.⁶⁵

CHART 1.14
Proportion of Children in Completed Investigations
with Repeat Investigations Within One Year, by Calendar Year



⁶⁴ New York City Administration for Children's Services. *Top 12 Performance Report, Outcomes and Indicators, Outcome 5: Low Repeat Maltreatment*. (New York, NY: The City of New York, 2006).

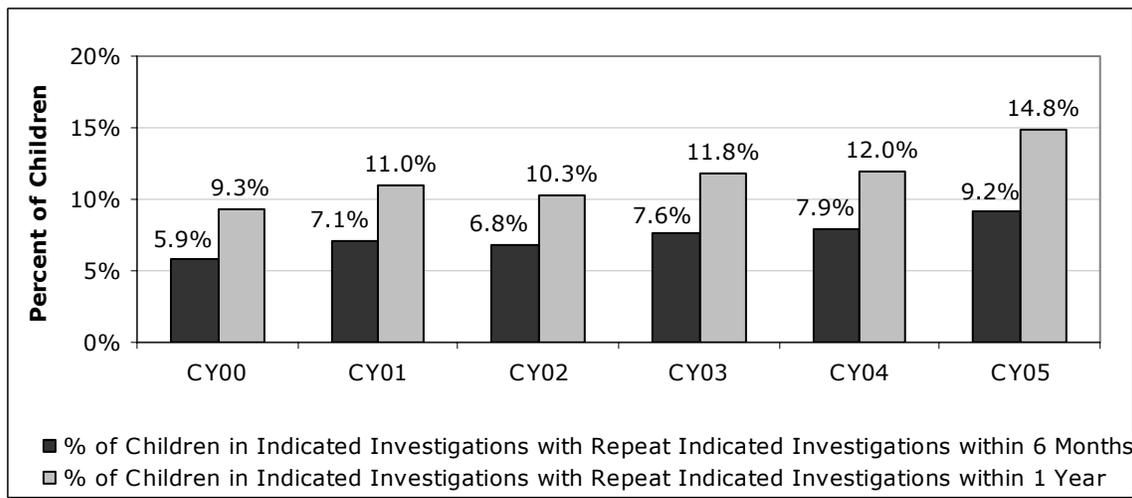
⁶⁵ New York City Administration for Children's Services. *Top 12 Performance Report, Outcome 5: Low Repeat Maltreatment, Citywide Summary, 4th Quarter, 2004* (New York, NY: Administration for Children's Services), at 1 (Data for CY 2000-2001), *Top 12 Performance Report, Outcome 5: Low Repeat Maltreatment, Citywide Summary, 4th Quarter, 2006*, at 1 (Data for CY 2002-2005).

Since 2001, at least one out of every five children whose families were investigated by ACS was involved in a second investigation within a year. These data include families whose first and second investigation were either indicated or unsubstantiated by ACS. The data show that ACS spends a great deal of time and resources repeatedly investigating many of the same families. This raises questions about whether the initial investigations were thorough and whether appropriate assessments and decisions were made and services provided.

Chart 1.15 below provides the proportion of children with *indicated* investigations, i.e., substantiated abuse and neglect, who had a second *indicated* investigation within six months and one year. The calendar year headings in the chart refer to the calendar year of the initial investigation and the data provided span CY 2000 through CY 2005.⁶⁶

As shown in Chart 1.15, 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; ACS reports that it utilizes a different methodology than the federal government to calculate repeat maltreatment.

CHART 1.15
Proportion of Children that Experienced Repeat Maltreatment, by Calendar Year



However, OCFS analyzes repeat maltreatment data for each county in New York State utilizing the same methodology as the federal government. OCFS reports that, in 2006, repeat maltreatment within six months was above the national average of 8.1% in all five counties in New York City.^{67, 68}

⁶⁶ Ibid.

⁶⁷ U.S. Department of Health and Human Services, Administration on Children, Youth and Families. *Child Maltreatment 2005* (Washington, DC: U.S. Government Printing Office, 2007), at 57.

⁶⁸ Data provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. July, 2007.

The proportion of children experiencing repeat maltreatment ranged from 8.4% in Kings County to 11.3% in Bronx County.⁶⁹ The current federal standard in the Child and Family Service Reviews (CFSRs)⁷⁰ requires states to have a repeat maltreatment rate of 5.4% or less.⁷¹ Chart 1.16 provides the proportion of children experiencing repeat maltreatment within six months for each of the five counties that comprise New York City for the federal fiscal years 2000 through 2006.

CHART 1.16
Proportion of Repeat Maltreatment Within Six Months, by County⁷²

New York City Counties	2000	2001	2002	2003	2004	2005	2006
Bronx	9.8%	10.1%	9.6%	12.2%	14.7%	12.1%	11.3%
Kings	9.0%	9.6%	9.2%	10.9%	11.7%	8.9%	8.4%
Manhattan	8.0%	8.9%	7.8%	10.7%	10.7%	6.3%	9.3%
Queens	9.0%	10.3%	8.4%	10.0%	9.1%	7.9%	8.7%
Richmond	11.7%	13.9%	11.5%	11.4%	12.4%	14.8%	10.7%

As also shown in Chart 1.15, the proportion of repeat maltreatment within one year has increased from 9.3% in 2000 to 14.8% in 2005, a 59% increase. Additionally, the proportion of children experiencing repeat maltreatment within one year has remained above the target rate of 10% that ACS established for itself in 2002.⁷³

In repeat maltreatment cases, the families have previously been investigated, evidence of abuse or neglect was found and services should have been provided to reduce the risk of further incidents of abuse or neglect, yet the children were abused or neglected again. These cases raise concerns about the quality of the safety and risk assessments and the services that may have been provided to these families.

In addition to reporting the sheer proportion of children who experience repeat maltreatment, ACS reports these data categorized by whether services were provided after the initial investigation. From 2000 to 2004, the rate of repeat maltreatment increased by 19% for children whose families received court-ordered services (includes Court Ordered Supervision, a preventive service provided directly by ACS, and court-ordered foster care), 29% for children whose families received voluntary

⁶⁹ Ibid.

⁷⁰ The federal government utilizes the Child and Family Service Review (CFSR) process to evaluate individual state child welfare programs.

⁷¹ U.S. Department of Health and Human Services, Administration on Children, Youth and Families. *Child Maltreatment 2005* (Washington, DC: U.S. Government Printing Office, 2007), at 29.

⁷² According to OCFS, data for 2000-2002 are calendar year, data for 2003 and 2004 are federal fiscal year, and data for 2005 and 2006 run from April 1st to March 31st.

⁷³ City of New York, *The Mayor's Management Report, FY 2006* (New York, NY: Mayor's Office of Operations, 2006), at 33.

services (includes private preventive services and may include a small number of voluntary foster care cases) and 19% for children whose families did not receive any services. Chapter 2 contains more detailed information regarding these findings.

Clearly, thousands of children in New York City have been harmed repeatedly and the proportions of these children have been rising, even with the provision of services. ACS predicts that the proportion of children maltreated again within one year will decline 3% by December 2007 as a result of “better investigatory decision-making, streamlined operations, enhanced oversight, and improved utilization of services.”⁷⁴

K. Quality of CPS Investigations

In response to the *Marisol v. Giuliani* class action lawsuit, the Marisol Joint Case Review Team conducted a review of CPS case records in 1997. The Review Team judged that just less than half (48%) of CPS investigations were thorough. More specific findings included:

- In 32% of cases, adequate safety assessments were not completed within 24 hours of receiving the report of abuse and neglect;
- In 20% of cases, face-to-face contact was not made with all of the adults who were alleged to have abused/neglected the child(ren);
- In 23% of cases, not all of the children living in the home were interviewed or observed;
- In 15% of cases, not all of the children who needed to be interviewed separately were, in fact, interviewed separately; in 32% of cases, the Review Team could not determine whether the children were interviewed separately;
- In 7% of cases, no relatives, neighbors, physicians, school personnel or other services providers who should have been contacted were contacted;
- In 33% of cases, the risk of future abuse and neglect was not adequately assessed for each child; and
- When services were needed to reduce the risk, they were not provided to the family in 20% of cases.⁷⁵

ACS currently collects these kinds of data reflecting the quality of practice. Children's Rights requested these data for the purpose of this report, but ACS declined to provide them.

⁷⁴ New York City Administration for Children's Services. *Safeguarding Our Children 2006 Action Plan* (New York, NY: Administration for Children's Services, 2006), at 6.

⁷⁵ Marisol Joint Case Review Team. *Marisol v. Giuliani Case Record Review. Report #1 Investigations of Reports of Suspected Child Abuse and Maltreatment by New York City's Administration for Children's Services (ACS)*. (1997).

III. Current Reform Efforts

This section describes recent significant reform initiatives pertaining to Child Protective Services. Many of these initiatives were introduced in March 2006, following the death of Nixzmary Brown, when ACS issued the report titled “Safeguarding Our Children 2006 Action Plan.” ACS identified the following goals for CPS: (1) to enhance accountability and utilize new performance indicators to track key child safety outcomes; (2) to enhance child protective investigatory practice; and (3) to ensure that every part of the ACS system and every interaction with children is focused on ensuring their safety.⁷⁶

The reform efforts included a caseworker hiring plan that was designed to enable ACS to fill vacancies as they occur. ACS also enhanced the training curriculum and planned to provide “refresher” courses focused on assessing and addressing safety and risk and is establishing the first leadership academy to provide specific training and support to management-level staff. ACS has also assigned former law enforcement officers to work with CPS investigative staff and NYPD has appointed a liaison to coordinate communication and joint responses with child protective investigators. ACS and the Department of Education (DOE) have also taken steps to improve their communication and coordination and ACS has created the Safety First Office, which works with community providers and CPS to improve communication and address safety concerns. In addition to improving communication between ACS and other New York City agencies, ACS has implemented ChildStat, an internal review system also intended to improve the quality of CPS practice.

Initiating reforms is the first step. These initiatives must be closely tracked and the results reported in order to ensure that they are implemented as planned and achieving their goals.

A. Quality of CPS Practice

As noted above, ACS declined to provide data regarding the quality of CPS practice, such as the proportion of cases in which children were interviewed separately, whether appropriate collateral contacts were made or whether sufficient information was gathered to assess safety. Thus, it is not possible to assess these important issues.

It should be noted that, for the past year, ACS has been in the process of revising its CPS case record review instrument in order to incorporate changes made by the New York State Office of Children and Family Services to the state safety and risk protocol and to “strengthen the assessment of the quality of practice.”⁷⁷ As of April 2007, ACS had not begun to utilize the revised instrument.

⁷⁶ New York City Administration for Children’s Services. *Safeguarding Our Children 2006 Action Plan* (New York, NY: Administration for Children’s Services, 2006), at 1.

⁷⁷ Information provided to Children’s Rights by the New York City Administration for Children’s Services Division of Quality Assurance. May 25, 2006).

B. Hiring Practices

ACS' "Safeguarding Our Children 2006 Action Plan" states, "A bold hiring initiative and immediate filling of vacancies will keep caseloads at a manageable level for frontline staff. ACS will have trained workers ready to hit the field whenever vacancies occur, helping meet the goal of holding child protective caseloads to a system-wide average of 12."⁷⁸ The Plan also states that by June 2006, "field offices will be fully staffed, caseworkers will have caught up on any backlog and caseloads will be maintained at low levels."⁷⁹ ACS did not meet the June 2006 deadline but did make progress. As previously stated in this chapter, in February 2007, ACS had 44% more investigative staff than it did less than a year earlier. In March 2007, Commissioner Mattingly stated, in testimony before the New York City Council Committee on General Welfare, that ACS plans to hire approximately 50 to 80 new CPS workers each month.

C. Enhanced Training of Staff

On January 18, 2006, Commissioner Mattingly announced to foster care and preventive service executive directors that all current caseworkers would attend "refresher" courses on child safety procedures and risk factors.⁸⁰ ACS reports that 1,061 caseworkers and supervisors attended the refresher course and 563 supervisors, managers and administrators received supervisory-level safety and risk training. CPS supervisors are now required by state law to take a five- or ten-day supervisory skills training course, which ACS plans to begin providing in the fall of 2007 and complete by the summer of 2008. Additionally, ACS staff at the James Satterwhite Academy have revised the CPS training materials which are utilized for the initial training of newly hired caseworkers.⁸¹

ACS is also partnering with the Wagner School of Management at New York University to establish the New York City Leadership Academy for Child Safety. ACS reports that the Academy will provide on-going managerial training, mentoring and support to ACS managerial staff and is expected to open in April 2007.⁸²

⁷⁸ New York City Administration for Children's Services. *Safeguarding Our Children 2006 Action Plan* (New York, NY: Administration for Children's Services, 2006), at 8.

⁷⁹ Ibid.

⁸⁰ Mattingly, J. B. Statement to New York City Foster Care and Preventive Service Executive Directors. January 18, 2006.

⁸¹ Information provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. June, 2007.

⁸² New York City Administration for Children's Services. *Mayor Bloomberg and ACS Commissioner Mattingly Graduate 230 New ACS Caseworkers and Challenge Albany to Take Next Steps to Protect New York's Most Vulnerable Children*. (New York, NY: Administration for Children's Services, February 27, 2007). Retrieved March 1, 2007, from http://www.nyc.gov/html/acs/html/pr_archives/pr07_02_27.shtml

D. Resources and Technology

In its 2006 Action Plan, ACS committed to providing additional support and resources to enhance the effectiveness and efficiency of CPS workers.⁸³ ACS has provided workers with access to the Internet, cameras and additional cars.⁸⁴ Additionally, ACS has distributed more than 2,000 cell phones and workers were given immediate access to interpretation services in more than 100 languages via the telephone.⁸⁵ ACS also plans to purchase handheld devices⁸⁶ and laptop computers⁸⁷ that will allow workers to use their time out of the office, e.g., waiting for a hearing in Family Court, more effectively. Providing workers with all of the tools they need, including up-to-date technology, can improve their ability to carry out their responsibilities.

E. ChildStat

ACS has developed and launched ChildStat, “a new accountability and learning tool designed to strengthen case practice and safety decision making.”⁸⁸ In July 2006, ACS began holding weekly ChildStat conferences that bring together ACS senior management, including the Commissioner and the Deputy Commissioners, borough directors, deputy directors and zone managers.⁸⁹ Each conference focuses on two zones. During these weekly conferences, child welfare trends in each of the two zones are reviewed and compared to borough and city-wide trends and active CPS cases are analyzed in depth. Practice and performance strengths and concerns are identified during the meeting; any identified issues in the particular cases are then monitored to ensure that they are addressed. The meetings are intended to be part of a comprehensive, continuous quality improvement process that is focused on the accountability and development of the child welfare system.⁹⁰

ChildStat is an innovative approach to addressing case practice issues as well as broader, agency-wide issues. Managers are expected to analyze practice in their areas and commit to taking specific steps to improve the work being done in their units. The meetings are intense and the Commissioner

⁸³ New York City Administration for Children’s Services. *Safeguarding Our Children 2006 Action Plan* (New York, NY: Administration for Children’s Services, 2006), at 4.

⁸⁴ New York, City Administration for Children’s Services. *Safeguarding Our Children, Safety Reforms Update* (New York, NY: Administration for Children’s Services, 2006), at 4.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 15, 2007.

⁸⁸ New York, City Administration for Children’s Services. *Safeguarding Our Children, Safety Reforms Update* (New York, NY: Administration for Children’s Services, 2006), at 3.

⁸⁹ Each New York City borough, except Staten Island, is divided into smaller geographic “zones.”

⁹⁰ Mattingly, J. B. Statement at the New York City Administration for Children’s Services Quarterly Preventive Services Directors’ Meeting. July 18, 2006.

himself fires tough questions about the aggregate data and the individual cases, holding managers' accountable.⁹¹

F. Revised Instant Response Team Protocols and Practices

The circumstances surrounding the death of Nixzmary Brown highlighted problems with communication and collaboration among city agencies that routinely come in contact with children. As a result, Mayor Bloomberg created the Interagency Task Force on Child Welfare and Safety (the "Task Force") in January 2006. The purpose of the Task Force was to examine the nature of systemic breakdowns within these agencies and determine "how those systems could be strengthened to better protect the children of our city."⁹²

In its March 2006 report, the Task Force outlined needed improvements to existing ACS procedures in order to enhance the effectiveness of the IRT process,⁹³ including strengthening investigative capacities.⁹⁴ ACS subsequently appointed a former law enforcement officer to the newly created position of ACS Senior Investigations Advisor. The Advisor's responsibilities include coordinating ACS' efforts with the police department. In addition, ACS hired 20 former law enforcement officers and assigned them to CPS field offices to provide expert consultation and support to child protective workers. Recent revisions to the IRT protocol also outline changes in police department procedures, including the creation of a designated liaison for child abuse and neglect cases within the NYPD and a 24-hour hot line ACS staff can use to initiate an IRT investigation or request police assistance,⁹⁵ which is intended to simplify the coordination process between ACS and NYPD.

Every effort should be made to improve the quality of CPS investigations and reduce the trauma to children who are possible victims of abuse or neglect and these initiatives are steps in the right direction. Increased communication and coordination between ACS and the NYPD can be helpful to ensure the safety of both children and CPS workers, who often confront dangerous situations while investigating reports. However, as noted above, it is unclear whether the IRT protocol is being applied to every eligible case.

Additionally, former law enforcement officers may be a positive addition to CPS. However, it is important that the ex-officers have a clear understanding of the nature of child protective investigations and the techniques that should be used in these investigations given that part of the purpose is to engage families in services.

⁹¹ Children's Rights staff attended a ChildStat meeting on May 10, 2007.

⁹² City of New York. Office of the Deputy Mayor for Health and Human Services. *Report of the Interagency Task Force on Child Welfare and Safety* (New York, NY: The City of New York, 2006), at 1.

⁹³ The Task Force described cases in which the IRT process is warranted as those involving the most severe abuse and neglect reports. These include "severe child physical/sexual abuse and maltreatment situations or child fatalities."

⁹⁴ City of New York. Office of the Deputy Mayor for Health and Human Services. *Report of the Interagency Task Force on Child Welfare and Safety* (New York, NY: The City of New York, 2006), at 5.

⁹⁵ *Ibid*, at 16.

G. Revised ACS and DOE Policies and Procedures

The Task Force also made recommendations regarding how the Department of Education (DOE) and ACS should handle allegations of education neglect. As a result, both ACS and the DOE are improving their training and channels of communication regarding educational neglect issues. The Task Force recommended that ACS clarify its policy to enable educational neglect allegations to be substantiated even if a child has returned to school since the allegation was reported.⁹⁶ It is not uncommon for children with a history of significant school absences to return to school while a CPS investigation is being done. A thorough investigation requires that a full assessment of the family be completed rather than a snapshot of current school attendance alone. Additionally, frequent absences from school can be a sign that other serious problems exist within a family, which again points to the need to conduct comprehensive assessments and not simply allegations-based investigations.

Three examples of the efforts being made to improve communication and coordination between ACS and the DOE are: (1) giving CPS supervisors access to the DOE attendance database, (2) the appointment of DOE liaisons to each field office, and (3) the issuance of practice guidelines for educational neglect investigations and for coordinating with the DOE.⁹⁷ In addition, ACS now provides information such as attendance, grades and test scores to provider agencies three times per year.⁹⁸ These are significant improvements in policy and procedure that have the potential to begin to address long-standing deficiencies in the coordination between the two largest city agencies that directly serve children. These reforms were implemented between April and September 2006;⁹⁹ the 2006-2007 school year is the first test of these new initiatives.

H. ACS and Medical Provider Partnerships

In an effort to enhance coordination and communication between ACS and medical providers, ACS has hired a pediatrician to serve in a “key managerial position...responsible for, among other things, enhancing the agency’s collaboration with the medical provider community.”¹⁰⁰ ACS is also hiring nurse practitioners to work in the field offices as “Medical Consultants,” assisting in decision-making and accessing community-based medical services. In addition, ACS intends to convene “Child Safety Medical Summits” twice a year to bring medical providers, Child Advocacy Center

⁹⁶ Ibid, at 14.

⁹⁷ New York City Administration for Children’s Services. *Safeguarding Our Children: Safety Reforms Update* (New York, NY: Administration for Children’s Services, 2006), at 13.

⁹⁸ Information provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. June, 2007.

⁹⁹ New York City Administration for Children’s Services. *Safeguarding Our Children: Safety Reforms Update* (New York, NY: Administration for Children’s Services, 2006), at 13.

¹⁰⁰ City of New York. Office of the Deputy Mayor for Health and Human Services. *Report of the Interagency Task Force on Child Welfare and Safety, New Initiatives and Status Update* (New York, NY: The City of New York, 2006), at 9.

directors, the NYPD and ACS together to review protocols, practice issues and other concerns.¹⁰¹ This new focus on bringing the medical community both to the table and to the field offices is a positive step. Medical providers are often the first to see evidence of abuse and neglect and can be key players in child protective investigations and in ensuring the safety and well-being of children.

I. Creation of Safety First Office

In January 2006, the Safety First Office was established within the division of Quality Assurance to ensure clear and direct lines of communication between ACS and other city agencies, foster care and preventive services agencies, and Child Care and Head Start programs that have concerns about the progress of a child protective investigation and child safety issues.¹⁰² Once informed of a safety concern, Safety First staff is required to immediately relay the concern to child protective staff and then track the investigation until concerns are resolved. As of June 2007, ACS reports that the Safety First Office has handled more than 3,300 calls.¹⁰³ In addition to these responsibilities, ACS states that the "Safety First Office collects and tracks data on the concerns raised by callers and child investigation outcomes to inform [ACS'] policy, procedure, and staffing."¹⁰⁴

The establishment of a function that exists specifically to ensure that CPS staff is quickly and appropriately addressing safety concerns is a clear indication that ACS is trying to fulfill its obligation to ensure the safety of each child. Additionally, if trends can be identified from the calls received by the Safety First Office and the practice concerns that are uncovered, this information could be used, in conjunction with other quality assurance tools, to improve CPS practice and assess the performance of individual staff members. One concern raised by the need for such an office is the ability of CPS staff to work closely with other providers that are involved with families who are being investigated. CPS staff is required to work with other providers and effectively communicate with those providers in order to ameliorate safety issues. The goal should be that CPS practice will improve to the point where it is able to carry out its responsibilities, communicate effectively with other agencies and meet its obligation to protect children without the need for a Safety First Office.

¹⁰¹ Ibid.

¹⁰² New York City Administration for Children's Services. *The Safety First Office*. (New York, NY: Administration for Children's Services, 2006). Retrieved December 26, 2006, from http://www.nyc.gov/html/acs/html/child_safety/ombudsman.shtml.

¹⁰³ Information provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. June, 2007.

¹⁰⁴ New York City Administration for Children's Services. *The Safety First Office*. (New York, NY: Administration for Children's Services, 2006). Retrieved December 26, 2006, from http://www.nyc.gov/html/acs/html/child_safety/ombudsman.shtml.

CHAPTER 2:
Preventive Services

PREVENTIVE SERVICES: HIGHLIGHTS

Data

NUMBERS SERVED Between 1999 and 2006, the average number of children receiving contract preventive services increased by only 10% while the average number of children in foster care decreased by 57%. According to stakeholders, there are currently not enough preventive services slots to serve all families referred, resulting in delays in families receiving services.

ENGAGING FAMILIES IN SERVICES Recent data indicate that more than one-third of families referred by ACS to contract preventive services providers do not receive services within 30 days of referral. This is problematic given that these referrals are made due to concerns about children's safety and their families' ability to care for them.

REPEAT MALTREATMENT The proportion of children who have been abused and neglected and are abused and neglected again within one year increased from 9.3% in 2000 to 14.8% in 2005, a 59% increase. When considering the services, if any, provided to the children and their families as a result of the initial indicated investigation, the proportion of children experiencing repeat maltreatment from 2000 to 2004 increased by 19% (6.9% to 8.2%) for children whose families received court ordered services, by 29% (13.7% to 17.7%) for children whose families received voluntary services, and by 19% (8.1% to 9.6%) for children whose families did not receive any services

CHILDREN PLACED INTO FOSTER CARE FROM PREVENTIVE SERVICES ACS has publicly reported the number of children placed in foster care while receiving preventive services but now indicates that these data are incorrect. ACS is working to address this problem and provide corrected data. This is an important indicator which must be tracked closely.

QUALITY OF WORK WITH CHILDREN AND FAMILIES Important data reflecting the quality of case practice

in preventive services cases (e.g., frequency of caseworker visits with children and families; currency of case plans; and appropriate identification of service needs and families' actual receipt of services) were either not available or ACS declined to provide them for the purpose of this report.

Reform Efforts

- During the past two years, there has been an increased focus on preventive services, including a reinvestment of \$27 million from foster care services into preventive services, the creation of special programs targeted to at-risk teens and families with newborns testing positive for illegal drugs, \$4.2 million of new funds to reduce preventive services caseloads from 15 to 12 cases per worker; FY 2008 funding for 1,000 additional preventive services "slots" and the development of a Community Partnership Initiative to build supports for families in their own communities. In March 2007, ACS announced the Improved Outcomes for Children (IOC) initiative, a system-wide strategy which is intended to overhaul the way ACS oversees, collaborates with and funds private preventive and foster care agencies.
- It should be noted that there is currently no system in place for evaluating the preventive services delivered by private providers to approximately 50,000 children each year. Such a system was recommended more than six years ago by the Special Child Welfare Advisory Panel, which was established as part of the Marisol settlement. ACS has taken some initial steps, such as forming stakeholder advisory groups to participate in the development of this new preventive EQUIP and working with the Child Welfare Organizing Project (CWOP) in order to incorporate a client perspective into the evaluation system. ACS reports that it will implement a system for evaluating preventive services in January 2008.

I. Introduction

After ACS investigates an allegation of child abuse and neglect, it may decide to offer no services, place the children in foster care or allow the children to remain at home with their families with supervision and services. Services provided to families in which there have been abuse and neglect allegations and the children remain at home are called preventive services.

Preventive services can be provided to families when the report of abuse and neglect has been “indicated,” meaning that ACS found credible evidence of abuse and neglect, or when a report is “unsubstantiated,” due to lack of credible evidence.

According to ACS, preventive services are designed to provide support to families so that they are better able to meet the needs of their children, and include such services as casework counseling, substance abuse treatment, parenting skills training classes, domestic violence intervention, support for pregnant and parenting teenagers, as well as other services.¹⁰⁵

In New York City, preventive services may be provided directly by ACS staff and/or by private service providers that contract with ACS to deliver these services. Services can be court-ordered or voluntary. ACS has the authority to file a petition in Family Court based on abuse and neglect allegations; a judge then decides if, based on the evidence presented, a parent or other person who is legally responsible for the child has, in fact, abused or neglected the child. When a judge determines that a child has been abused or neglected, the judge can order a variety of different services, including Court Ordered Supervision (COS), which is a preventive service provided directly by ACS staff.

Contract preventive services providers serve families who are referred by ACS as a result of a child abuse and neglect investigation, as well as community “walk-in” families who present themselves and request services. While most families receive either direct ACS or contract preventive services, some families receive both types. Additionally, while some contract preventive services are provided to families who voluntarily agree to participate, some families receive these services as the result of a court order, which typically states that a family must cooperate with referrals made by ACS.¹⁰⁶

The goals in all of these cases are to 1) ensure that children are safe; 2) provide services that ameliorate the safety and risk factors that brought the families to the attention of ACS; and 3) where possible and appropriate, avoid placement of children into foster care.

¹⁰⁵ New York City Administration for Children’s Services. *Preventive Services*. (New York, NY: Administration for Children’s Services). Retrieved June 18, 2007, from http://home2.nyc.gov/html/acs/html/support_families/preventive_services.shtml.

¹⁰⁶ New York State Family Court Act, Article 10, Section 1015-a. Family Court judges can order ACS, as a government agency, to provide services “to facilitate the protection of the child, the rehabilitation of the family and, as appropriate, the discharge of the child from foster care.”

Key measures of preventive services would typically include:

- How often caseworkers visit children and families (in order to ensure child safety, develop rapport with the family, provide counseling and monitor progress toward identified goals);
- Whether the needs of children and families are appropriately identified, services are actually provided and identified issues improve;
- Whether the case plan¹⁰⁷ (a written document specifying the family's strengths, needs and goals and the services to be provided) is up-to-date, reflecting the family's current circumstances;
- Whether children are safe, measured by their experience of maltreatment during or following a preventive services case; and
- Whether children enter foster care from a preventive services case.

Concerns regarding the quantity and quality of preventive services were raised within *Marisol v. Giuliani*.¹⁰⁸ These concerns included: (1) decreasing numbers of families referred for contract preventive services; (2) budget reductions for preventive services; (3) lack of neighborhood-based services; and (4) lack of data pertaining to the provision and quality of preventive services.

Following the 1999 settlement of the *Marisol* lawsuit, ACS developed initiatives focused on preventive services. By 2002, ACS had established Neighborhood Networks in New York City's 59 Community Districts to help increase families' access to services in their own neighborhoods.¹⁰⁹ ACS contracted for services "on a neighborhood basis," designated the communities that each contract agency would serve and required these agencies to "establish a physical presence in those areas."¹¹⁰

More recently, under the tenure of ACS Commissioner John Mattingly, additional efforts have focused on preventive services, including shifting funds from foster care to preventive services and creating new programs to address specific issues, such as at-risk adolescents and infants that test positive for illicit substances at birth. ACS has also begun developing Community Partnerships to provide a community-based network of support to children and their families.

ACS is also taking steps to develop a system to measure the quality and effectiveness of preventive services offered by contract providers; however, the development of this system is long overdue. In

¹⁰⁷ In New York State, the written case plan is called the FASP (Family Assessment and Service Plan); it was formerly known as the UCR (Uniform Case Record).

¹⁰⁸ Following the filing of the *Marisol* lawsuit, the *Marisol* Joint Case Review Team was established and conducted ACS case record reviews in 1997. The Review Team reviewed case records pertaining to families that received preventive services after evidence of abuse/neglect was found; however, the sample also included cases in which children were placed into foster care and did not distinguish findings between the two groups. As a result, Review Team findings specifically pertaining only to preventive services cases are not available.

¹⁰⁹ New York City Administration for Children's Services. *Six Years of Reform in Children's Services. 1996-2002 Reform Update* (New York, NY: Administration for Children's Services, 2002), at 5.

¹¹⁰ Special Child Welfare Advisory Panel. *Concluding Report* (New York, NY: Special Child Welfare Advisory Panel, 2002), at 5.

1999, the Special Child Welfare Advisory Panel, established as a result of the *Marisol* lawsuit, called for the development of an “enhanced system to evaluate the performance of contract preventive services providers and proposed an implementation date of January 1, 2001.”¹¹¹ In its final report, issued in December 2000, the Advisory Panel extended the proposed implementation date to January 1, 2002.¹¹² Five years later, a preventive services evaluation system has still not been implemented. ACS reports that it plans to implement a system in January 2008.

The Advisory Panel also called for improved collaboration between ACS’ child protective services staff and contract preventive services staff in order to ensure that children are safe and families are receiving the services they need, as well as preventive services practice standards that specifically address the needs of high, medium and low risk families.¹¹³ Some efforts have been proposed to improve the transitioning of cases from child protective units to contract preventive services agencies, but have not been implemented yet.

In March 2007, ACS announced a plan to overhaul the way it oversees, collaborates with and funds private preventive and foster care agencies. With respect to preventive services, this new “Improved Outcomes for Children” (IOC) plan is intended to improve engagement of families, reduce the incidence of repeat maltreatment and reduce the length of time families receive preventive services while ensuring that children are safe.¹¹⁴ IOC includes a strategy for monitoring the quality of services that each agency provides using performance data, case record reviews, site assessments and interviews with stakeholders to identify “agency-specific and system-wide performance concerns” that need to be addressed.¹¹⁵ ACS intends to provide agencies with an annual “scorecard” and to establish ACS technical assistance teams to work closely with each agency to address performance issues. In addition, ACS intends to hire staff to facilitate Family Services Conferences for high risk families referred for contract preventive services in order to ensure a successful transition from child protective services to preventive services.¹¹⁶

ACS began the planning phase of IOC in July 2007, expects to obtain the necessary waivers from the Office of Children and Family Services (OCFS) by August 2007, and expects to implement the initiative with a selected group of agencies by October 2007.¹¹⁷ ACS plans to achieve full

¹¹¹ Special Child Welfare Advisory Panel. *Advisory Report on Monitoring and Improving the Performance of Contract Agencies* (New York, NY: Special Child Welfare Advisory Panel, 1999), at 19.

¹¹² Special Child Welfare Advisory Panel. *Final Report* (New York, NY: Special Child Welfare Advisory Panel, 2000), at 26.

¹¹³ Special Child Welfare Advisory Panel. *Advisory Report on Monitoring and Improving the Performance of Contract Agencies* (New York, NY: Special Child Welfare Advisory Panel, 1999), at 16.

¹¹⁴ New York City Administration for Children’s Services. *Improved Outcomes for Children* (New York, NY: Administration for Children’s Services, 2007), at 20.

¹¹⁵ *Ibid*, at 35.

¹¹⁶ *Ibid*, at 28.

¹¹⁷ Information provided to Children’s Rights by the New York City Administration for Children’s Services Division of Quality Assurance. July 6, 2007.

implementation of IOC by July 2008.¹¹⁸ This is an ambitious plan, which must be closely tracked to assess whether it meets the identified goals.

This chapter provides a review of available data pertaining to preventive services over the past eight years and a brief summary of the more recent reform efforts. It should be noted that this chapter does not present important data reflecting the *quality* of current case practice, such as the frequency of caseworker contacts with families, the timeliness and comprehensiveness of safety and risk assessments, the quality of case plans and the receipt of needed services. As noted, above, ACS does not currently have a system in place to collect this kind of information regarding preventive services provided by contract providers to tens of thousands of children and their families. ACS does collect and analyze data regarding the quality of its in-house Court Ordered Supervision services. These data were requested by Children’s Rights for the preparation of this report, but ACS declined to provide them.

II. Data

A. Number of Children Receiving Preventive Services

Between FY 1999 and FY 2006, the number of children in New York City receiving contract preventive services increased by only 10%, while the number of children in foster care declined by 57%.

From FY 2000 to FY 2003 the number of children receiving contract preventive services on any given day increased from 23,462 to 29,592, a 26% increase. The number of children in preventive services actually began to decrease in FY 2004 and by FY 2006 the number dropped to 27,304, an 8% decrease from the high in FY 2003.¹¹⁹

That downward trend recently began to reverse; in January 2007, ACS reported that referrals for preventive services were up 30% compared to one year ago.¹²⁰ This followed an influx of abuse and neglect reports that occurred after the well-publicized death of Nixzmary Brown in 2006. The number of contract preventive services cases opened in the first six months of FY 2007 increased 15% compared to the same period in FY 2006.¹²¹

Stakeholders report that some families are currently encountering delays in obtaining preventive services because all existing “slots” are filled and that, in some cases, children can not be discharged

¹¹⁸ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 29, 2007.

¹¹⁹ It should be noted that the downward trend in the number of children receiving contract preventive services was not offset by the number of cases opened for COS, which also decreased between FY 2001 and FY 2005. Specific data regarding COS cases are presented later in this chapter.

¹²⁰ Flory, J. Statement at the New York City Administration for Children’s Services Quarterly Preventive Services Directors’ Meeting. January 16, 2007.

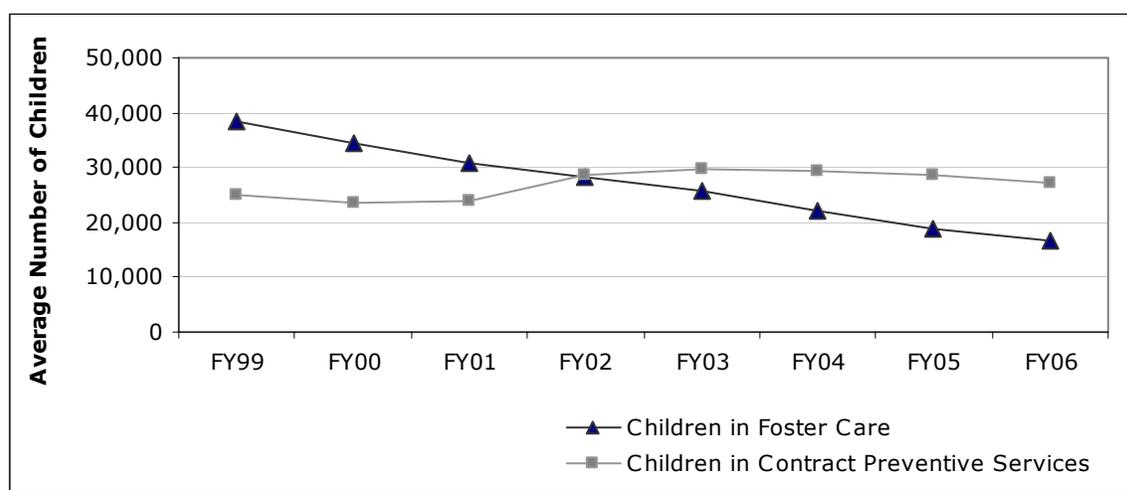
¹²¹ New York City Administration for Children’s Services. *ACS Update, December 2006, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 6.

from foster care until these services become available. Other children, who are living at home, may be at risk of being abused or neglected without these services. In January 2007, ACS reported that many preventive services programs had been operating at full capacity since July 2006.¹²²

As the number of children in foster care declines, one might expect an increase in the number of children receiving preventive services at home with their families. Between FY 1999 and FY 2006, the number of children in foster care on any given day decreased by nearly 57%, from 38,441 to 16,706. However, during that same time period, the number of children receiving preventive services increased by only 10%, from 24,931 in FY 1999 to 27,304 in FY 2006.

Chart 2.1 below compares the number of children in foster care in New York City with the number of children receiving contract preventive services in New York City between FY 1999 and FY 2006.¹²³ In FY 2003, the number of children receiving preventive services exceeded the number of children in foster care and this trend has continued.¹²⁴

CHART 2.1
Average Number of Children Served in
Foster Care and Contract Preventive Services, by Fiscal Year



¹²² Roberts, E. Statement at the New York City Administration for Children's Services Quarterly Preventive Directors' Meeting. January 16, 2007.

¹²³ New York City Administration for Children's Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 2 and 6 (Data for FY 1999 and FY 2000). *ACS Update, June 02, FY 2002*, at 2 and 6 (Data for FY 2001 and FY 2002). *ACS Update, June 04, FY 2004*, at 2 and 6 (Data for FY 2003 and FY 2004). *ACS Update, June 2006, FY 2006*, at 2 and 6 (Data for FY 2005 and FY 2006). These data refer only to contract preventive services. Data related to COS cases are presented later in this chapter. The data for these two types of preventive services cannot be combined because ACS reports on the number of children receiving contract preventive services and the number of cases (i.e., families) assigned to COS units. In addition, some families receive both types of services.

¹²⁴ New York City Administration for Children's Services. *Protecting Children and Strengthening Families: A Plan to Realign New York City's Child Welfare System* (New York, NY: Administration for Children's Services, 2005), at 3.

B. Caseload

The size of a worker's caseload significantly impacts his/her ability to carry out the key functions of the job—ensuring child safety through regular contact and providing the family with the services necessary to improve family functioning and reduce the risk of children being harmed. A worker with a high caseload does not have the time necessary to execute either of those functions effectively.

It should be noted that, in New York City, the contract preventive services caseload is established through the funding process. The New York State Office of Children and Family Services (OCFS) recommends 12 to 16 families per worker.¹²⁵ Prior to June 2006, New York City agencies received funding to support caseloads of 15 cases per worker. In June 2006, due to concerns that workers could not effectively serve 15 families at a time, the New York City Council approved \$4.2 million in additional funding in order to reduce most preventive services caseloads to 12 families per worker. These funds are included in the FY 2008 city budget. Since these funds were provided, ACS reports that average preventive services caseloads ranged from 11.8 in July 2006 to 12.5 in April 2007.¹²⁶

C. Engaging Families in Services

An important indicator of the ability of preventive services providers to meet the needs of children and families is the rate at which families who are referred agree to receive services and actually

In the third quarter of 2006, more than one-third of families referred by ACS to contract preventive services providers did not receive services within 30 days.

participate in them. Engaging families in services after an abuse and neglect investigation can be challenging and requires persistence and social work skill. As shown in Chart 2.2 below, recent data indicate that 35% of families referred were rejected (i.e., not engaged in services within 30 days).¹²⁷ This is problematic

given that these referrals are being made due to concerns about children's safety and their families' ability to care for them.

¹²⁵ Walter R. McDonald & Associates and American Humane Association. *New York State Child Welfare Workload Study*. (Rensselaer, NY: New York State Office of Children and Family Services, 2006), at 6-14.

¹²⁶ Data provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. July, 2007.

¹²⁷ ACS reports these data for general preventive services programs only, which comprise the bulk of all contract preventive services slots.

CHART 2.2

Disposition Rates of ACS Referrals to General Prevention Programs, 3rd Quarter, 2006¹²⁸

Preventive Services	Total # of ACS Referrals	Disposition of ACS Referral			
		Accepted and Opened	Rejected	Pending Engagement	Withdrawn
General Preventive	2,065	60%	35%	2.3%	2.8%

Chart 2.3 provides data for the first quarter of 2007 regarding the reasons that referrals for preventive services are rejected.¹²⁹ Approximately half (49%) are rejected due to families not responding or refusing services. These findings raise questions regarding the quality of efforts made to engage families, which are critical given that many may be reluctant to participate. It should be noted that ACS does not track data regarding families' ultimate engagement (or not) in preventive services after referrals are initially rejected.

CHART 2.3

Rejection Reasons for ACS Referrals to General Prevention Programs, 1st Quarter, 2007

Reason	Number	Percent
Total Number of ACS Referrals Rejected	759	
Active Case Open	23	1%
Intake is Full	10	18%
No Response	133	2%
Not Eligible	14	29%
Other ¹³⁰	222	4%
Other Service Needed	33	4%
Out of Community District	34	31%
Refused	238	3%
Whereabouts Unknown	20	4%
Withdrew	32	4%

¹²⁸ New York City Administration for Children's Services. *ACS Preventive Services Program, Quarterly Program Status Report (July 2006 – Sept. 2006)* (New York, NY: Administration for Children's Services, 2006), at 2.

¹²⁹ Data provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation, June, 2007.

¹³⁰ ACS reports that it recently conducted an analysis into the explanations that were given by workers when they selected "Other" as the reason for rejection and found that workers could have selected one of the alternate existing rejection reasons. As a result, ACS has removed the "Other" response choice, which had been selected in 29% of the cases noted above. This should provide ACS with more complete information regarding reasons for rejection and assist in targeting practice issues related to the rejection of referrals.

D. Court Ordered Supervision

As noted above, ACS has the authority, based on allegations of abuse and neglect, to file a petition in Family Court against a parent or other person who is legally responsible for a child. If the judge determines, based on the evidence provided, that a child has been abused or

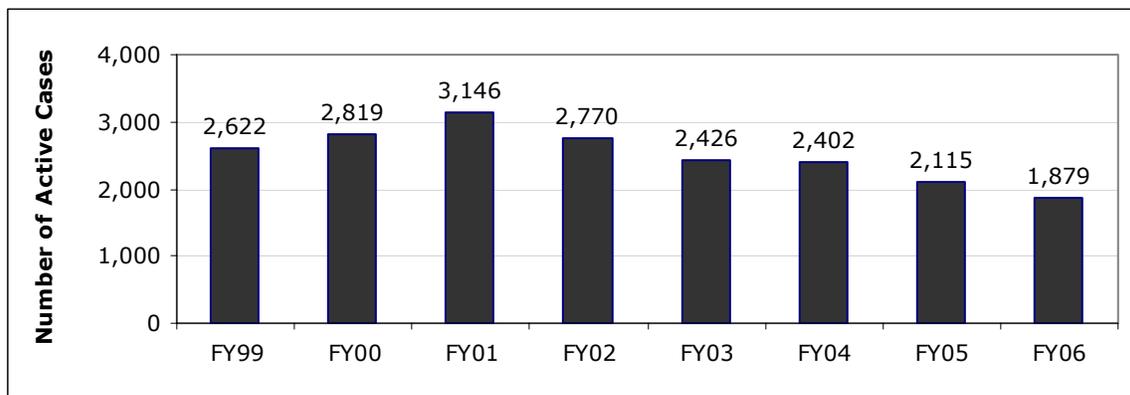
neglected, the judge can order a variety of services to assist the family, including Court Ordered Supervision (COS), a preventive service provided directly by ACS staff. While most families receive either COS or contract preventive services, some families receive both.

The average number of Court Ordered Supervision cases steadily declined from 2001 to 2006, but increased significantly after the death of Nixzmary Brown.

Additionally, some contract preventive services are provided to families as the result of a court order, which typically states that a family must cooperate with referrals made by ACS; however, only ACS provides COS services.

Chart 2.4 below shows the average number of COS cases active on any given day (i.e., families, not individual children) from FY 1999 through FY 2006.¹³¹

CHART 2.4
Number of Active COS Cases, by Fiscal Year



The number of families receiving COS services decreased from more than 3,100 families in FY 2001 to fewer than 1,900 families in FY 2006. This number decreased for many years, even as the number of children in foster care continued to decrease. However, following the well-publicized death of

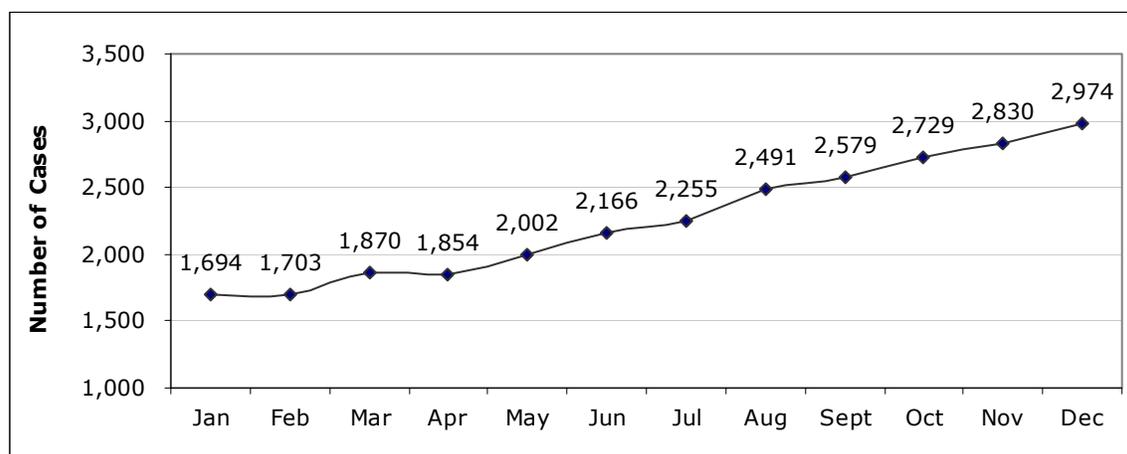
¹³¹ New York City Administration for Children's Services. *ACS Update, April 2007, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 7.

Nixzmary Brown, the number of active COS cases increased dramatically. Chart 2.5 provides the monthly number of active COS cases during calendar year 2006.¹³²

The sharp and steady increase in the number of active COS cases, 76% in 2006, raises questions regarding the ability of ACS staff to meet the needs of these families. The average COS caseload went from nine cases per worker in December 2005 to 13.4 cases per worker in April 2006.¹³³ ACS stopped reporting caseload data for COS workers in May 2006.¹³⁴

This also raises the question of whether the increase represents an improved assessment of risk and need in families, leading to more families in need of services being appropriately identified as such, or a reaction to negative publicity, leading to intervention in families whose circumstances do not warrant such intervention. It is not possible to determine the answer to this question based on available data.

CHART 2.5
Number of Active COS Cases, Monthly, 2006



¹³² New York City Administration for Children's Services. *ACS Update, December 2006, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 7.

¹³³ New York City Administration for Children's Services. *ACS Update, November 2006, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 7.

¹³⁴ These data have not been included in the ACS monthly update reports since May 2006.

E. Repeat Maltreatment

A critical indicator of the effectiveness of child welfare services is the repeat maltreatment rate, which ACS defines as the percentage of children who have been abused and neglected and are

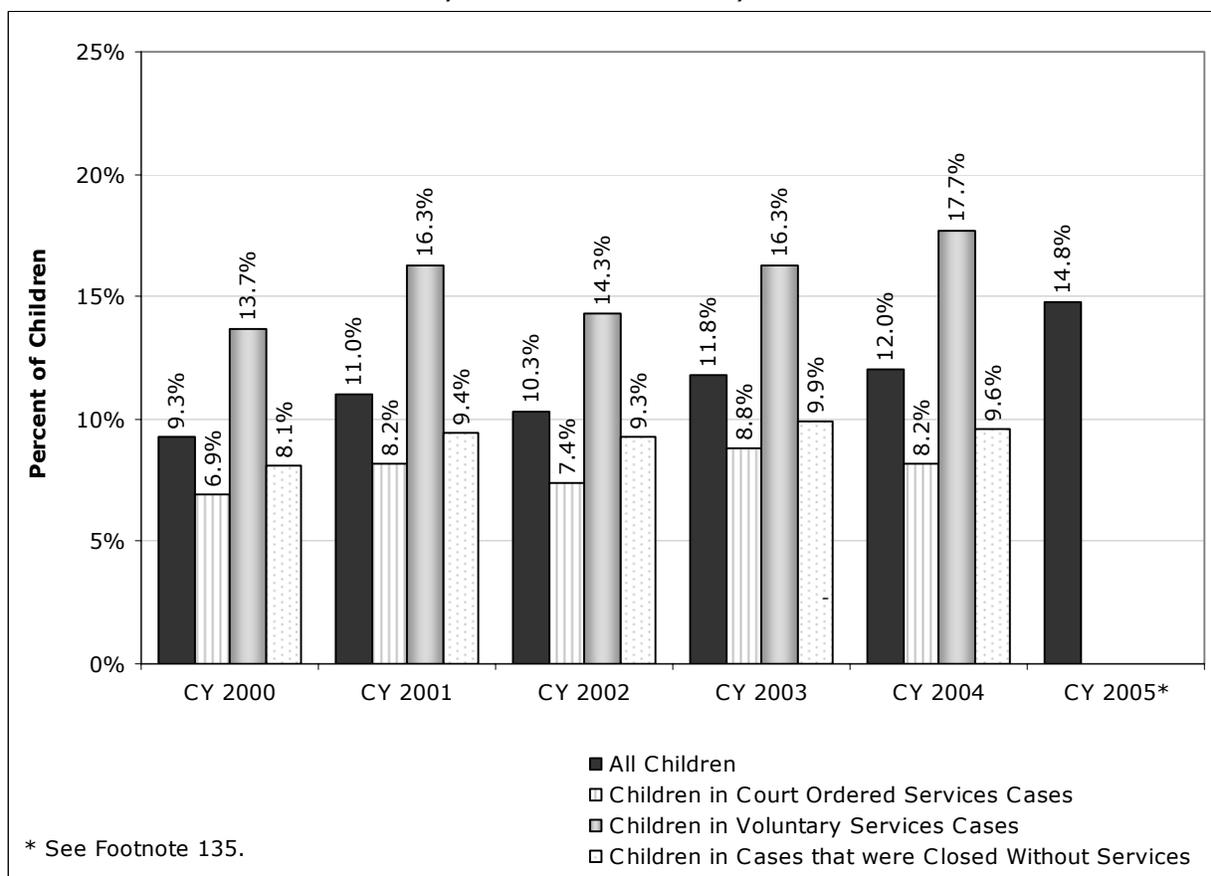
The proportion of children who are abused and neglected and then abused and neglected again within one year has grown from 9.3% to 14.8%, a 59% increase. Children whose families received voluntary services were more likely to be maltreated again, compared to children who received court ordered services or no services at all.

abused and neglected again within one year. Once ACS establishes that children have been abused and neglected, it tracks these children in order to determine what proportion are abused and neglected again within a year. As shown in Chart 2.6, the rate of repeat maltreatment within one year increased from 9.3% in 2000 to 14.8% in 2005, a 59% increase.

ACS also analyzes repeat maltreatment data based on the services, if any, provided to the children and their families as a result of the initial indicated investigation. The three categories analyzed are: (1) children whose families received court-ordered services (includes Court Ordered Supervision and court-ordered foster care); (2) children whose families received voluntary services (includes contract preventive services and may include a small number of voluntary foster care cases); and (3) children whose families' investigations were closed without services. Chart 2.6 below provides the proportion of children who experienced repeat maltreatment overall from CY 2000 to CY 2005 and in each of these categories from CY 2000 to CY 2004.¹³⁵

¹³⁵ New York City Administration for Children's Services. Top 12 Performance Report, Outcomes and Indicators, Outcome 5: Low Repeat Maltreatment, Citywide Summary 2005, 4th Quarter (New York, NY: Administration for Children's Services), at 1 (Data for CY 2000-2004). ACS reports that CY05 repeat maltreatment data by category of services provision are not currently available due to changes in the state run CONNECTIONS data system that require new programming by ACS in order to generate these data going forward. Data for CY 2006 are not yet available.

CHART 2.6
Proportion of Children that Experienced Repeat Maltreatment,
Total and by Service Provided, by Calendar Year



For children whose families received court-ordered services, the proportion of children experiencing repeat maltreatment has grown from 6.9% in 2000 to 8.2% in 2004, a 19% increase. The proportion of children in voluntary services cases who experience repeat maltreatment has grown from 13.7% to 17.7%, an increase of 29%. The rate of repeat maltreatment for children receiving no services increased 19%, from 8.1% to 9.6%. These findings raise questions about the effectiveness of preventive services, which were not sufficient to protect these children from repeat maltreatment.

F. Foster Care Placements of Children Receiving Contract Preventive Services

When repeat maltreatment occurs in the context of a preventive services case, the decision making—about the need for additional services, which may include foster care—that occurs at that time is critical. One important indicator is the number of children in preventive services cases that are

ACS is currently unable to provide reliable data regarding the number and proportion of children placed in foster care while receiving contract preventive services.

placed in foster care. ACS has publicly reported such data in its monthly and fiscal year updates. However, ACS now indicates that these data are incorrect and that it is in the process of correcting the data.¹³⁶ In addition to tracking these numbers in the aggregate, ACS and the contract providers also need to closely

examine these cases in order to identify any issues regarding the quality of preventive services and the decisions that are made once a child is abused or neglected again.

G. Preventive Services Evaluation System

In FY 2006, a total of approximately 50,000 children received contract preventive services during the course of the year.¹³⁷ However, ACS does not have a system for evaluating the quality of these services.

Some initial steps have been taken to develop a system to evaluate the effectiveness of the contract preventive services that are provided to approximately 50,000 children and their families over the course of the year. However, there is still no such system in place.

In 1999, the Special Child Welfare Advisory Panel established as a result of the *Marisol* lawsuit called for the development of an “enhanced system to evaluate the performance of contract preventive services providers,” and proposed an implementation date of January 1, 2001.¹³⁸ In its final report, issued

in December 2000, the Advisory Panel extended the proposed implementation date to January 1, 2002, stating that “ACS needs to communicate clearly with its contract preventive services providers

¹³⁶ Information provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. July, 2007.

¹³⁷ Data provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. June, 2007. [Total # of unique children that received preventive services].

¹³⁸ Special Child Welfare Advisory Panel. *Advisory Report on Monitoring and Improving the Performance of Contract Agencies* (New York, NY: Special Child Welfare Advisory Panel, 1999), at 19.

about what it expects from them, and it needs to be able to measure performance against these expectations and make contract decisions based upon these results.”¹³⁹

In May 2006, ACS took some initial steps to develop and implement a contract preventive services evaluation system called EQUIP (Evaluation and Quality Improvement Protocol), which will be similar to the system currently used to evaluate foster care services. ACS reports that the key components of the evaluation system will be case record reviews, client interviews, and outcomes analysis, which will generate data and performance scores for each provider agency.¹⁴⁰ In addition to measuring “process,” e.g., number of visits made, ACS is planning to assess “outcomes,” such as each provider agency’s performance on safely reducing foster care placements and foster care re-entries, reducing the number of subsequent abuse and neglect reports and ensuring child safety.¹⁴¹ ACS formed stakeholder advisory groups to participate in the development of this new preventive EQUIP and began working with the Child Welfare Organizing Project (CWOP), an advocacy organization comprised of parents and professionals, in order to incorporate a client perspective into the evaluation system. However, some of the advisory group meetings were suspended by ACS in July 2006 and have not resumed. ACS reports that it has pushed back the implementation of the EQUIP system and will begin conducting preventive EQUIP evaluations in January 2008.

III. Current Reform Efforts

This section outlines recent significant reform initiatives pertaining to preventive services. As noted above, ACS has not yet implemented an evaluation system of the contract preventive services that are provided to approximately 50,000 children each year. Such a system is necessary in order to evaluate the impact of recent reform efforts on the quality of preventive services and to assess whether additional reforms are needed. Indeed, all of the initiatives discussed below must be closely tracked and the results reported in order to ensure that they are implemented as planned and achieving their goals.

A. Reinvesting and Realigning

In February 2005, ACS issued a plan entitled “Protecting Children and Strengthening Families: A Plan to Realign New York City’s Child Welfare System.” ACS stated that its goal for preventive

¹³⁹ Special Child Welfare Advisory Panel. *Final Report* (New York, NY: Special Child Welfare Advisory Panel, 2006), at 26.

¹⁴⁰ New York City Administration for Children’s Services. *Preventive EQUIP Update: Preventive Services Directors’ Meeting* (New York, NY: Administration for Children’s Services, 2006).

¹⁴¹ New York City Administration for Children’s Services. *Preventive EQUIP Evaluation Model* (New York, NY: Office of Research and Evaluation, 2006).

services is to create a system that “is more effective for families and more financially efficient, while also bolstering community institutions and infrastructure.”¹⁴²

One of the key components of the plan is shifting some of the funds that were previously earmarked for out-of-home care into preventive services programs, as fewer children are being placed into foster care. ACS reports that it is reinvesting \$27 million, saved through the reduced use of foster care, into the preventive services system. These funds are being used to (1) support services designed to reduce a child’s length of stay in foster care by providing the support and services necessary to return children to their families more quickly and reduce the number of children who return to foster care; (2) provide specialized preventive services targeted for adolescents and infants; and (3) increase funding for communities with high preventive services needs.¹⁴³ ACS has created 390 “enhanced” preventive slots to serve high-risk families and 80 preventive slots to serve families with infants born with exposure to illicit substances. These enhanced preventive programs will provide intensive “wrap-around” services, to meet the needs of these special populations.¹⁴⁴ In addition, ACS has funded another 667 slots for intensive preventive and aftercare services¹⁴⁵ to be provided to families of high-risk adolescents. ACS awarded seven contracts for these services, which utilize specific therapeutic models for service provision.¹⁴⁶

As part of the reinvestment process, ACS reports that it is analyzing current levels of need for preventive services throughout New York City. The stated goal is to realign services throughout the city to ensure that the appropriate services are available when and where they are needed.¹⁴⁷

The goal of increasing the availability of preventive services is positive. However, it should be noted that the number of additional preventive services slots that have been created do not represent a significant increase and many programs continue to operate at or above capacity, meaning they cannot serve additional families.

¹⁴² New York City Administration for Children’s Services. *Protecting Children and Strengthening Families: A Plan to Realign New York City’s Child Welfare System* (New York, NY: Administration for Children’s Services, 2005), at 5.

¹⁴³ Citizens’ Committee for Children of New York Inc. *Children’s Impact Analysis, Fiscal Year 2007 Adopted Budget for New York City*. (New York, NY: Citizen’s Committee for Children of New York, Inc., 2006).

¹⁴⁴ New York City Administration for Children’s Services. *Enhanced Preventive Services* (New York, NY: Administration for Children’s Services, 2006).

¹⁴⁵ Aftercare services are provided to families whose children have recently returned home following an out-of-home placement.

¹⁴⁶ New York City Administration for Children’s Services. *Intensive Preventive and Aftercare Services for Adolescents Summary*. (New York, NY: Administration for Children’s Services, 2006). The therapeutic models are Family Functional Therapy, Multi-Systemic Therapy, Social-Ecological Model for Family Therapy, Multi-Disciplinary Strengths-Based, and Eco-Structural Therapeutic Treatment Model and Art Therapy.

¹⁴⁷ New York City Administration for Children’s Services. *Protecting Children and Strengthening Families: A Plan to Realign New York City’s Child Welfare System* (New York, NY: Administration for Children’s Services, 2005), at 5.

B. Additional and Flexible Funding

In January and July 2006 ACS provided financial awards to contract preventive services agencies based on program utilization.¹⁴⁸ Programs that did not meet the utilization criteria for those financial awards received a smaller technical assistance award. The purpose of these awards was to provide agencies with the flexibility to use these funds as they saw fit in order to meet the needs of their clients. These financial awards were not bound by the strict requirements of each agency's line-item budget and agencies have used these monies to hire mental health consultants, provide necessities such as furniture to clients and enhance staff training programs, for example.¹⁴⁹ Stakeholders have praised this initiative and are concerned that these funds may not be available in the future.

In June 2006, the New York City Council approved \$4.2 million in additional funding for contract preventive services providers to reduce caseloads from 15 cases per worker to 12 cases per worker.¹⁵⁰ These funds were provided to a majority of contract preventive services programs but some of the smaller, specialized programs, such as those that serve medically fragile children and families with substance abuse issues, were not included. These funds are included in the FY 2008 city budget and should be maintained to continue these lowered caseloads going forward.

Contract preventive services providers were also given some flexibility regarding staff qualifications and salaries. Agencies are no longer required to have a particular ratio of caseworkers with master's degrees in social work compared to the number of staff with bachelor degrees. In addition, agencies can use a portion of their personnel budgets to hire staff with the particular qualifications that best suit their client population, such as a psychologist or group work specialist. Also, contract provider budgets no longer dictate the salary range for preventive services staff, which previously included salary caps for some positions. ACS now requires that providers meet only minimum salary requirements.¹⁵¹ The impact of this new flexibility on the quality of services must be carefully assessed and monitored.

In order to meet some of the increased need for preventive services, the 2008 Executive Budget for New York City provides ACS with funding for 1,000 additional preventive services slots, which will bring the total number of slots to over 15,000¹⁵² and may help shorten the length of time that families have to wait and/or the distance they have to travel to receive preventive services.

¹⁴⁸ The first award was based on a 90% utilization rate; the second award was based on a 95% utilization rate.

¹⁴⁹ Solow, B. More Than an Ounce for Prevention. *Child Welfare Watch*, 13 (Winter 2006-2007), at 13.

¹⁵⁰ Citizens' Committee for Children of New York Inc., *Children's Impact Analysis, Fiscal Year 2007 Adopted Budget for New York City* (New York, NY: Citizen's Committee for Children of New York, Inc., 2006), at 4. It should be noted that New York State matches all local preventive services funding at a rate of 65% state, 35% local.

¹⁵¹ Roberts, E. Statement at the New York City Administration for Children's Services Quarterly Preventive Services Directors' Meeting, July 18, 2006.

¹⁵² City of New York. *Executive Budget—Fiscal Year 2008* (New York, NY: Office of Management and Budget, 2007), at 129 and 132.

C. Improved Outcomes for Children

In March 2007, ACS announced a plan to overhaul the way it oversees, collaborates with and funds private preventive and foster care agencies. Part of this new “Improved Outcomes for Children” (IOC) plan is to “strengthen the preventive agencies’ work with children and families,” which includes reducing repeat maltreatment of children receiving preventive services, reducing the rate of foster care placements of children receiving preventive services, reducing the rate of rejected preventive services referrals and shortening the amount of time it takes to achieve “desired results.”¹⁵³

According to this plan, ACS intends to assign teams of experienced staff to work closely with each agency to “ensure that they deliver high quality services to children and families.”¹⁵⁴ These teams will include: (1) the Preventive Services Support Team, which is intended to provide consultation and training in specific areas, such as engaging challenging clients, working with substance abusing parents and youth and parent education; (2) the Preventive Services Response Team, which is intended to address case-specific issues identified by ACS and/or private agency staff; and (3) the Preventive Services Resource Team, which is intended to identify community resources for families and “maintain a comprehensive resource database” that will be available on-line.¹⁵⁵ ACS also plans to hire additional staff to monitor the quality of services that each agency provides and to use performance data, case record reviews, site assessments and interviews with stakeholders to identify “agency-specific and system-wide performance concerns” that need to be addressed.¹⁵⁶

In addition, ACS plans to phase out approximately 650 staff positions that will no longer be needed once the IOC is fully implemented. ACS reported that qualified staff members can apply for hundreds of new positions that are and will be available within ACS and other city agencies.¹⁵⁷ At the time this report was written, the Social Service Employees Union Local 371, which represents the 650 workers, and ACS were in negotiations regarding the staff positions.¹⁵⁸

ACS began the planning phase of IOC in July 2007, expects to obtain the necessary waivers from the Office of Children and Family Services (OCFS) by August 2007 and expects to implement the

¹⁵³ New York City Administration for Children’s Services. *Improved Outcomes for Children* (New York, NY: Administration for Children’s Services, 2007), at 37.

¹⁵⁴ New York City Administration for Children’s Services. *Improved Outcomes for Children: The Second Phase of ACS’ Action Plan for Child Safety*. (New York, NY: Administration for Children’s Services Press Release, March 22, 2007). Retrieved March 23, 2007, from http://home2.nyc.gov/html/acs/html/pr_archives/pr07_03_22.shtml.

¹⁵⁵ New York City Administration for Children’s Services. *Improved Outcomes for Children* (New York, NY: Administration for Children’s Services, 2007), at 33.

¹⁵⁶ *Ibid*, at 35.

¹⁵⁷ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 29, 2007.

¹⁵⁸ Kolodner, M. ‘371’ Says ACS Bargaining Over Easing Layoffs. *The Chief Leader* (June 8, 2007).

initiative with a selected group of agencies by October 2007.¹⁵⁹ ACS plans to achieve full implementation of IOC by July 2008.¹⁶⁰

D. Family Engagement

In its 1999 report, the Special Child Welfare Advisory Panel identified the need for preventive services standards based on the level of risk as well as increased coordination between child protective services and preventive services programs. The Advisory Panel stated that ACS expected providers to “meet the same set of regulations and standards for service provision, receive the same level of reimbursement, and have their work overseen by ACS in the same manner, regardless of the source of referral or the level of risk involved.”¹⁶¹ The Advisory Panel also noted that once CPS staff made a referral for preventive services, the case would then be transferred to case management staff, who are “not trained in protective services work” and who were budgeted to carry caseloads of 149 families per worker.¹⁶²

More recently, stakeholders identified the continuing need for more communication between contract preventive services providers and ACS staff, particularly concerning barriers encountered during the referral and family engagement process. Stakeholders reported particular concerns about families who refuse to accept preventive services after ACS has referred them.

In an effort to improve the rate of family engagement in contract preventive services programs and enhance the coordination between ACS and the contract preventive services providers, as well as to address other concerns, ACS will no longer employ case management staff. In order to improve the rate of family engagement in contract preventive services programs, ACS announced in 2006 that it intends to hire “family support services” caseworkers to coordinate the process from referral to engagement. ACS plans to staff this program with “250 experienced child protection professionals,”¹⁶³ which is a significant staffing commitment and could help reduce the high “rejection” rate discussed earlier in this chapter. Seventy-five family support services workers are expected to begin during the summer of 2007 and ACS intends to hire the remainder during FY 2008.¹⁶⁴ In its 2007 IOC plan, ACS states that high risk cases that are referred for preventive services will be transferred from the child protective services worker to a family support services worker for a 90-day transition period. The family support services worker will facilitate two “Family Services

¹⁵⁹ Information provided to Children’s Rights by the New York City Administration for Children’s Services Division of Quality Assurance. July 6, 2007.

¹⁶⁰ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 29, 2007.

¹⁶¹ Special Child Welfare Advisory Panel. *Advisory Report on Monitoring and Improving the Performance of Contract Agencies* (New York, NY: Special Child Welfare Advisory Panel, 1999), at 16-17.

¹⁶² *Ibid*, at 17.

¹⁶³ New York City Administration for Children’s Services. *Safeguarding Our Children 2006 Action Plan* (New York, NY: Administration for Children’s Services, 2006), at 7.

¹⁶⁴ Information provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. June, 2007.

Conferences,” the first to be held one week after the referral to the preventive services agency and the second to be held after the family is involved in preventive services for 75 days.¹⁶⁵ ACS reports that these staff will carry mixed caseloads that include both COS cases and cases in which high risk families are referred for contract preventive services.¹⁶⁶

E. Policy Revisions

ACS has revised its policy regarding the “simultaneous provision of preventive and foster care services.” Siblings of children in foster care who are at risk of placement themselves can now be provided with preventive services to help them remain safely at home. Also, preventive services can now continue even when all of the children have been placed in foster care, if the continuation of these services is expected to shorten the children’s length of stay in foster care.¹⁶⁷ In such cases, it is critical that the preventive and foster care caseworkers work as a team, sharing information and collaborating effectively to develop a single case plan to meet the needs of the entire family.

In March 2007, ACS revised its contract preventive services policy regarding frequency of casework contacts. ACS now requires 12 casework contacts over a six-month period with at least two contacts per month. Although this does not reflect a change in the number of casework contacts that must be made over the course of six months, it does require that these contacts take place consistently, twice a month for the life of the case.

In addition, this new policy permits agencies to “count” up to six of the twelve contacts by providers of “specialized rehabilitative services,” including licensed mental health and substance abuse providers and registered nurses, towards the required number of preventive services casework contacts.¹⁶⁸ The policy also permits the counting of contacts made by providers of “supportive services,” which may include parent aides, homemakers, home health aides, and parent trainers. Each of these specialized rehabilitative and supportive service professionals has to be an employee or contractor of the preventive services provider agency in order to credit their contacts with a family. ACS states that these changes support the provision of multidisciplinary services, which many families require.¹⁶⁹ Certainly all families who need multidisciplinary services should receive them. However, this policy shift may raise concerns. The purpose of a casework contact is not the same as the purpose of a nurse, homemaker or home health aide contact, for example. Other

¹⁶⁵ New York City Administration for Children’s Services. *Improved Outcomes for Children* (New York, NY: Administration for Children’s Services, 2007), at 28.

¹⁶⁶ Information provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. June, 2007.

¹⁶⁷ Mattingly, J. B. *Memorandum: Provision of Preventive and Aftercare Services in Conjunction with Foster Care Services* (New York, NY: Administration for Children’s Services, 2006).

¹⁶⁸ Mattingly, J. *Casework Contact Requirements for General Preventive Service Providers (Revised)*. (New York, NY: Administration for Children’s Services, 2007).

¹⁶⁹ Martin, N. Statement at New York City Administration for Children’s Services Quarterly Preventive Services Directors’ Meeting. January 16, 2007.

employees or contractors may not be fully aware of the circumstances of the case and be trained to make the necessary assessments and decisions during their contacts with a family.

F. Community Partnership Initiative

ACS is developing a Community Partnership Initiative (CPI), which involves the establishment of formal community networks and the creation of models for improving services and outcomes for families. ACS has identified four program goals: (1) to promote collaborations between child care, Head Start and preventive programs; (2) to participate in family conferences; (3) to support foster and adoptive parents and recruit more foster parents within the community district; and (4) to facilitate visits between parents and their children in foster care. These partnerships are intended to “develop and bolster Community Coalitions—networks of residents, community leaders, service providers, contracted child welfare agencies, and ACS child welfare and Head Start/child care staff” in an effort to significantly impact on “ACS’ core child welfare outcomes of safety, permanency, and well-being.”¹⁷⁰ These supports and services are to be provided to families in their own communities in an effort to avoid out-of-home placements and reduce lengths of stay in foster care whenever possible.

ACS plans to pilot the CPI in 11 community districts and to provide a small amount of funding, up to \$150,000, to each of the 11 community districts.¹⁷¹ The initiative is being rolled out in three stages and ACS has received Requests for Proposals (RFPs) from the first group of community districts. RFPs for the second group were requested in early 2007, and ACS expects to achieve full implementation within two years. Once the community partnerships are established, ACS will need to carefully analyze their effectiveness.

G. Chronic Neglect

Chronic neglect is defined as the persistent failure of a parent or caregiver to provide for a child’s basic needs. The cycle of chronic neglect can significantly impact a child’s well-being, including the child’s physical health, emotional health, and cognitive development. These families often come to the attention of child welfare agencies repeatedly. They may receive services to help them meet the needs of their children, but either do not benefit from them or are unable to maintain improvements once services have ended.

ACS convened a group of experts and providers in August 2006 to develop strategies for addressing chronic neglect situations. ACS has developed an “Introduction to Chronic Neglect for Child Welfare Workers” that will be used to train all levels of staff in Child Protective Services. ACS

¹⁷⁰ New York City Administration for Children’s Services. *Community Partnerships Initiative: Scope of Service and Request for Proposals* (New York, NY: Administration for Children’s Services, 2006), at 1.

¹⁷¹ *Ibid*, at 3.

reports that it plans to develop additional next steps for addressing chronic neglect issues in the summer of 2007.¹⁷²

At the same time, ACS has advised preventive services providers to review cases that have been open for more than 18 months, stating that preventive services are not designed to serve the chronic, long-term needs of families.¹⁷³ As of September 30, 2006, 2,261 contract preventive services cases (22.2% of all active cases) had been open for 18 months or longer. ACS must continue to work with its preventive services and foster care providers as well as providers of other types of services, such as mental health and substance abuse services, in order to address the needs of children who experience chronic neglect.

¹⁷² Information provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. June, 2007.

¹⁷³ Mattingly, J. B. Statement at the New York City Administration for Children's Services Quarterly Preventive Services Directors' Meeting. July 18, 2006.

CHAPTER 3:
Foster Care

FOSTER CARE: HIGHLIGHTS

Data

Although the number of children in foster care has declined dramatically, there has not been significant improvement in outcomes for these children. Few children are placed in their own neighborhoods and many experience multiple placements and do not achieve permanency in a timely fashion.

- **NUMBER OF CHILDREN IN FOSTER CARE** From FY 1997 through FY 2006, the number of children in foster care on any given day declined by 60%, from 41,771 to 16,706.
- **LENGTH OF TIME IN FOSTER CARE** New York City continues to have one of the longest average lengths of stay in foster care in the country. The average length of stay in foster care in NYC was 45.8 months (3.8 years) in FY 2006, down slightly from 48.1 months in FY 1999. Nationally, the average length of stay is 29 months.
- **MULTIPLE PLACEMENTS** Moving from placement to placement increases the trauma children may experience. From CY 2001 to CY 2006, the proportion of children who moved from one foster care placement to another at least once during a year period increased from 21% to 31%.
- **REUNIFICATION** 55% of children who were reunified were reunified within 12 months of entering foster care, below the national average of 69.5%.
- **ADOPTION** The average length of time to adoption improved 13% from 48 months in FY 1999 to 42 months in FY 2006.
- **INDEPENDENT LIVING** A higher proportion of children in NYC “age out” of foster care compared to the rest of the country. The proportion of children in NYC who were discharged from foster care to independent living increased from 11% in FY 2005 to 13% in FY 2006. Nationally, only nine percent of children exiting foster care are aging out. Children who age out are more likely to experience unemployment, poor health, homelessness and other poor life outcomes.
- **NEIGHBORHOOD-BASED SERVICES** It is generally considered good child welfare practice to place children in foster homes in their own neighborhoods so that they can maintain contact with their family and friends and continue to attend the same school. Since 1999, there has been a significant increase in the proportion of children placed in their own borough (from 33% in FY 1999 to 73% in FY 2006) and in their own community district (from 5% in FY 1999 to 17% in FY 2006). However, a community district is more akin to a neighborhood and performance here remains low at 17%.
- **PLACEMENT SETTINGS OF CHILDREN ENTERING FOSTER CARE** The proportion of children placed with relatives at the time of entry has improved from 21% in FY 1999 to 26% in FY 2006, a 24% increase. During the same eight year period, the proportion of children entering care who were placed in congregate care (group care facilities) decreased from 24% to 21%, a 13% improvement. These data show improvement in initially placing children in the least restrictive setting.
- **PLACEMENT SETTINGS OF CHILDREN IN FOSTER CARE** Although the proportion of children who are placed in congregate care when they enter care has decreased, the overall proportion of children living in congregate care facilities has increased from 12% in FY 1999 to 18% in FY 2006.

- **PLACEMENT WITH SIBLINGS** When children are placed in foster care, they should be placed with their siblings, when appropriate, in order to minimize the trauma of being placed in foster care. In 2006, 63% of sibling groups were placed together, an improvement from 59% in 2001.
- **VISITATION WITH PARENTS** 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. In 1997, only 39% of children had the required number of visits with their families; this improved significantly by 2003 when approximately two-thirds of children in foster care had bi-weekly visits with their parents. However, practice has remained at this level since 2003, with no further improvement.
- **ABUSE AND NEGLECT IN FOSTER CARE** From FY 2003 to FY 2006, the rate of children who were abused and neglected in foster homes in NYC ranged from 1.04% to 0.99%. (Note: this excludes children who are abused and neglected in congregate care facilities) NYC’s abuse and neglect rate for children in family foster homes is high. Nationally, 0.39% of children in foster care (including those in congregate care facilities) experience abuse and neglect in care.
- **RE-ENTRY INTO FOSTER CARE** Between CY 2004 and CY 2005, the rate at which children re-entered foster care after having been reunified with their families increased from 8% to 10%, after having remained at 9% for CYs 2000 through 2003. The national average was 10.7% in 2003.
- **CASELOAD** According to the Council of Family and Child Caring Agencies (COFCCA), current foster care caseloads are 22 to 24 children per caseworker. The New York State Office of Children and Family Services recommends caseloads of 11 to 12 children per caseworker. High caseloads seriously compromise the ability of caseworkers to keep children safe and work effectively towards permanency.
- **CASEWORKER SALARIES AND TURNOVER** According to COFCCA, the average salary of private foster care agency caseworkers is approximately \$10,000 per year less than the average salary of an ACS child protective specialist. Stakeholders indicate that this disparity, among other factors, contributes to the high private agency annual turnover rate of 40%, as reported by COFCCA.
- **QUALITY OF WORK WITH CHILDREN AND FAMILIES** ACS conducts annual reviews of foster care case practice and provided Children’s Rights with the 2005 average scores for all of the agencies combined, which included 24 indices of practice. Since each of the indices combines many components of case practice into one score, Children’s Rights was unable to assess performance on specific areas of practice. However, high caseloads, stakeholders’ comments regarding the barriers that exist to accessing services (including mental health and substance abuse treatment) and the generally poor outcomes children in foster care are continuing to experience highlight the need to closely examine case practice in order to be able to determine why children in New York City are remaining in foster care for such long lengths of time and why an increasing proportion of children are “aging out” of the system.

(continues)

FOSTER CARE: HIGHLIGHTS

(continued)

Reform Efforts

- In February 2005, ACS began to reduce the number of programs providing foster care services and to reinvest some of the savings in preventive and aftercare programs intended to help families avoid placement and to safely reunify children with their families.
- In 2006, ACS issued a plan to address the special needs of adolescents in foster care, called Preparing Youth for Adulthood (PYA). This plan stresses the importance of preparing youth for their life after foster care, if they are not being discharged to reunification or adoption.
- ACS created the Office of Family Visiting dedicated to improving the quality of visits and re-issued the ACS Best Practice Guidelines for Family Visiting Arrangements in Foster Care, which it first issued in 2000. These guidelines stress the importance of family visiting in achieving positive outcomes for children in terms of permanency and well-

being. In September 2006, ACS opened a new Family Visiting Center in Queens to provide a safe and welcoming environment for family visits.

In the spring of 2007, ACS announced a new reform plan, Improved Outcomes for Children, which is intended to significantly change the way ACS oversees, collaborates with and funds the contract provider agencies. IOC is designed to reduce the use of congregate care facilities, reduce placement transfers and decrease the length of time it takes for children to achieve permanency. Under IOC, instead of providing individual case management, ACS intends to focus more on aggregate data analysis, performance monitoring of the private agencies and providing technical assistance. The IOC plan will also significantly change the way agencies are funded; providing agencies with funding up front, rather than retroactively, so that agencies can utilize their funding to develop new strategies aimed at decreasing both the length of time children spend in care and the number of children in congregate care facilities.

I. Introduction

When a child has been abused or neglected and is at imminent risk and cannot safely remain at home, ACS may remove the child and place him/her in foster care. Children in foster care may be placed in a kinship care home (with relatives), family foster boarding home (a “stranger” foster home), therapeutic foster boarding home¹⁷⁴ or a congregate care facility.¹⁷⁵ After assessing the needs of the individual child, ACS must place the child in the least restrictive appropriate setting that will meet his/her needs.¹⁷⁶

When a child has been placed in foster care and is in the custody of ACS, ACS is responsible for ensuring that the foster care placement is safe, stable and nurturing and to minimize the child’s tenure in care. ACS contracts with private not-for-profit agencies that provide foster care services. Contract agency caseworkers are required to work with the child, their birth and foster families and ACS staff to develop and implement a case plan specifying the child’s and family’s needs and goals; the services to be provided; the permanency goal and the steps to be taken to achieve that goal.

¹⁷⁴ A therapeutic foster boarding home is a foster home where the foster parents are specially trained to care for children with special physical, psychological or emotional needs, allowing them to remain in a family foster care setting.

¹⁷⁵ Congregate care facilities can include group homes, group residences, agency operated boarding homes, diagnostic residential centers or residential treatment centers, which provide different levels of care depending on the needs of each child.

¹⁷⁶ ACS policy requires children to be placed in the least restrictive setting (LRS). LRS refers to a placement setting that is the most family like setting that can meet the needs of a specific child. Kinship placements are considered the least restrictive setting, followed by family foster homes and therapeutic foster homes. Congregate care facilities are considered the most restrictive.

Permanency can be achieved either by reunifying a child with their birth parents, when it is safe and appropriate to do so, or through adoption or legal guardianship. When children enter foster care, ACS becomes the “parent.” As such, ACS is responsible for the following:

- Ensuring that children have a safe and appropriate living situation while in foster care;
- Identifying and meeting children’s health, mental health and educational needs;
- Facilitating visitation between children in foster care and their parents and siblings;
- Providing necessary supports and services that enable foster parents to properly care for children in foster care;
- Providing services to birth families to ameliorate the safety and risk factors that lead to children’s placement in foster care so that children may safely return home in a timely fashion; and
- When family reunification is not an option, finding an appropriate adoptive family resource for the child and completing the adoption in a timely fashion.

When reunification is not an option, adoption can provide a child in foster care with a permanent, safe and loving family. In 1997, the federal government passed the Adoption and Safe Families Act (ASFA), requiring states to file a petition in court for termination of parental rights (TPR) once a child has been in foster care for 15 of the previous 22 months. The purpose of a TPR is to “free” a child for adoption.

The New York City Family Court has jurisdiction over children placed in foster care and has an extremely important role in ensuring that children move from foster care to permanent homes as quickly as possible. Chapter 4 focuses specifically on the Family Court.

Foster care is intended to be temporary. When the child welfare system fails to achieve either of the “permanency” goals of reunification or adoption, children “age out” of foster care with no permanent family. Research indicates that children who age out of the child welfare system are likely to experience unemployment, poor health, homelessness and other poor life outcomes.¹⁷⁷

Key measures of the adequacy and effectiveness of foster care case practice typically include:

- How often caseworkers visit children in their foster placements (in order to ensure their safety and well-being);
- How often children are maltreated while in foster care;
- How frequently children move from placement to placement;
- How often children are placed in their own neighborhoods (e.g., so that they can easily remain in contact with family and friends and do not have to change schools);

¹⁷⁷ Courtney, M. E., Doworsky, A., Ruth, G., Keller, T., Havelicek, J., & Bost, N. *Midwest evaluation of adult functioning of former foster youth: Outcomes at age 19*. (Chicago, IL: Chapin Hall Center for Children, 2005).

- How often children are placed with their siblings;
- How often children visit with their parents and siblings;
- Whether children’s health, mental health and educational needs are met while in foster care;
- Whether the case plan (a written document specifying the child and family’s needs and goals; the services to be provided; the permanency goal and necessary steps to be taken toward that goal) is up-to-date, reflecting current circumstances;
- Whether necessary services are actually provided to children, families and foster families;
- The length of time children spend in foster care, i.e., whether children return home or are adopted in a timely fashion; and
- Whether children who exit foster care re-enter foster care at a later date.

Historically, in New York City, foster care services for most children have been provided by private providers under contract with ACS. The proportion of children in foster care receiving services through private contract agencies has grown from 81% of children in the foster care system in FY 1999 to 97.2% in FY 2006.¹⁷⁸ Under the current system (prior to the introduction of the new Improved Outcomes for Children initiative discussed below), ACS has retained case management responsibility for all children in foster care, which is an oversight function and includes approving the case plan and monitoring its implementation. Contract agencies have been responsible for developing case plans,¹⁷⁹ facilitating the appropriate service provision for each child and family and working to achieve permanency for children in a timely way.

The *Marisol* lawsuit raised concerns about the quality of foster care services including the appropriateness of placement settings, services provided to children and birth parents and progress towards permanency goals. In 1997, the Marisol Joint Case Review Team conducted a case record review of children involved in the New York City child welfare system. The Review Team found the following:

- More than half of the children in foster care had experienced a change in their foster care placement since entering care;¹⁸⁰
- One-fourth of children in foster care had unmet medical, dental and/or mental health needs;¹⁸¹

¹⁷⁸ City of New York. *The Mayor’s Management Report, FY 2000* (New York, NY: Mayor’s Office of Operations), at 132, *The Mayor’s Management Report, FY 2007 (Preliminary)*, at 28.

¹⁷⁹ A case plan is developed by the agency, family and foster parents and should include an explanation of why a child in foster care, an assessment of the strengths, needs and goals of the family and child, the services that will be provided to the family and the child and by whom, the responsibilities of the agency and a time frame for the family to achieve their goals.

¹⁸⁰ Marisol Joint Case Review Team. *Marisol v. Giuliani Case Record Review: Services to Children in Foster Care and Their Families* (1997), at 5.

- Required services were not provided to parents in 63% of cases in which parenting skills were needed, in 49% of cases in which substance abuse services were needed, in 63% of cases in which mental health services were needed and in 75% of cases in which housing assistance and subsidies were needed;¹⁸²
- 60% of case plans did not address all of the needs of the child and/or family;¹⁸³
- Although most children should have bi-weekly visits with their caseworker, 51% of children did not receive even monthly visits by their caseworker, and 5% of children had “no documented face-to-face contact with their caseworker during the six month [review] period;”¹⁸⁴
- 36% of children in care had a goal of reunification with their parents for more than two years;¹⁸⁵
- Only 39% of children with a goal of reunification had bi-weekly visits with their parents;¹⁸⁶ and
- 27% of children had a goal of adoption for more than four years.¹⁸⁷

The case review also raised concerns about ACS’ supervision and oversight of the private contract agencies, including how ACS measured performance against key benchmarks and how it rewarded and addressed successes and failures of the contract agencies.¹⁸⁸

Following the settlement of the *Marisol* lawsuit in 1999, ACS developed strategies to address some of the identified concerns. By 2000, ACS had developed the Evaluation and Quality Improvement Protocol (EQUIP), which it uses “to measure and evaluate the quality of services provided by each foster care agency.”¹⁸⁹ ACS also developed the Safe and Timely Adoption and Reunification (STAR) program that evaluated agencies based on the number of days children spent in foster care before being either reunified or adopted. Agencies that improved their permanency outcomes for children and, therefore, had a lower number of care days received a portion of the savings to create services that would increase permanency. Such services included aftercare programs, which provided

¹⁸¹ Ibid, at 11.

¹⁸² Ibid, at 11-12.

¹⁸³ Ibid, at 80.

¹⁸⁴ Ibid, at 81 and 103.

¹⁸⁵ Ibid, at 119.

¹⁸⁶ Ibid, at 14.

¹⁸⁷ Ibid, at 119.

¹⁸⁸ Special Child Welfare Advisory Panel. *Advisory Report on Monitoring and Improving the Performance of Contract Agencies* (New York, NY: Special Child Welfare Advisory Panel, 1999), at 3.

¹⁸⁹ New York City Administration for Children’s Services. *A Renewed Plan of Action for the Administration for Children’s Services* (New York, NY: Administration for Children’s Services, 2001), at 9.

services to children and families that have been reunited following the child's placement in foster care.¹⁹⁰ The STAR program was discontinued in June 2003.

In 2001, ACS developed Neighborhood Based Services that realigned private contract agency staff and ACS staff by community district. Among the goals of this program were "integrating child welfare services with other service systems at the neighborhood level, placing children in neighborhood foster homes [and] recruiting qualified foster parents to meet neighborhood placement needs."¹⁹¹ Neighborhood-based placements and services can help facilitate children's contact with their family and friends as well as allow them to remain in the same school. In addition, the theory is that neighborhood networks can increase the collaboration among different child welfare providers. However, the creation of these networks was not accompanied by funding to organize and maintain them.¹⁹²

By the end of 2003, ACS had announced the implementation of Family Team Conferencing with the goal of increasing the involvement of families in developing safety and permanency plans for children and working to improve adoption outcomes for children for whom reunification is not appropriate.¹⁹³ However, stakeholders have said that Family Team Conferencing does not occur on a regular basis. ACS does not publicly report data regarding the proportion of expected Family Team Conferences that are held or whether the required participants attend these conferences. The quarterly reports that ACS began providing to the New York City Council in July 2006 include the number of 72-hour Conferences and Elevated Risk Conferences that were held during the quarter, but do not indicate how many conferences should have been held or if the required attendees participated. ACS has recently proposed a reform plan, Improved Outcomes for Children, under which family team conferencing would be institutionalized by all contract agencies and would occur on a quarterly basis, with ACS staff present at certain conferences, to encourage permanency and reduce length of time in care, building on the previous effort to institute family team conferencing. Stakeholders are concerned that there will not be sufficient resources to arrange and facilitate all of these conferences.

In December 2003, ACS announced the introduction of a performance-based payment system for regular foster boarding homes.¹⁹⁴ Agency scores on their annual performance evaluation (EQUIP)

¹⁹⁰ Special Child Welfare Advisory Panel. *Periodic Report #3* (New York, NY: Special Child Welfare Advisory Panel, 2000), at 7.

¹⁹¹ New York City Administration for Children's Services. *A Renewed Plan of Action for the Administration for Children's Services* (New York, NY: Administration for Children's Services, 2001), at 28.

¹⁹² White, A., Rosenbaum, N., Lerner, S., & Nyary, S. *Community Collaboration in New York City: Charting the Course for a Neighborhood-Based Safety Net* (New York, NY: New School University, Milano Graduate School of Management and Urban Policy, Center for New York City Affairs, 2005), at 2 and 7.

¹⁹³ New York City Administration for Children's Services. *2003 Year End Review: Protecting Children, Strengthening Families, Supporting Communities* (New York, NY: Administration for Children's Services), at 10 and 14-16.

¹⁹⁴ *Ibid*, at 21.

began to be used to determine the agency payment level.¹⁹⁵ This system standardized the agency foster care payment system and enabled ACS to reward high performing agencies.

In 2005, ACS announced a plan to “right-size, reinvest in and realign” New York City’s child welfare system. Contracts with two foster boarding home providers were terminated¹⁹⁶ and by June 2007 ACS had closed all of its direct foster care programs. This plan also continued the effort ACS began in 2004 to reduce the congregate care capacity.¹⁹⁷ In July 2007, ACS reported that more than 1300 congregate care beds had been closed.¹⁹⁸ Additionally, ACS increased funding for aftercare programs that provide services and support to reunified families.

In 2006, ACS began developing a new initiative that also focuses on neighborhood-based services, the Community Partnership Initiative (CPI), for which ACS identified four program goals: (1) to promote collaborations between child care, Head Start and preventive programs; (2) to participate in family conferences; (3) to support foster and adoptive parents and recruit more foster parents within the community district and (4) to facilitate visits between parents and their children in foster care. These partnerships are intended to “develop and bolster Community Coalitions – networks of residents, community leaders, service providers, contracted child welfare agencies, and ACS child welfare and Head Start/child care staff” in an effort to significantly impact “ACS’ core child welfare outcomes of safety, permanency, and well-being.”¹⁹⁹ These supports and services are to be provided to families in their own communities in an effort to avoid out-of-home placements and reduce lengths of stay in foster care whenever possible. ACS intends to provide a small amount of funding, up to \$150,000, to each of the CPI community districts.

In March 2007, ACS announced a new reform initiative called Improved Outcomes for Children (IOC), which is intended change the way ACS supervises, collaborates with and funds private preventive and foster care agencies. IOC is designed to reduce the use of congregate care, reduce placement transfers and decrease the length of time it takes for children to achieve permanency. Under the new plan, contract agencies will have the authority to make many decisions without obtaining approval from ACS, including decisions regarding the type of foster care setting each child needs, the services each family requires and the permanency plan for each child.²⁰⁰ ACS intends to work closely with each agency by facilitating or participating in frequent Family Team Conferences, consulting on individual cases and collecting and analyzing data regarding a variety of performance measures.²⁰¹ ACS intends to compile the data into a “scorecard” that is to include “quantifiable performance date, case record reviews, site assessments, interviews with parents,

¹⁹⁵ Ibid, at 22.

¹⁹⁶ Ibid, at 6.

¹⁹⁷ Ibid, at 8.

¹⁹⁸ Information provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. July, 2007.

¹⁹⁹ New York City Administration for Children’s Services. *Community Partnerships Initiative: Scope of Service and Request for Proposals* (New York, NY: Administration for Children’s Services, 2006), at 1.

²⁰⁰ New York City Administration for Children’s Services. *Improved Outcomes for Children* (New York, NY: Administration for Children’s Services, 2007), at 39.

²⁰¹ Ibid, at 28-36.

foster parents, children and youth and feedback from other stakeholders, including ACS offices and other system participants.”²⁰² ACS also intends to hold regular meetings with each agency to discuss performance and improvement efforts.²⁰³

As part of the IOC initiative, ACS is also changing the way in which foster care agencies are funded and predicts that the new funding process will provide agencies with more flexibility to invest money in services to reduce the length of stay in foster care.²⁰⁴ At the same time, agencies will assume some financial risk if they are unable to move children out of foster care and into permanent homes in a timely way.

The Social Services Employees Union Local 371 objects to the IOC plan in terms of the planned worker layoffs and the shift in case management responsibility to the private agencies.²⁰⁵ Other stakeholders, including the Council of Family and Child Caring Agencies (COFCCA) and the Citizens’ Committee for Children, are supportive of the additional focus on family group conferencing, enhanced technical assistance from ACS to the private agencies and flexibility in foster care funding, however stakeholders are concerned about there being adequate resources to carry out this plan.²⁰⁶

ACS began implementing IOC in July 2007 and expects to obtain the necessary waivers from the Office of Children and Family Services (OCFS) by August 2007.²⁰⁷ ACS plans to implement IOC with a selected group of providers by October 2007 and to achieve full implementation by July 2008.²⁰⁸ This is an ambitious plan, which must be closely tracked to assess whether it meets the identified goals.

This chapter provides a summary of key foster care data over the past decade and a brief summary of recent reform efforts.

²⁰² Ibid, at 35.

²⁰³ Ibid, at 36.

²⁰⁴ Ibid, at 47-48.

²⁰⁵ Ensley, C. Testimony before the New York City Council Committee on General Welfare. March 29, 2007. Ensley, C. President’s Message, We Can Do the Job. *The Unionist*, 37(4) (April, 2007), at 2.

²⁰⁶ Purcell, J.F. Testimony before the New York City Council Committee on General Welfare. March 29, 2007. Gendell, S. Testimony before the New York City Council Committee on General Welfare. March 29, 2007.

²⁰⁷ Information provided to Children’s Rights by the New York City Administration for Children’s Services Division of Quality Assurance. July 6, 2007.

²⁰⁸ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 29, 2007.

II. Data

A. Number of Children in Foster Care

The number of children in foster care drastically declined from a high of more than 49,000 in 1991 to 38,441 in 1999 to less than 17,000 today. It is important to understand the causes and correlates of this decline.

Chart 3.1 below provides the number of children in foster care on any given day from FY 1997 to FY 2006.²⁰⁹

CHART 3.1
Average Number of Children Served in Foster Care, by Fiscal Year

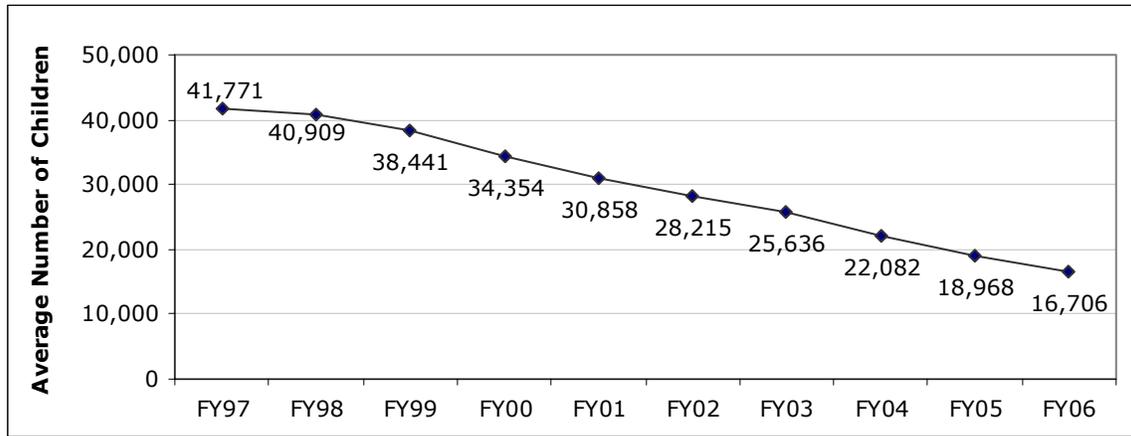
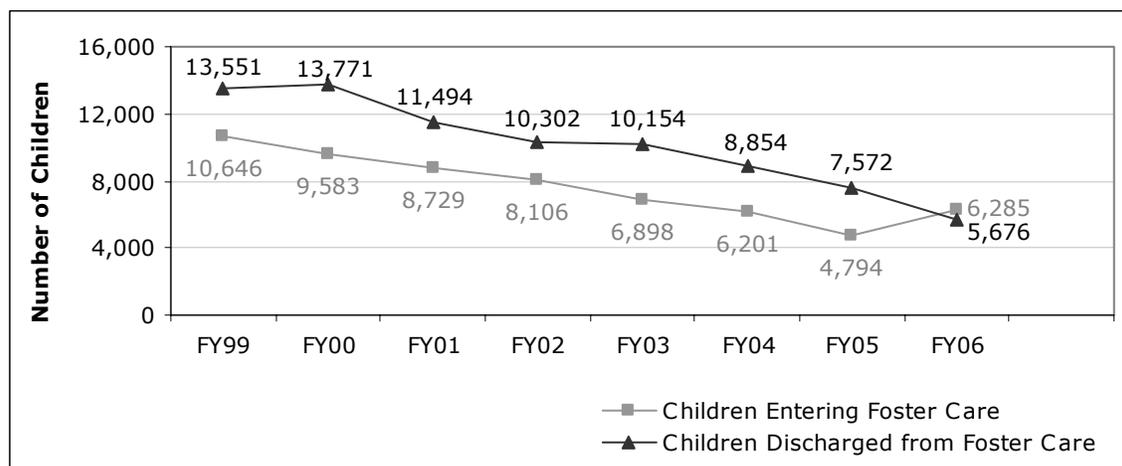


Chart 3.2 below provides the number of children entering and leaving foster care from FY 1999 through FY 2006.²¹⁰

²⁰⁹ City of New York. *Comprehensive Annual Financial Report of the Comptroller for the Fiscal Year Ended June 30, 2006* (New York, NY: Bureau of Accountancy, 2006), at 312 (Data for FY 1997 and 1998), New York City Administration for Children’s Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 2 (Data for FY 1999 and FY 2000). *ACS June 01 Update, FY 2001*, at 2. *ACS Update, June 02, FY 2002*, at 2. *ACS Update, June 03, FY 2003*, at 2. *ACS Update, June 04, FY 2004*, at 2. *ACS Update, June 05, FY 2005*, at 2. *ACS Update, June 2006, FY 2006*, at 2.

²¹⁰ New York City Administration for Children’s Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation) at 3 (Data for FY 1999 and FY 2000). *ACS June 01 Update, FY 2001*, at 3. *ACS Update, June 02, FY 2002*, at 3. *ACS Update, June 03, FY 2003*, at 3. *ACS Update, June 04, FY 2004*, at 3. *ACS Update, June 05, FY 2005*, at 3. *ACS Update, June 2006, FY 2006*, at 3.

CHART 3.2
Number of Children Entering and Leaving Foster Care, by Fiscal Year



Although the number of children entering foster care increased in 2006, prior to that time, it had been steadily and significantly declining. There are many factors which could contribute to a substantial change in the numbers of children in foster care, including factors that are external to the child welfare system, such as changes in the size of the general population or the poverty rate, as well as internal factors, such as a shift in agency practice.

In 1985, there were less than 17,000 children in foster care in New York City. This ballooned to more than 49,000 by 1991.²¹¹ This growth has been attributed at least in part to a policy change implemented in 1985 when ACS began treating kinship arrangements as foster care placements and counting them as such,²¹² as well as to crack addiction and HIV-related illnesses. Since 1991, however, the numbers of children in foster care has been on a steady decline, dropping to 38,441 by 1999 and dropping further to less than 17,000 today.²¹³ Some of the external factors that may have contributed to the decrease in the early years following 1991 include the subsiding of the crack epidemic and improvements in the treatment of HIV-related illnesses.

Between 1999 and 2005, the number of children in foster care on any given day dropped by 51% (from 38,411 to 18,968), while neither the general population in NYC nor the poverty rate changed significantly. During this time, the number of child abuse and neglect reports (i.e., reports to the hotline) declined by 8% (from 54,673 in 1999 to 50,309 in 2005). In addition, the indication rate—the proportion of reported children who are found to be abused and neglected—declined from 37.5% in 1999 to 32.6% in 2005; accordingly, the number of children with indicated reports (substantiated

²¹¹ New York City Administration for Children's Services. *2003 Year End Review: Protecting Children, Strengthening Families, Supporting Communities* (New York, NY: Administration for Children's Services), at 3.

²¹² Ross, T. *A System in Transition: An Analysis of New York City's Foster Care System at the Year 2000* (New York, NY: Vera Institute of Justice, 2001).

²¹³ New York City Administration for Children's Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 2. *ACS Update, June 2006, FY 2006*, at 2.

child abuse and neglect) declined by 10% (from 24,462 in 1999 to 21,800 in 2005). Each of these factors potentially contributed to the decline of children in foster care.

However, what appears to be particularly significant during these years is a significant reduction in the number of abused and neglected children that ACS determines need to 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, this number dropped to 14 (see Chart 1.13 in Chapter 1).²¹⁴ Assuming that the nature of the cases arriving at ACS' door did not change significantly, (i.e., get 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 proportion *should* be brought into foster care. We do not know if 36 for every 100 children abused and neglected is the "right" number, 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 professional judgment and based on the family's particular circumstances. Certainly, the preference is and should be to maintain children safely with their families whenever possible.

What is critical is that children are safe and that children and families are receiving appropriate services to address identified issues, whether a child is in foster care or at home. Three key indicators provide cause for concern in this area: 1) the drop in the foster care population has not been accompanied by a commensurate increase in the number of children being served in preventive services, at home with their families; 2) the proportion of children experiencing repeat maltreatment has increased for children receiving voluntary, court-ordered and no services (as discussed in greater detail in Chapter 1); and the proportion of children re-entering foster care has increased (as discussed in greater detail in this chapter).

The fact that many children receive no services (either foster care or preventive services at home) after an indicated finding of abuse and neglect, and increasing numbers of children are experiencing repeat maltreatment and re-entering foster care, raise questions about decision-making during investigations, determinations regarding the need for services, including foster care placement, and the quality and timeliness of services when they are provided. These issues must be closely examined.

The same questions apply to the increase in children entering foster care that occurred in 2006, following several highly publicized child fatalities. In fact, there was a 55% increase in the number of admissions into foster care in the second half of FY 2006 compared to the first half of the fiscal

²¹⁴ Data provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. February and May, 2007. [Reason for Placement and Number of A/N Victims]. Children's Rights calculation. These data have been expressed as a ratio rather than a proportion because ACS indicated that the data come from two separate information systems; and ACS could not confirm that the numerator (# of children placed in foster care due to abuse and neglect) was an exact subset of the denominator (# of abused and neglected children).

year.²¹⁵ In addition, admissions into foster care in the first seven months of FY 2007 increased by 36% compared to the first seven months of FY 2006 (FY 2007 data not reflected in Chart 3.2).²¹⁶

Some stakeholders have expressed concern that this recent increase in children being taken into foster care was a reaction to public pressure and not reflective of an actual increase in the number of children who needed to be removed from their homes. Others have said that the increased number may reflect children who should have been reported previously and placed into foster care, but were not due to lack of appropriate reporting by the community and/or inappropriate decision making by ACS. It is difficult to determine whether appropriate decisions are being made without examining the particular circumstances in these cases.

B. Race of Children in Foster Care

Similar to many child welfare systems across the country, the NYC child welfare system is racially disproportionate. African American children comprise 30% of the general NYC child population, yet account for 48% of children entering foster care. White and Asian children are under-represented in the system. White and Asian children comprise 25% and 10% of the general child population, respectively, yet 5% of children entering foster care are White and 5% are Asian.

African-American children account for less than one third of the NYC child population, but comprise nearly half of the foster care population.

Latino children make up 34% of the total child population and comprise 39% of the children entering foster care.²¹⁷ The racial proportions of children entering foster care have remained relatively constant from FY 2003 to FY 2006.²¹⁸

A report recently released by the Committee for Hispanic Children and Families notes the need for culturally and linguistically appropriate services to meet the needs of the Latino community. The report states that only 21% of ACS workers are bilingual; only 4 out of 70 private agencies delivering

²¹⁵ New York City Administration for Children's Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 3.

²¹⁶ New York City Administration for Children's Services. *ACS Update, January 2007, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 3.

²¹⁷ U.S. Census Bureau. *New York City, New York, 2005 American Community Survey*. Retrieved June 4, 2007 from http://factfinder.census.gov/servlet/ADPTable?_bm=y&-qr_name=ACS_2005_EST_G00_DP1&-geo_id=16000US3651000&-ds_name=ACS_2005_EST_G00_&-_lang=en&-_sse=on Foster care data provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. January, 2007. [NYC Foster Care Admissions, FY 2003-2006, by race/ethnicity].

²¹⁸ Data provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. January, 2007. [NYC Foster Care Admissions, FY 2003-2006, by race/ethnicity].

preventive services are Latino organizations; and there is only one Latino foster care agency in the entire city.²¹⁹

The Coalition for Asian American Children and Families (CACF) is similarly concerned about ACS' ability to meet the needs of Asian Pacific American children and families. The CACF recommends that ACS foster partnerships with the Asian Pacific American community and build the capacity of community-based organizations that can address child welfare issues and educate the community regarding the benefits of seeking help.²²⁰

C. Foster Care Placements

ACS and the contract agencies are responsible for assessing the needs of children when they enter foster care and placing them in the most appropriate settings. This includes recruiting and training foster parents, placing children with their siblings and placing children in suitable foster homes to reduce the likelihood of placement moves.

The following sections provide information regarding where children are placed, including the use of emergency shelter placements, whether they are placed with their siblings and in their own neighborhoods and how often they change placements.

1. Overnight Stays at ACS' Children's Center

When a child enters foster care and a foster home is not available, ACS places the child at its Children's Center on an emergency basis, until an appropriate placement is found.

Following several years of improvement (i.e., reduction) in the number of nights children spent at the Children's Center, there was a 127% increase from FY 2005 to FY 2006.

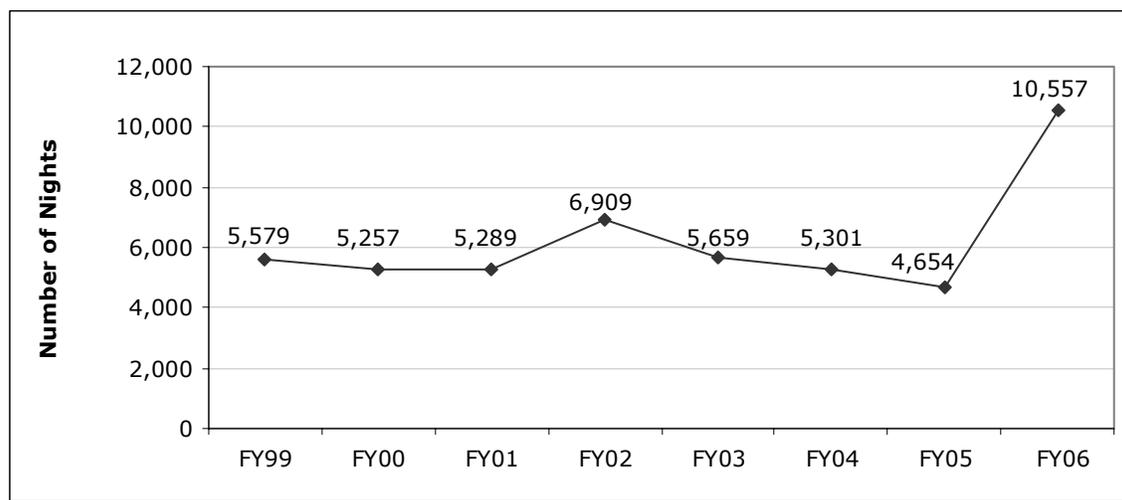
Chart 3.3 below provides the number of nights children stayed at ACS' Children's Center from FY 1999 through FY 2006.²²¹

²¹⁹ Rios, E. A. & Duque, S. *Bridging the Cultural Divide: Building a Continuum of Support Services for Latino Families* (New York, NY: The Committee for Hispanic Children and Families, Inc., 2007).

²²⁰ Tucker, R., Kirmani, R., Singla, A. & To, K. *Connecting the Dots, Improving Neighborhood-based Child Welfare Services for Asian Pacific American Children and Families* (New York, NY: The Coalition for Asian American Children and Families, 2007), at 2-5.

²²¹ New York City Administration for Children's Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 9. *ACS June 01 Update, FY 2001*, at 9. *ACS Update, June 02, FY 2002*, at 9. *ACS Update, June 03, FY 2003*, at 9. *ACS Update, June 04, FY 2004*, at 9. *ACS Update, June 05, FY 2005*, at 9. *ACS Update, June 2006, FY 2006*, at 9.

CHART 3.3
Number of Nights Children Spent in ACS' Children's Center, by Fiscal Year



When the Children's Center opened in 2001, then-Commissioner Scoppetta called it a "state of the art child welfare training facility and child-friendly, professional intake office."²²² The Children's Center was designed to be a temporary stop for children who need a medical assessment or who enter foster care late at night and need a place to sleep until an appropriate and safe placement is found the following day.

The total number of nights children spend at the Children's Center had been declining since FY 2002. However, in FY 2006, there was a 127% increase²²³ and this increase has continued into the first seven months of FY 2007 (FY 2007 data not reflected in Chart 3.3).²²⁴ In December 2006, an average of 45 children stayed at the Children's Center each night, compared to December 2005, when an average of 23 children stayed overnight.²²⁵

As discussed above, there has been an increase in the number of children entering foster care since January 2006. The dramatic increase in the number of children staying overnight at the Children's Center likely indicates a lack of available foster homes. The number of nights children are spending at the Children's Center clearly indicates that thousands of children who have been removed from their homes due to safety concerns have been spending at least one night, perhaps many more

²²² City of New York. *Mayor Giuliani and ACS Commissioner Scoppetta Dedicate New \$67 Million Children's Center* (New York, NY: Archives of the Mayor's Press Office, 2000). Retrieved April 10, 2007, from <http://www.nyc.gov/html/om/html/2000b/pr433-00.html>

²²³ New York City Administration for Children's Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 9.

²²⁴ New York City Administration for Children's Services. *ACS Update, January 2007, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 9.

²²⁵ New York City Administration for Children's Services. *ACS Update December 05, FY 2006* (New York, NY: Office of Research and Evaluation), at 9. *ACS Update December 2006, FY 2007*, at 9.

nights, living in what amounts to a shelter. In September 2006, ACS Commissioner Mattingly stated, “There are also teenagers who sometimes have to spend up to two weeks until we find the right placement. That’s not a good thing. We don’t need a shelter in New York City and we haven’t had one in a long time.”²²⁶

2. Placement Settings of Children in Foster Care

In FY 2006, 58% of children in foster care were living in foster boarding homes, 24% were living in kinship homes (i.e. with relatives) and 18% were living in congregate care.²²⁷ These proportions essentially match the distribution of placement settings of children in foster care nationally.²²⁸

Since FY 1999, the proportion of children living in kinship foster homes has declined and the proportion living in congregate care has increased.

However, since FY 1999, the proportion of children living in kinship foster homes has declined and the proportion living in

congregate care has increased, even as the total number of children in foster care has declined.²²⁹

Charts 3.4²³⁰ and 3.5²³¹ present the number and proportions, respectively, of children in foster homes, kinship care and congregate care from FY 1999 to FY 2006.

²²⁶ WNBC.com. *Abused, Neglected Children Face Foster Care Shortage* (September 21, 2006). Retrieved September 21, 2006, from <http://www.wnbc.com/news/9897438/detail.html>

²²⁷ City of New York. *The Mayor’s Management Report, FY 2007 (Preliminary)* (New York, NY: Mayor’s Office of Operations, 2007), at 28.

²²⁸ U.S. Department of Health and Human Services, Administration on Children, Youth and Families. *The AFCARS Report, Preliminary FY 2005 Estimates as of September 2006 (13)*. (Washington, DC: U. S. Government Printing Office, 2006).

²²⁹ City of New York. *The Mayor’s Management Report, FY 2000* (New York, NY: Mayor’s Office of Operations), at 132. *The Mayor’s Management Report, FY 2007 (Preliminary)*, at 28.

²³⁰ New York City Administration for Children’s Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 2. *ACS June 01 Update, FY 2001*, at 2. *ACS Update, June 02, FY 2002*, at 2. *ACS Update, June 03, FY 2003*, at 2. *ACS Update, June 04, FY 2004*, at 2. *ACS Update, June 05, FY 2005*, at 2. *ACS Update, June 2006 FY 2006*, at 2.

²³¹ Ibid.

CHART 3.4
Number of Children in Foster Care, by Type of Placement and Fiscal Year

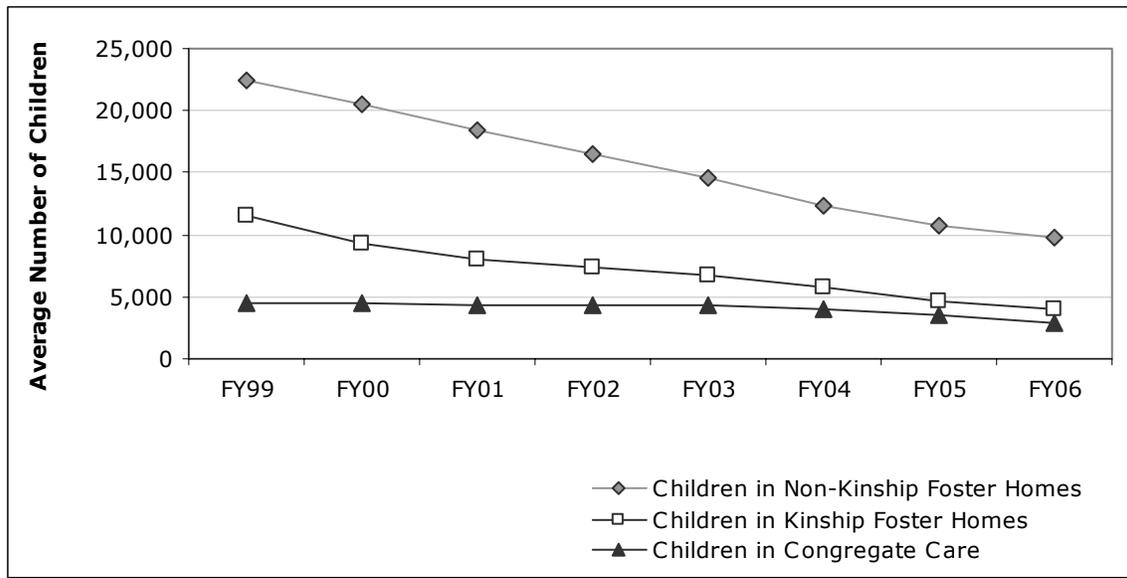
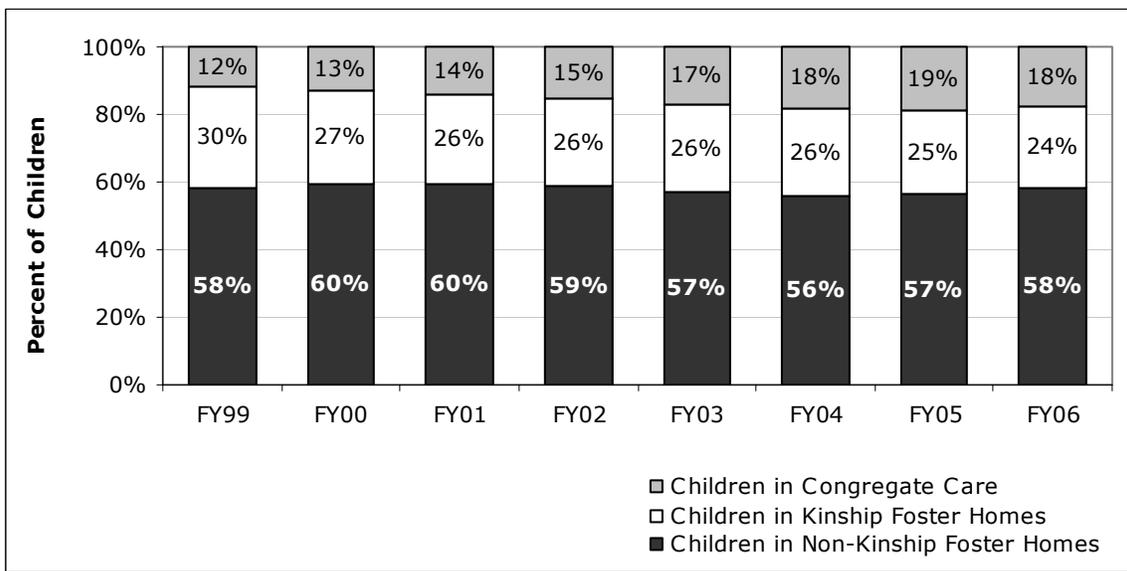


CHART 3.5
Proportion of Children in Foster Care, by Type of Placement and Fiscal Year



The proportion of children placed in congregate care increased by 50%, from 12% in FY 1999 to 18% in FY 2006.²³² It is possible that, with fewer children being taken into foster care, the population that is coming in has more intensive needs that are challenging to meet in kinship or foster home placements. However, with the declining numbers of children in care, one might also expect that more foster homes could be available and that the resources of the system could be applied to provide necessary supports to maintain more children in family-like settings.

In addition to looking at the placement settings of all children in foster care at a point in time, another way of examining this issue is to measure the proportion of children *entering* care by their placement setting *at entry*.

Chart 3.6, presents the proportion of children placed in foster homes, kinship care and congregate care *at the time of entry into care*, from FY 1999 to FY 2006.²³³

The proportion of children placed with relatives at the time of entry has increased from 21% in FY 1999 to 26% in FY 2006, a 24% increase.²³⁴ During the same eight year period, the children *entering* care who were placed in congregate care decreased from 24% in FY 1999 to 21% in FY 2006, a 13% decline.²³⁵ These data show improvement in placing children in the least restrictive setting when they enter foster care.

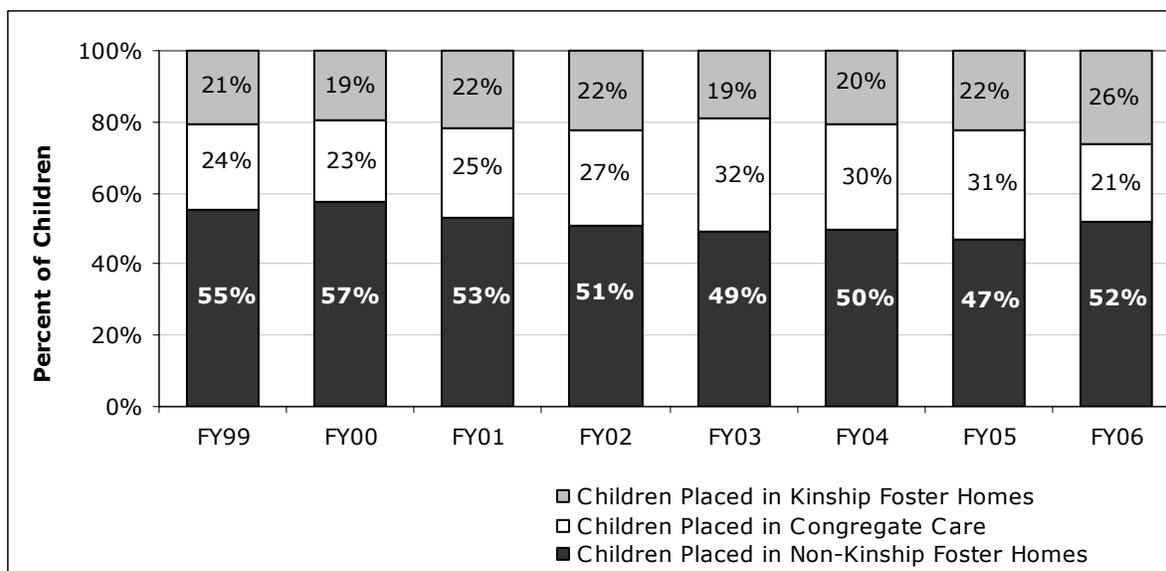
²³² New York City Administration for Children's Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 2. *ACS Update, June 2006, FY 2006*, at 2.

²³³ New York City Administration for Children's Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 3. *ACS June 01 Update, FY 2001*, at 3. *ACS Update, June 02, FY 2002*, at 3. *ACS Update, June 03, FY 2003*, at 3. *ACS Update, June 04, FY 2004*, at 3. *ACS Update, June 05, FY 2005*, at 3. *ACS Update, June 2006, FY 2006*, at 3.

²³⁴ New York City Administration for Children's Services. *ACS June 2000 Update* (New York, NY: Office of Research and Evaluation), at 3. *ACS Update, June 2006, FY 2006*, at 3.

²³⁵ *Ibid.*

CHART 3.6
Proportion of Children Entering Foster Care, by Type of Placement and Fiscal Year



During the past four years specifically, there has been significant improvement in placing children in the least restrictive setting when they enter foster care. From FY 2003 to FY 2006 there has been 35% decline in the proportion of children placed in congregate care at entry into foster care and a 37% increase in the proportion of children placed in kinship care at entry.

3. Placements with Siblings

When children are placed into foster care they should be placed with their siblings, when appropriate, in order to minimize trauma. ACS tracks the number of sibling groups that are placed together when they are placed in foster care. It should be noted that this statistic is based on sibling groups and not on individual children.

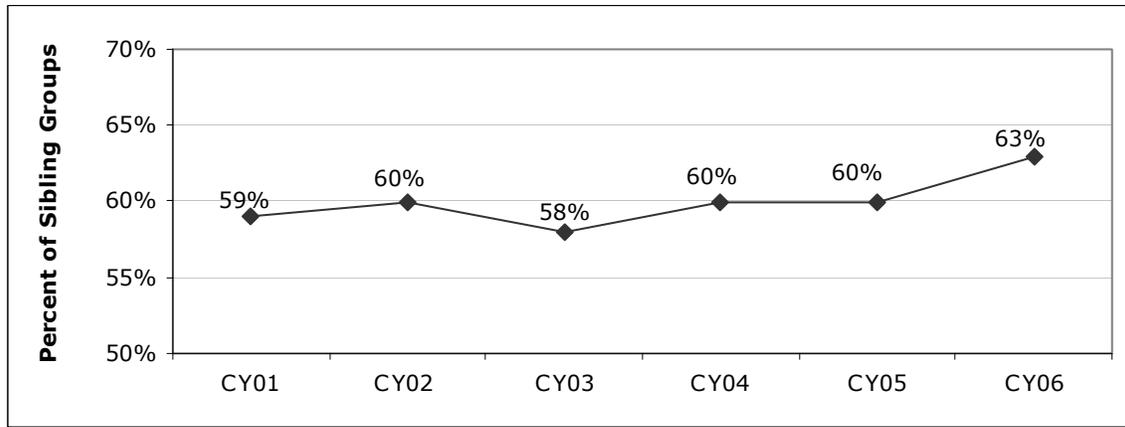
In 2006, 63% of sibling groups were placed together, up from 59% in 2001.

Chart 3.7 below, provides the proportion of sibling groups (*not* children) who were placed together upon entering foster care from CY 2001 through CY 2006.²³⁶ The proportion of sibling groups placed together at entry into care grew from

²³⁶ New York City Administration for Children's Services. *Top 12 Performance Report, Outcomes and Indicators, Indicator 2: Neighborhood-based Placements, Citywide Summary 2006, 4th Quarter* (New York, NY: Administration for Children's Services), at 2. *Top 12 Performance Report, Outcomes and Indicators, Indicator 2: Neighborhood-based Placements, Citywide Summary 2004, 4th Quarter*, at 2. Children's Rights calculation: number of sibling groups placed with no other siblings in care multiplied by the percentage of sibling groups separated (and partially separated), with other siblings in care multiplied by the percentage of sibling groups separated (and partially separated).

59% to 63%.²³⁷ It should be noted that this chart reflects the placement of sibling groups, including sibling groups in which all the children in the group entered care at the same time, as well as sibling groups in which the children entered care at different times.

CHART 3.7
Proportion of Sibling Groups Placed Together in Foster Care, by Calendar Year



As noted above, the data in Chart 3.7 are by sibling group. The data provided in Chart 3.8 below are by child. Another difference between Chart 3.7 and Chart 3.8 is that Chart 3.7 includes sibling groups whose members entered foster care at either the same or different times, and Chart 3.8 includes only sibling groups whose members entered care at the same time.

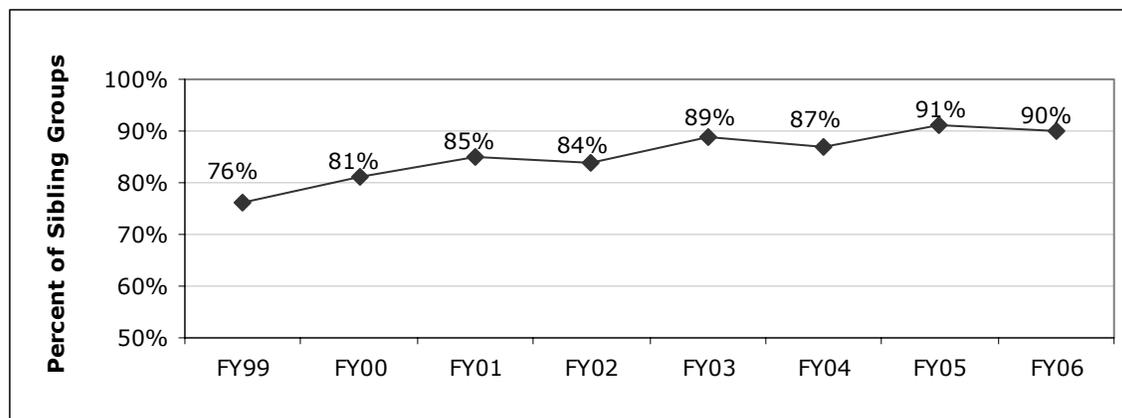
In FY 1999, 76% of children in siblings groups entering care at the same time were placed together. This grew to 90% in FY 2006.²³⁸ Siblings who enter care at the same time are more likely to be placed together than siblings who enter care at different times. Chart 3.8 reflects an important improvement in sibling placement; however, it should be noted that it is not a complete measure of sibling placement because it excludes children who did not enter care at the same time as their siblings.

separated) and the number of children placed alone with siblings in care multiplied by the percentage sibling groups separated (and partially separated), totaled and divided by the total number of sibling groups placed in care.

²³⁷ New York City Administration for Children’s Services. *Top 12 Performance Report, Outcomes and Indicators, Indicator 2: Neighborhood-Based Placements, Citywide Summary 2004, 4th Quarter*, (New York, NY: Administration for Children’s Services), at 2.

²³⁸ City of New York. *The Mayor’s Management Report, FY 2003* (New York, NY: Mayor’s Office of Operations), at 44. *The Mayor’s Management Report, FY 2007*, at 34.

CHART 3.8
Proportion of Sibling Groups Placed Simultaneously in the Same Foster Home,
by Fiscal Year (Excludes Siblings who Entered Care at Different Times)



4. Neighborhood-based Placements

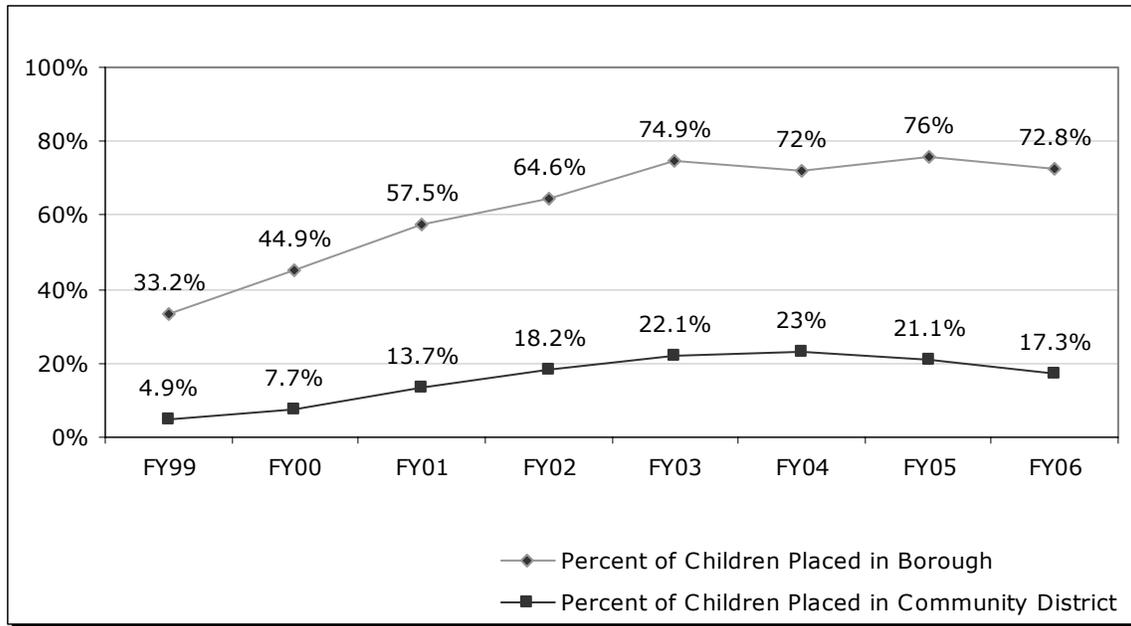
Being placed in foster care is a traumatic experience for children. However, placement in a foster home in their own neighborhood can reduce trauma by allowing children to remain in the same school and maintain contact with their family, friends and other support systems. Chart 3.9 provides the proportion of children placed in their borough of origin and community district from FY 1999 through FY 2006.²³⁹

From FY 1999 through FY 2005, ACS made improvements in placing children in their borough and community district. The proportion of children placed in their own borough increased significantly from 33% in FY 1999 to 75% in FY 2003, then leveled off for the next three years and dipped slightly in FY 2006. The proportion of children placed in their own community district also increased substantially from 5% in FY 1999 to 22% in FY 03, but leveled off and then dipped in FY 2006 to 17%.

From 1999 through 2006, the proportion of children in foster care that were placed in their borough of origin increased significantly from 33% to 73%. However, in FY 2006, only 17% of children were placed within their own neighborhood.

²³⁹ City of New York. *The Mayor's Management Report, FY 2003* (New York, NY: Mayor's Office of Operations), at 44. *The Mayor's Management Report, FY 2004*, at 48. *The Mayor's Management Report, FY 2005*, at 48. *The Mayor's Management Report, FY 2006*, at 34. *The Mayor's Management Report, FY 2007 (Preliminary)*, at 34.

CHART 3.9
Proportion of Children Placed in Foster Homes in their Borough and Community District, by Fiscal Year



Placement in one’s community district is most relevant to the theory underlying neighborhood-based placements and services. For example, if one grew up in Harlem and was placed in foster care on the Lower East Side, this would be an in-borough placement, but clearly would not serve the purpose of keeping a child in his/her own school or help to maintain the child’s connections with family and community. As shown in Chart 3.8, the proportion of children placed in their community district remains very low.

5. Placement Moves While in Foster Care

When placed in foster care, children experience trauma related to separation and loss. Additionally, they have to adjust to a new environment, new “family” and possibly a new school. Each time a

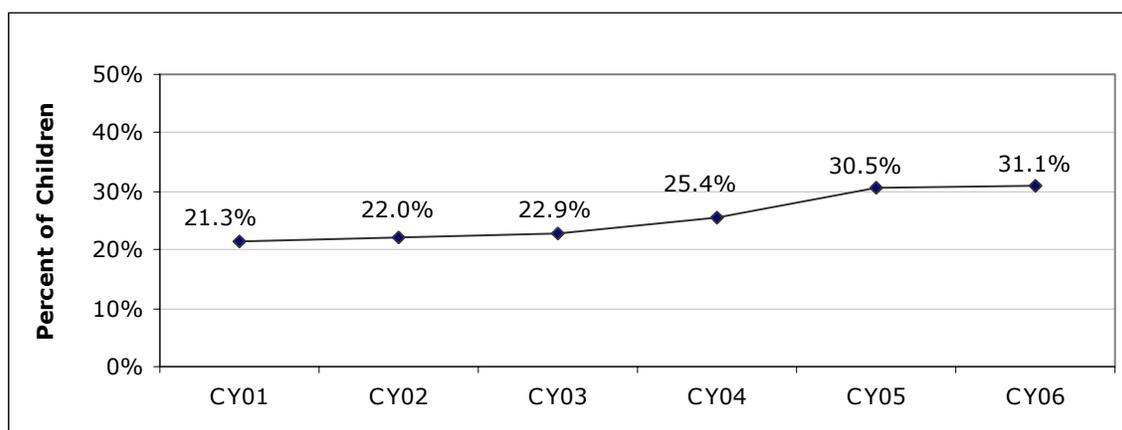
child moves to another placement the trauma may be compounded. Research has shown that multiple placements while in foster care negatively impact children’s emotional well-being and educational achievements, including graduating from

The proportion of children moving from one placement to another during a one-year period increased from 21% in CY 2001 to 31% in CY 2006.

high school, and can contribute to illegal drug use, unemployment, homelessness, and affect their ability to form close relationships.²⁴⁰

Chart 3.10 below provides the proportion of children who moved from one placement to another at least once during the calendar year, from 2001 through 2006.²⁴¹

CHART 3.10
Proportion of Children Who Moved to a New Placement
at Least Once During the Year, by Calendar Year



The proportion of children who experience at least one move during a year has increased every year since 2001, increasing from 21.3% in CY 2001 to 31.1% in CY 2006.²⁴²

As shown in Chart 3.11 below, the proportion of children who experience two or more placement moves since entering care has also increased, from 35% in FY 2000 to 44% in FY 2006.²⁴³

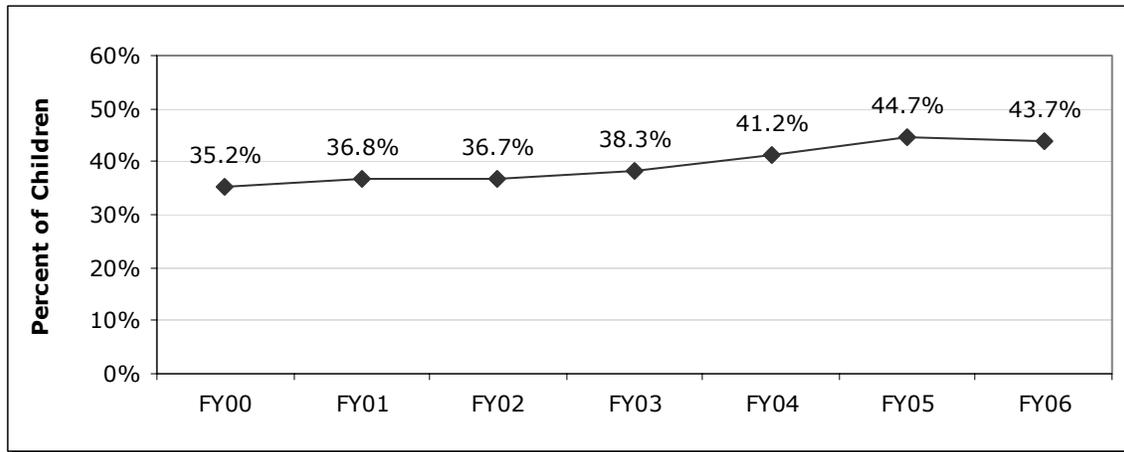
²⁴⁰ Sedlak, A. J., & Broadhurst, D. D. *Study of Adoption Assistance Impact and Outcomes: Final Report.*, (Rockville, MD: Westat, Inc., 1993), at 9-17 and 9-31. Rubin, D., O'Reilly, A., Luan, X., & Localio, A. R. The Impact of Placement Stability on Behavioral Well-being for Children in Foster Care. *Pediatrics*, 119 (2007), at 336-344.

²⁴¹ New York City Administration for Children's Services. *Top 12 Performance Reports, Outcome 3: Low Replacements, Citywide Summary 2004, 4th Quarter* (New York, NY: Administration for Children's Services). *Top 12 Performance Reports, Outcome 3: Low Replacements, Citywide Summary 2005, 4th Quarter*. *Top 12 Performance Reports, Outcome 3: Low Replacements, Citywide Summary 2006, 4th Quarter*.

²⁴² Ibid.

²⁴³ City of New York. *The Mayor's Management Report, FY 2003* (New York, NY: Mayor's Office of Operations), at 44. *The Mayor's Management Report, FY 2007 (Preliminary)*, at 34.

CHART 3.11
 Proportion of Children Who had Two or More Transfers
 from One Placement to Another, by Fiscal Year



It should be noted that the data reported in Chart 3.11 are limited to placement moves children experience from the time they enter care to a given year and do not reflect the total placement moves children may experience from the time they enter care until they exit care, which are not reported by ACS.

6. Maintaining and Improving Family Connections

In 1997, only one-third of children were receiving bi-weekly visits with their parents. Currently, approximately two-thirds of children in foster care with a goal of reunification have bi-weekly visits with their parents, a significant improvement. However, this proportion has not changed significantly during the last four years.

Research has shown that children who visit more frequently with their parents while in foster care are more likely to have improved well-being and to be successfully reunified with their families.²⁴⁴ In FY 2006, 52% of children discharged from foster care were reunited with their parents.²⁴⁵

New York State policy currently requires bi-weekly visits, while ACS' Best Practice

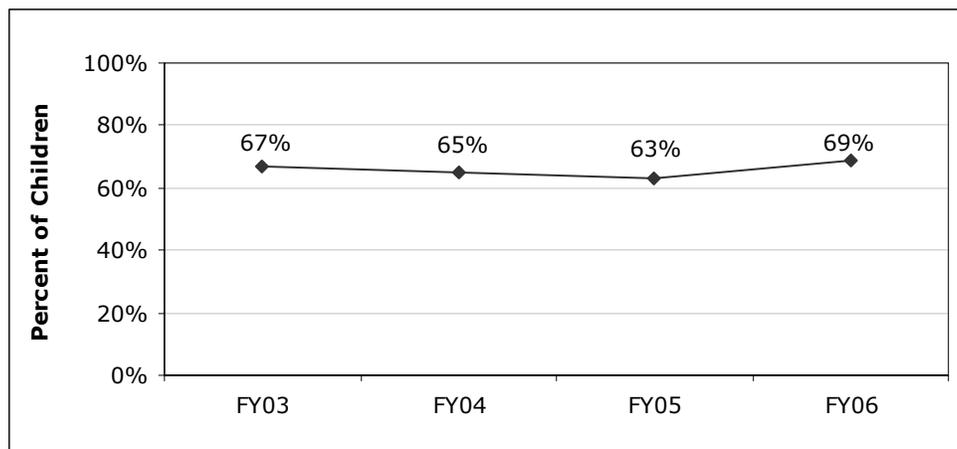
²⁴⁴ Hess, P. *Visiting Between Children in Care and Their Families: A Look at Current Policy* (New York, NY: The National Resource Center for Foster Care & Permanency Planning, Hunter School of Social Work, 2003).

²⁴⁵ New York City Administration for Children's Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 3.

Guidelines recommend weekly visits.²⁴⁶ To put the current state policy into perspective, a child who had hour-long bi-weekly visits with his/her parent would spend a total of 26 hours with that parent over the course of a year, an incredibly small amount of time, particularly if the goal is to maintain a bond between parent and child and facilitate reunification.

In 1997, the Marisol Joint Case Review Team determined that only 39% of children with a goal of reunification had the required number of visits with their parents.²⁴⁷ Practice has improved substantially in this area, although it has leveled off in recent years. As shown in Chart 3.12 below, from FY 2003 through FY 2006, approximately two-thirds of children in foster care with a goal of reunification had bi-weekly visits with their parent/guardian.²⁴⁸

CHART 3.12
Proportion of Children Who Had Bi-weekly Visits
with a Parent or Guardian, by Fiscal Year



ACS has not reported family visiting data since the end of FY 2006. ACS states that it is developing “new approaches to assessing parental involvement in case planning for children in foster care.”²⁴⁹

A large group of stakeholders, including representatives from foster care agencies, the Legal Aid Society, Legal Services and the Center for Family Representation, have expressed support for a new

²⁴⁶ Mattingly, J. B. *Best Practice Guidelines for Family Visiting Arrangements for Children in Foster Care* (New York, NY: Administration for Children’s Services, 2006), at 5. Guidelines state, “Whenever possible and in the best interests of the child, it is recommended that: visits occur on a *weekly basis*; visit length be at least *two hours*; visits occur in *sites identified by participating parties* as comfortable, supportive and convenient.”

²⁴⁷ Marisol Joint Case Review Team. *Marisol v. Giuliani Case Record Review: Services to Children in Foster Care and Their Families* (1997), at 138.

²⁴⁸ City of New York. *The Mayor’s Management Report, FY 2006* (New York, NY: Mayor’s Office of Operations, 2006), at 34.

²⁴⁹ City of New York. *The Mayor’s Management Report, FY 2007 (Preliminary)* (New York, NY: Mayor’s Office of Operations, 2007), at 36.

minimum of weekly visits for children who have a goal of reunification and have also called for utilizing alternative visiting locations and hosts to facilitate meaningful visitation.²⁵⁰ Family visiting has traditionally occurred at private agencies, supervised by agency workers. Recommendations include facilitation of visits between parents and their children in the community instead of at foster care agencies, and having visits “hosted” or supervised by foster parents, relatives, or family friends who have been approved by ACS. In addition, stakeholders suggest that visits should have the minimum level of supervision necessary to ensure the safety of the child, and can be used to improve parenting and strengthen families.²⁵¹ When families engage in meaningful interactions during regularly scheduled visits, the family members strengthen their bonds and parents can learn alternative parenting techniques through effective coaching. ACS has implemented some promising initiatives in the area of visiting, which are discussed in the Reform Efforts section of this chapter.

D. Abuse and Neglect of Children in Foster Care

When ACS removes a child from his/her family and places him/her in foster care, ACS’ most basic responsibility is to ensure that the child is safe from further harm.

In FY 2006, the rate of abuse and neglect in family foster homes was 0.99%. It should be noted that this statistic does not include children in congregate care. This is a very high rate of maltreatment in care and is cause for concern.

Chart 3.13 below provides the proportion of children who were abused and/or neglected while in family foster homes.^{252, 253}

It should be noted that these data exclude children in congregate care. Thus, these data do not provide the overall proportion of all children in

²⁵⁰ New York City Administration for Children’s Services, Visiting Improvement Project Task Force. *Family Visiting Improvement Action Plan: Recommendations made to Commissioner John B. Mattingly & Summary of the Commissioner’s Response* (New York, NY: Administration for Children’s Services, 2005), at 12 and 15.

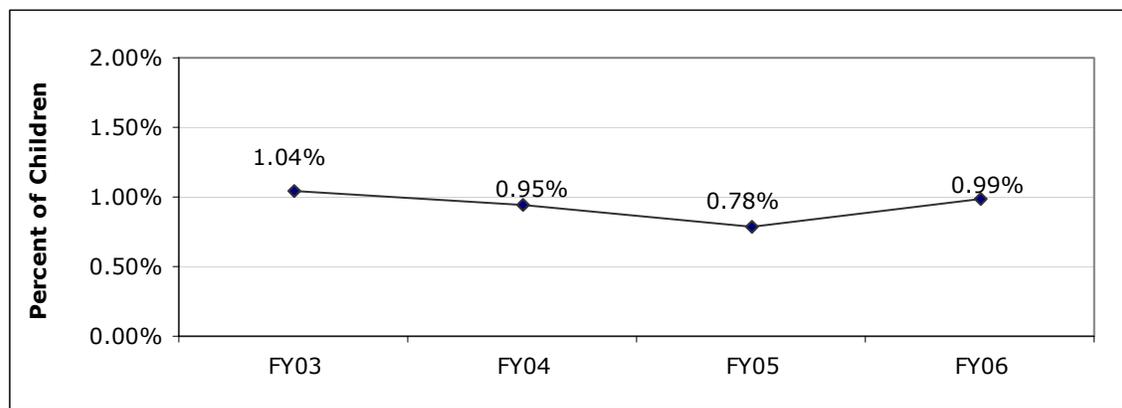
²⁵¹ *Ibid.*, at 20.

²⁵² City of New York. *The Mayor’s Management Report, FY 2003* (New York, NY: Mayor’s Office of Operations), at 44. *The Mayor’s Management Report, FY 2004*, at 48. *The Mayor’s Management Report, FY 2005*, at 48. *The Mayor’s Management Report, FY 2006*, at 35. New York City Administration for Children’s Services. *ACS Update, June 03, FY 2003*, at 2 and 3. *ACS Update, June 04, FY 2004*, at 2 and 3. *ACS Update, June 05, FY 2005*, at 2 and 3. *ACS Update, June 2006, FY 2006*, at 2 and 3. Children’s Rights calculation: abuse and neglect rate in care was calculated by multiplying the percent substantiation rate, provided by ACS, by the number of reports, provided by ACS, and dividing by the sum of the number of children in care on the last day of the previous fiscal year (June 30) plus the total admissions into care during the year for family foster care and kinship care.

²⁵³ Prior to FY 2003, ACS combined data pertaining to abuse and neglect for children in foster care and child care; thus it is not possible to determine the rate of abuse and/or neglect in foster care only prior to FY 2003.

foster care who experience abuse and neglect while in care.²⁵⁴ As noted above, 18% of children in foster care in FY 2006 were placed in congregate care settings, thus representing a significant minority of children in care.

CHART 3.13
Proportion of Children with Substantiated Abuse/Neglect Reports
While in Family Foster Homes, by Fiscal Year (Excludes Children in Congregate Care)



As shown in Chart 3.13, 0.99% of children in foster homes were abused and neglected in FY 2006. The rate has ranged from 1.04% to 0.78% during the past four years. This is a high rate of abuse and neglect in care relative to the nation and, given that these statistics exclude children in congregate care, may understate the true rate of abuse and neglect for all children in foster care in New York City. Nationally, 0.39% of children in foster care (including children in congregate care) experience abuse and neglect while in care.²⁵⁵

E. Permanency

Children need the stability and caring provided by a permanent family. It is the responsibility of the child welfare system, ACS, the private providers and the Family Court (which is discussed in more detail in Chapter 4), to ensure that children who are placed into foster care either return home in a timely fashion, when it is safe and appropriate to do so or, when family reunification is not an option, find another permanent home for the child. If a child cannot safely return home, he/she may be adopted by a relative or other caring and committed adult. For some children, the child welfare system does not provide a permanent home and instead, these children are discharged from foster

²⁵⁴ Information provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. February 27, 2007. According to ACS, abuse and neglect of children in congregate care facilities is tracked at the state level and is not included in the statistics reported by ACS.

²⁵⁵ U.S. Department of Health and Human Services, Administration on Children, Youth and Families. *Child Welfare Outcomes 2003: Annual Report* (Washington, DC: U.S. Government Printing Office), at VI-263.

care between the ages of 18 and 21, depending on the circumstances, without the support of a family. ACS refers to this outcome as “Independent Living.”

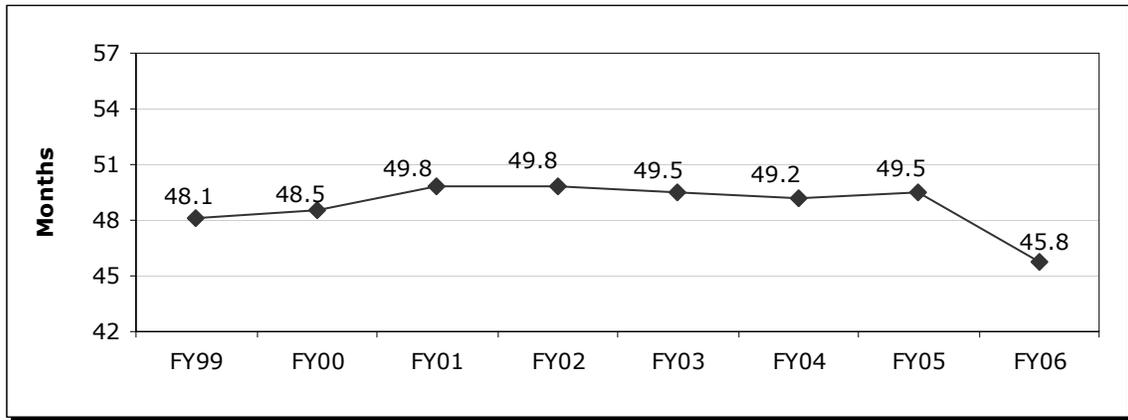
The following sections provide data and discussion regarding the average length of time children spend in foster care and the various discharge outcomes.

1. Length of Time in Foster Care

An important measure of the success of a child welfare system is providing children in foster care with a permanent family in a timely manner. Chart 3.14 below provides the average length of stay for children in foster care in New York City from FY 1999 through FY 2006.²⁵⁶ This includes all children in foster care regardless of permanency goal.

The average length of stay for children in foster care in NYC is 46 months, 58% higher than the national average of 29 months.

CHART 3.14
Length of Stay in Foster Care, in Months, by Fiscal Year



From FY 1999 to FY 2005, the average length of stay in NYC held steady at a very high 48 or 49 months. In FY 2006, it dropped slightly to 46 months.²⁵⁷ This is significantly higher than the national average length of stay of 28.6 months.²⁵⁸

²⁵⁶ City of New York. *The Mayor’s Management Report, FY 2002* (New York, NY: Mayor’s Office of Operations), at 26. *The Mayor’s Management Report, FY 2003*, at 27. *The Mayor’s Management Report, FY 2004*, at 27. *The Mayor’s Management Report, FY 2005*, at 27. *The Mayor’s Management Report, FY 2006*, at 23. *The Mayor’s Management Report, FY 2007 (Preliminary)*, at 28.

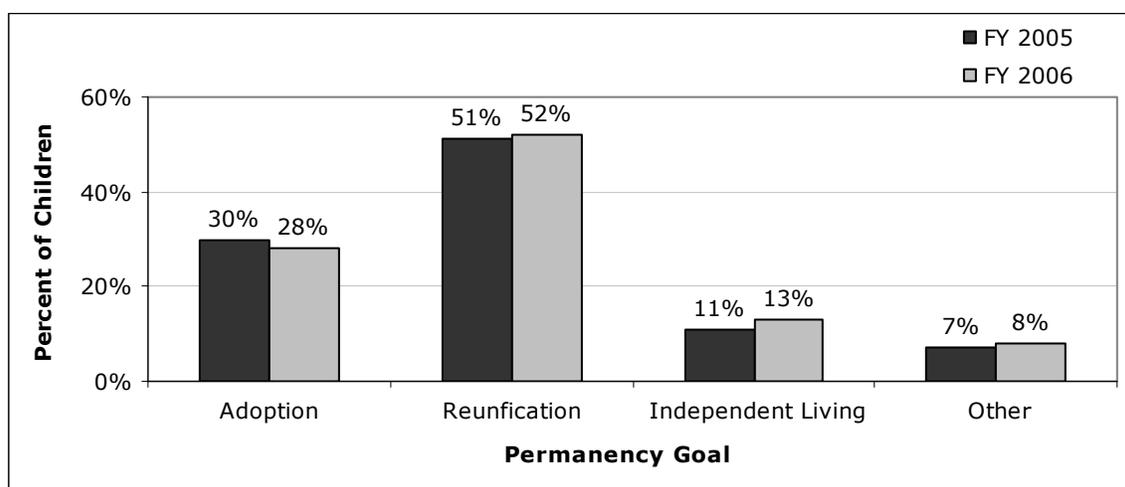
²⁵⁷ City of New York. *The Mayor’s Management Report, FY 2006* (New York, NY: Mayor’s Office of Operations), at 23. *The Mayor’s Management Report, FY 2007 (Preliminary)*, at 28.

2. Discharge by Permanency Goal

Approximately one half of children exit foster care to reunification, less than one third exit to adoption and 13% exit foster care to independent living. Chart 3.15 below illustrates the proportion of children discharged by permanency goal for FY 2005 and FY 2006.²⁵⁹

In 2006, 13% of children were discharged to independent living, i.e., they were neither reunified nor adopted. Nationally, only 9% of children exiting foster care exit to independent living.

CHART 3.15
Proportion of Children Discharged, by Permanency Goal and Fiscal Year



In the first seven months of FY 2007, the proportion of children discharged to reunification increased to 56%, the proportion discharged to adoption declined to 23%, the proportion discharged to independent living increased to 15% and the proportion discharged to “other” remained constant.²⁶⁰

Of particular concern is the proportion of children that are discharged to independent living. Nationally, only 9% of children are discharged to independent living.²⁶¹

²⁵⁸ U.S. Department of Health & Human Services, Administration on Children, Youth and Families. *The AFCARS Report, Preliminary FY 2005 Estimates as of September 2006 (13)*. (Washington, DC: U. S. Government Printing Office).

²⁵⁹ New York City Administration for Children’s Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 3.

²⁶⁰ New York City Administration for Children’s Services. *ACS Update, January 2007, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 3. As per the ACS Office of Research and Evaluation, April 30, 2007, “Other” destinations include “AWOLs” (Absent Without Leave), adult or child mental institutions, penal/corrections institutions, OCFS facilities, Department of Mental Health facilities and “administrative actions.”

3. Children Discharged from Foster Care within One Year of Entering Care

Another way to evaluate whether ACS is providing children with permanency in a timely manner is to look at the outcomes of children by their year of entry into care. This is known as cohort data analysis. These data allow one to

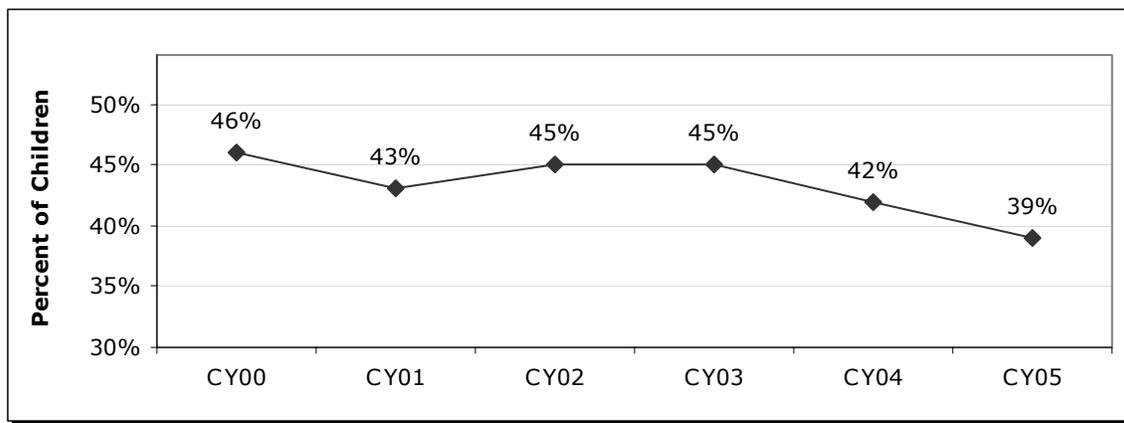
The proportion of children who were discharged within 12 months of entering foster care declined by 15% from CY 2000 to CY 2005.

examine if the system is becoming more effective by “controlling” for children who entered care a long time ago (and who are frequently considered to be more challenging to place in a

permanent family). For example, do children who entered care in 2005 achieve permanency more quickly than children who entered care in 2000?

Chart 3.16 below provides the proportion of children discharged within 12 months of entering foster care, for children who entered foster care from 2000 through 2005, for all permanency goals combined.²⁶²

CHART 3.16
Proportion of Children Discharged within
12 Months of Entering Foster Care, by Calendar Year



²⁶¹ U.S. Department of Health & Human Services, Administration on Children, Youth and Families. *The AFCARS Report, Preliminary FY 2005 Estimates as of September 2006(13)*. (Washington, DC: U.S. Government Printing Office).

²⁶² New York City Administration for Children’s Services. *Top 12 Performance Report, Outcomes and Indicators, Outcome 2: Faster Permanency, Citywide Summary, 2003, 4th Quarter* (New York, NY: Administration for Children’s Services), at 1. *Top 12 Performance Report, Outcomes and Indicators, Outcome 2: Faster Permanency, Citywide Summary, 2005, 4th Quarter*, at 1. ACS tracks the percent of children discharged by December of the following calendar year from the year of entry, creating a range of one to two years in care, by discharge outcome. Children’s Rights’ calculation: total number of children discharged multiplied by the percentage discharged within 3 months, between 4 to 6 months, and between 7 to 12 months for children discharged from both their first and second spell in care. These numbers were totaled and divided by the total number of children discharged to arrive at the percentage discharged within 12 months.

In fact, the proportion of children discharged from foster care within 12 months of entry has declined by 15%, from 46% in CY 2000 to 39% CY 2005.²⁶³

4. Reunification

As previously noted, in FY 2006, 52% of children who were discharged from foster care were reunified with their families (see Chart 3.15).²⁶⁴

The following sections provide data and discussion regarding the proportion of children discharged to reunification, the average length of time to reunification and the proportion of children who are reunified within 12 months.

a. Reunification with Birth Families

Chart 3.17 below provides the median length of time children who entered foster care for the first time spent in foster care before being reunified with their families, by year of entry, from CY 1997 through CY 2004.²⁶⁵

The median length of time children (who enter foster care for the first time) spend in foster care before being reunified has increased by 75%, from 5.9 months in CY 1999 to 10.3 months in CY 2004.

In FY 2006, more than 50% of the children who were discharged from foster care were reunified with their family, but the length of time children are spending in foster care before being reunified has increased in recent years.

Possible causes for this increase in length of stay prior to reunification could include but are not limited to the lack of necessary services, delays in accessing services, inadequate case planning/management, infrequent visiting between children and their parents and/or delays related to Family Court proceedings (which are discussed in detail in Chapter 4 of this report). It is also possible that, given the declining numbers of children entering care, which may suggest a higher “bar” for entry into the system, families that are coming in present with more intensive needs that take more time to resolve prior to reunification. However, without examining the circumstances within individual cases, it is difficult to determine the exact causes of this increased length of stay

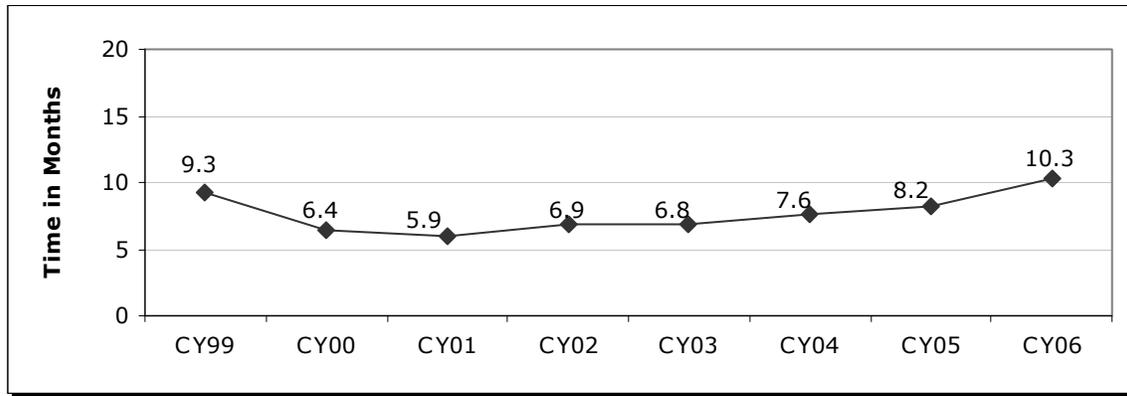
²⁶³ Ibid.

²⁶⁴ New York City Administration for Children’s Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 3. Children’s Rights calculation: divide the number of children discharged to reunification by the total number of children discharged. Prior to FY 2006, ACS reported the total number of children discharged from foster care as the number discharged to adoption and the number discharged to “Other Discharges” which is defined as, “Return Home, Ind. Living, etc.” New York City Administration for Children’s Services. *ACS Update, June 05, FY 2005* (New York, NY: Office of Research and Evaluation, 2005), at 3.

²⁶⁵ City of New York. *The Mayor’s Management Report, FY 2003* (New York, NY: Mayor’s Office of Operations), at 45. *The Mayor’s Management Report, FY 2004*, at 49. *The Mayor’s Management Report, FY 2005*, at 33. *The Mayor’s Management Report, FY 2006*, at 35. *The Mayor’s Management Report, FY 2007 (Preliminary)*, at 35. Data on year of cohort entry provided by ACS, Office of Research and Evaluation.

prior to reunification. In addition, ACS does not have data on children who entered foster care in either CY 2005 or 2006, which would reflect the most ACS recent practice.

CHART 3.17
Median Length of Time to Reunification for
Children Entering Foster Care for the First Time, in Months, by Year of Entry



b. Children Reunified within 12 months

Of all children who were reunified with their parents, Chart 3.18 below provides the proportion of children who were reunified with their parents within 12 months from FY 1999 through FY 2006.²⁶⁶ In FY 2006, the proportion was 55.3%, which is a 24% increase from the prior year's performance.²⁶⁷ However, this is substantially below the national average of 69.5%.²⁶⁸

Of all children who were reunified with their parents, the proportion of children who were reunified within 12 months of entering foster care was 55.3% in FY 2006, which is substantially below the national average of 69.5%.

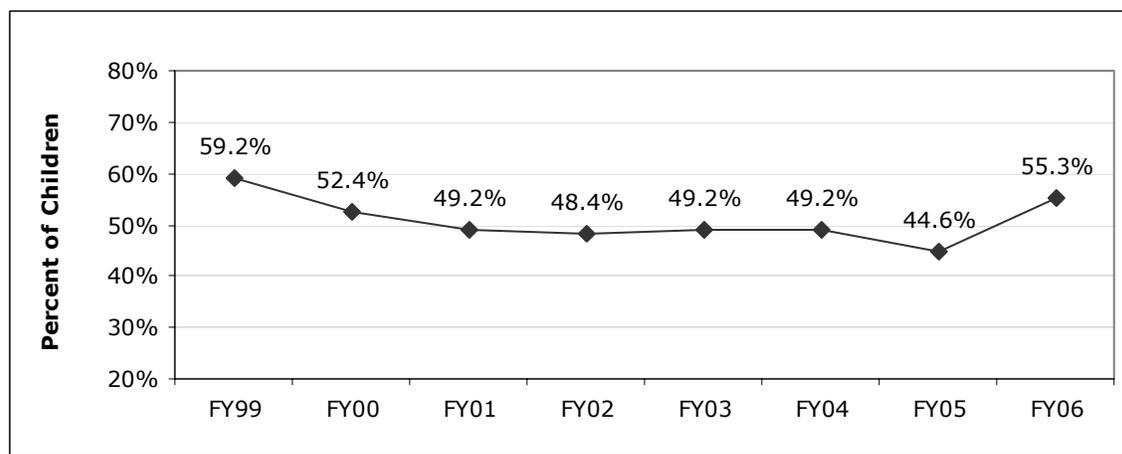
²⁶⁶ City of New York. *The Mayor's Management Report, FY 2002* (New York, NY: Mayor's Office of Operations), at 34. *The Mayor's Management Report, FY 2003*, at 35. *The Mayor's Management Report, FY 2007 (Preliminary)*, at 35.

²⁶⁷ City of New York. *The Mayor's Management Report, FY 2007 (Preliminary)* (New York, NY: Mayor's Office of Operations, 2007), at 35.

²⁶⁸ U.S. Department of Health and Human Services, Administration on Children, Families and Youth. *Child Welfare Outcomes 2003: Annual Report* (Washington, DC: U.S. Government Printing Office), at III-6. 2003 is the most recent year for which data is available.

CHART 3.18

Proportion of Children Reunified with their Parents within 12 Months, by Fiscal Year



5. Adoption

When children cannot safely be reunified with their families, adoption can provide children with permanency. According to the Federal Adoption and Safe Families Act (ASFA), when children have been in foster care for 15 of the previous 22 months, public child welfare agencies must either file a petition to terminate parental rights (TPR) or document why a child should still be reunified with their family.²⁶⁹ New York State requires that a TPR petition be filed within 30 days of the child's goal being changed from reunification to adoption.²⁷⁰ Once a TPR is granted the child is "freed" for adoption. Contract agencies are responsible for recruiting adoptive homes, matching children to pre-adoptive homes, filing the TPR petition, presenting evidence to the court that supports the allegations in the TPR petition and finalizing the adoption. It is important for a child who is freed for adoption to be adopted as soon as possible because children who are freed, but not yet adopted, have no legal family.

The following sections provide data and discussion regarding the average length of time children remain in foster care before they are adopted and the timeframes between key milestones in the adoption process.

²⁶⁹ Child Welfare League of America. *Summary of the Adoption and Safe Families Act of 1997*. (P.L. 105-89) (Washington, DC: Child Welfare League of America). ASFA does provide the following three exceptions to the TPR timeframe requirement: (1) a relative is caring for the child; (2) the agency has documented a compelling reason that a TPR is not in the best interest of the child; and (3) the agency has not provided the family with the services that are necessary to reunite the child with his/her family.

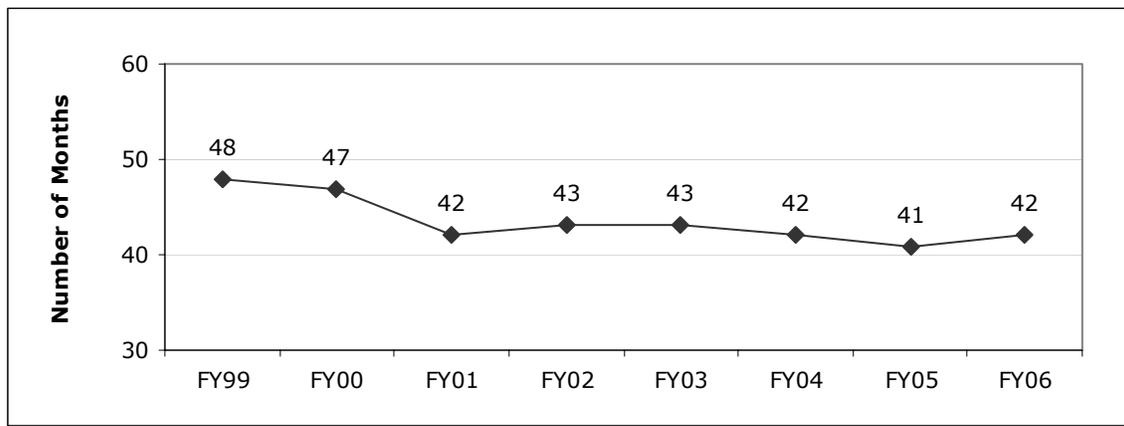
²⁷⁰ New York City Administration for Children's Services. *Implementation of the Adoption and Safe Families Act, Part I: Guidelines for Permanency Reviews* (New York, NY: Administration for Children's Services, 1999), at 6.

a. Length of Time to Adoption for Those who Are Adopted

In FY 2006, the average length of stay in foster care for children who were adopted was 42 months, a small improvement since FY 1999, when the average length of stay in foster care before being adopted was 48 months.

Chart 3.19 below provides the average length of time from initial placement to adoption for children in foster care from FY 1999 to FY 2006.²⁷¹

CHART 3.19
Average Time to Complete Adoption in Months, by Fiscal Year



The average length stay in foster care for children who were adopted improved from 48 months in FY 1999 to 40.8 months in FY 2005. However, it increased in FY 2006 to 42 months.

b. Length of Time to Adoption by Year of Entry

Chart 3.20 below provides the median length of time from initial placement to adoption for children who entered foster care for the first time, by year of entry into care from CY 1992 through CY 1999 (cohort data).²⁷² These data allow one to assess changes in the system by comparing the outcomes of children who enter

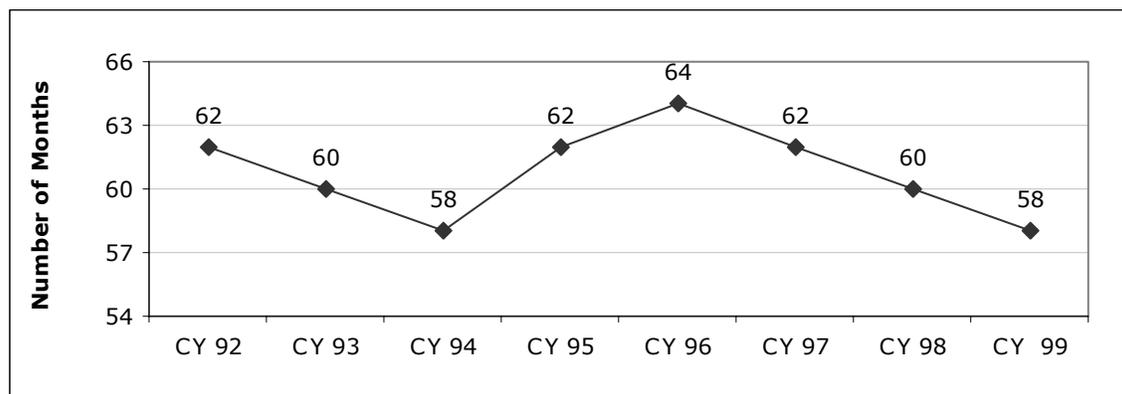
In FY 2006, more than half of the children who were adopted spent more than 58 months in foster care, a 9% improvement since FY 2003, when more than half of children spent more than 64 months in foster care before being adopted.

²⁷¹ City of New York. *The Mayor’s Management Report, FY 2003* (New York, NY: Mayor’s Office of Operations), at 45. *The Mayor’s Management Report, FY 2004*, at 49. *The Mayor’s Management Report, FY 2005*, at 49. *The Mayor’s Management Report, FY 2006*, at 35. *The Mayor’s Management Report, FY 2007 (Preliminary)*, at 35.

²⁷² Ibid. Year of cohort entry in foster care provided by Administration for Children’s Services, Office of Research and Evaluation.

the foster care system at different times.

CHART 3.20
Median Length of Time to Adoption, in Months,
for Children in Foster Care for the First Time, by Year of Entry



The median amount of time children who entered foster care in CY 1996 spent in foster care before being adopted was 64 months (5.3 years). Children who entered foster care in CY 1999 spent a median of 58 months (4.8 years) in care before being adopted, a small improvement.²⁷³ However, more than half of the children who entered foster care in CY 1999 and were adopted spent more than 4.8 years in foster care before being adopted.

c. Children with the Goal of Adoption within 12 Months of Entering Foster Care

In FY 2006, ACS began to report on the proportion of children for whom the goal of adoption was set within 12 months of admission to foster care. In FY 2006, 11.1% of children with a goal of adoption had that goal set within 12 months of entering foster care.²⁷⁴

d. Filing of TPR Petition within 30 days of Adoption Goal Establishment

New York State Law requires that a TPR petition be filed within 30 days of the child's goal being changed from reunification to adoption. Children's Rights requested data on the length of time from a child's goal change to the filing of a TPR petition. ACS reported that it does not currently have these data.

²⁷³ City of New York. *The Mayor's Management Report, FY 2003* (New York, NY: Mayor's Office of Operations), at 45. *The Mayor's Management Report, FY 2007 (Preliminary)*, at 35.

²⁷⁴ New York City Administration for Children's Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 5.

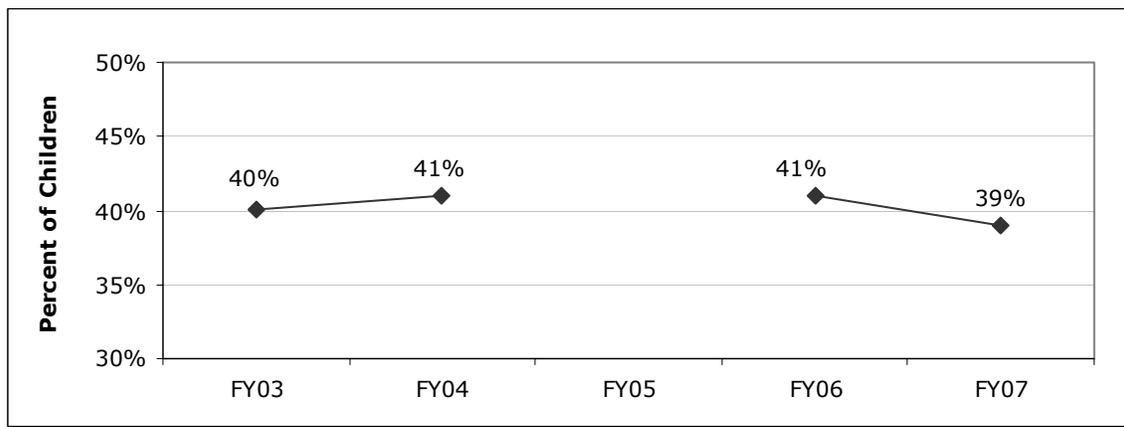
e. Children in Care for 15 of the previous 22 months with a TPR Petition Filed

According to the Federal Adoption and Safe Families Act (ASFA), when children have been in foster care for 15 of the previous 22 months, public child welfare agencies must either file a TPR petition or document why a child should still be reunified with their family.

In FY 2007, less than 40% of children who have been in foster care for 15 of the past 22 months have had a TPR Petition filed on their behalf.

Chart 3.21 below provides the proportion of children who have been in ACS custody for 15 of the past 22 months for whom a TPR petition has been filed.²⁷⁵

CHART 3.21
Proportion of Children who Have Been in Care for at Least 15 of the Past 22 Months, with a TPR Petition Filed, by Fiscal Year



In the four years for which data was available, less than half the children who had been in foster care for 15 of the past 22 months had a TPR petition filed. In FY 2007, there was a decline in the proportion of children for whom a TPR petition was filed compared to FY 2006.

f. Length of Time from TPR to Adoption

Children’s Rights requested data from ACS regarding the length of time between TPR and adoption. ACS reports that these data are not currently available. These data would provide important information regarding how long it takes to move children through the adoption process once they have been legally freed.

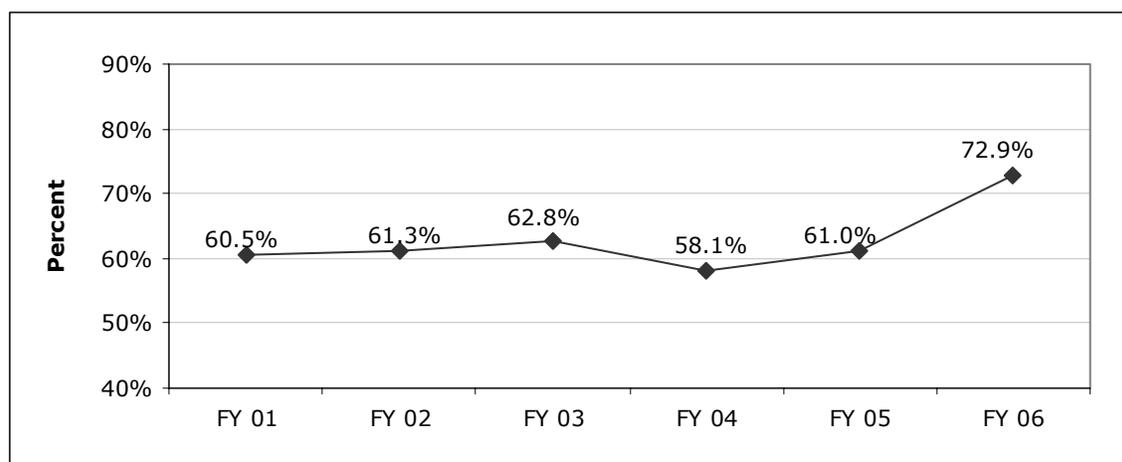
²⁷⁵ Data provided to Children's Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. July, 2007. [Percent of children who have been in care for at least 15 of the past 22 months with a TPR petition filed.] (Data for 2005 were unavailable).

g. Children Freed for Adoption with an Identified Pre-Adoptive Family

Chart 3.22 below provides the proportion of freed children who are living with adoptive families while awaiting adoption finalization for FY 2001 through FY 2006.²⁷⁶ From 2001 to 2005, approximately 61% of freed children were living with a pre-adoptive family, awaiting finalization. The remaining 39% did not live with a pre-adoptive family.

In FY 2006, 72.9% of freed children were living with adoptive parents, awaiting adoption finalization, a 20% increase from FY 2001.

CHART 3.22
Proportion of Freed Children Awaiting Adoption Finalization and Living with Adoptive Parents, by Fiscal Year



In FY 2006, the proportion of freed children living with adoptive parents improved to 73%.

6. Independent Living

When children are discharged to independent living, the child welfare system has failed to place them with a permanent, stable family. Research has shown that children who are discharged

The proportion of children who were discharged from foster care to independent living increased from 11% in FY 2005 to 13% in FY 2006.

²⁷⁶ City of New York. *The Mayor's Management Report, FY 2002* (New York, NY: Mayor's Office of Operations), at 26. *The Mayor's Management Report, FY 2003*, at 27. *The Mayor's Management Report, FY 2004*, at 27. *The Mayor's Management Report, FY 2005*, at 27 & 49. *The Mayor's Management Report, FY 2006*, at 23 & 35. *The Mayor's Management Report, FY 2007 (Preliminary)*, at 28 & 35.

from foster care to independent living, without a permanent legal family, have an increased likelihood of homelessness, unemployment, poor health and other poor life outcomes.²⁷⁷ From FY 2005 to FY 2006, the proportion of children discharged to independent living rose from 11% to 13%, an 18% increase (see Chart 3.15).²⁷⁸ More recently, in the first seven months of FY 2007 (July 2006 through January 2007) the proportion of children discharged to independent living increased to 15% compared to 12% during the same seven month period in FY 2006, a 25% increase.²⁷⁹ As noted above, nationally, only 9% of children are discharged to independent living.²⁸⁰

F. Re-entry into Care

An important measure of true permanency is the frequency with which children who exit foster care later return. ACS tracks children who are reunified with their families and publicly reports data regarding children that re-enter foster care within one year of having been reunified. ACS does not currently report on the re-entry to care of children who have been adopted, but reports that it is planning to do so in the future.²⁸¹

The rate at which children re-enter foster care after being reunified with their families increased by 25%, from 8% in CY 2004 to 10% in CY 2005.

Chart 3.23 provides the proportion of children who re-entered care within one year of reunification with their families from 2000 through 2005 and presents the data in two categories—children who

spent 90 days or less in foster care and children who spent more than 90 days in foster care prior to reunification.²⁸² The rate of re-entry for children who were originally in care for more than 90 days increased 25%, from 8% in CY 2004 to 10% in CY 2005.²⁸³

²⁷⁷ Courtney, M., Dworsky, A., Terao, S., Bost, N., Cusick, G., Keller, T. & Havlicek, J. *Midwest Evaluation of the Adult Functioning of Former Foster Youth* (Chicago, IL: Chapin Hall Center for Children, 2005).

²⁷⁸ New York City Administration for Children's Services. *ACS Update, June 2006, FY 2006* (New York, NY: Office of Research and Evaluation, 2006), at 3.

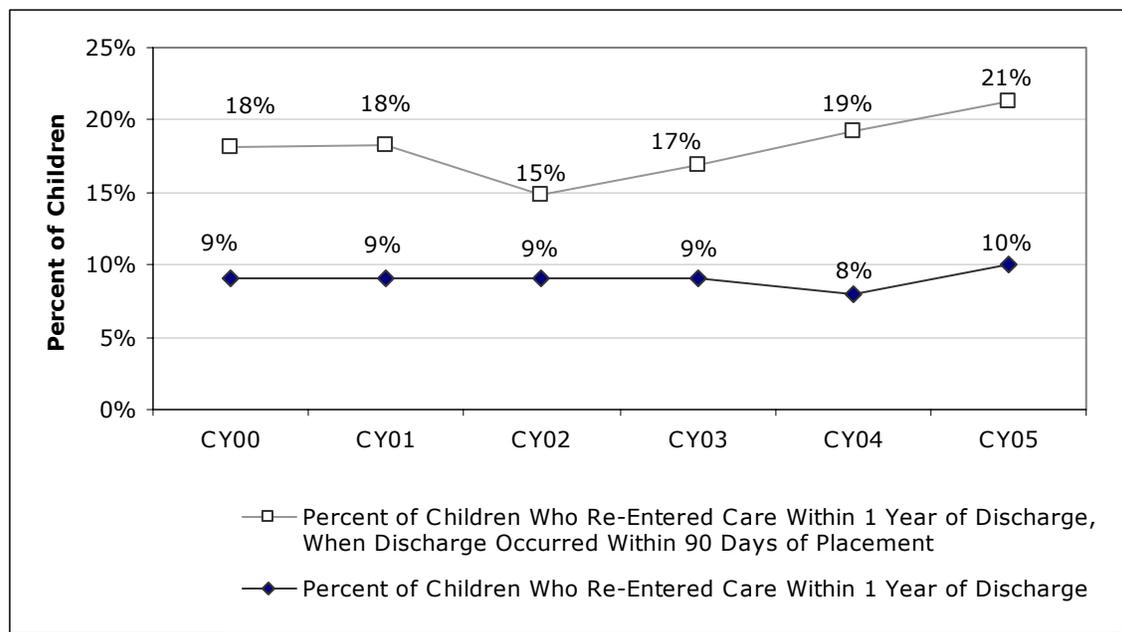
²⁷⁹ New York City Administration for Children's Services. *ACS Update January 2007, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 3. ACS began reporting the number of children discharged to Independent Living in the *ACS Update, June 2006, FY 2006*. Previously ACS had only distinguished between children that were discharged to adoption and all others, including reunification, independent living, etc.

²⁸⁰ U.S. Department of Health & Human Services, Administration on Children, Families and Youth. *The AFCARS Report, Preliminary FY 2005 Estimates as of September 2006(13)*, (Washington, DC: U.S. Government Printing Office), at 4.

²⁸¹ ACS provides re-entry date in the *Top 12 Performance Report, Outcomes and Indicators, Outcome 4: Re-entries into Foster Care from Reunification & Adoption, Citywide Summary*, at 1.

²⁸² New York City Administration for Children's Services. *Top 12 Performance Report, Outcomes and Indicators, Outcome 4: Low Re-Entry into Foster Care from Reunification or Adoption, Citywide Summary 2004, 4th Quarter* (New York, NY: Administration for Children's Services), at 1. *Top 12 Performance Report, Outcomes and Indicators, Outcome 4: Low Re-Entry into Foster Care from Reunification or Adoption, Citywide Summary 2005, 4th Quarter*, at 1. *Top 12 Performance Report, Outcomes and Indicators, Outcome 4: Low Re-Entry into Foster Care from Reunification or Adoption, Citywide Summary 2006, 4th Quarter*, at 1. ACS separates the re-entries that occurred after the 1st spell in

CHART 3.23
Proportion of Children Who Re-Entered Foster Care within One Year of Discharge,
by Calendar Year



In 2003, the most recent year for which there is national data, the national average for children re-entering foster care within twelve months of being reunified was 10.7%.²⁸⁴ Thus, New York City is performing slightly better than the national average on this indicator.

A particularly concerning finding is that more than one-fifth of children who were reunified after spending 90 days or less in foster care are coming back into foster care. This raises questions about the assessments of and services provided to these families as well as the discharge decisions being made in these cases.

care reunification and the 2nd spell in care reunification. Children's Rights' calculation: multiply the percentage of children that reentered care by the total number of children who were reunified (for each spell) and divide the total number of children that re-entered care by the total number of children that were reunified in that calendar year. Calculations done for children discharged from foster care within 90 days and after 90 days.

²⁸³ New York City Administration for Children's Services. *Top 12 Performance Report, Outcomes and Indicators, Outcome 4: Low Re-Entry into Foster Care from Reunification or Adoption, Citywide Summary 2006, 4th Quarter* (New York, NY: Administration for Children's Services), at 1.

²⁸⁴ U.S. Department of Health & Human Services, Administration on Children, Families and Youth. *Child Welfare Outcomes 2003: Annual Report* (Washington, DC: U. S. Government Printing Office), at III-6.

G. Casework Caseloads and Quality of Agency Case Practice

1. Caseloads

When foster care caseworkers have high caseloads, they can not effectively carry out their responsibilities. High caseloads result in workers not having enough time to make adequate face-to-face contacts with children and families, prepare appropriate case plans and reports, receive adequate supervision and make thoughtful decisions that affect children's lives. High caseloads

Current foster care caseworker caseloads are 22 to 24 cases per caseworker, which is twice the recommended caseload of 11 to 12 children per caseworker.

High caseloads, barriers to accessing services and the generally poor outcomes children in foster care continue to experience highlight the need to closely examine case practice in order to determine why many children in NYC remain in foster care for such long lengths of time.

contribute to poor relationships between workers and families and to the re-entry of children into foster care.²⁸⁵ A foster care worker's caseload is critical to his/her ability to ensure a child's safety in foster care, appropriately assess the needs of the family, facilitate the provision of services to the child, their foster parents and birth parents and move the child toward permanency.

A study of the child welfare workforce funded by the New York State Office of Children and Family Services (OCFS) and done by Walter R. McDonald and

Associates Inc. recommends that foster care caseworkers carry a caseload of 11 to 12 *children* per caseworker.²⁸⁶ The Child Welfare League of America's (CWLA) standard for foster care caseworkers is 12-15 children per caseworker.²⁸⁷ According to COFCCA, a private statewide membership organization of child welfare providers, current foster care caseloads are 22 to 24 children per caseworker.²⁸⁸

The results of a COFCCA 2005 Salary Study indicates that the average salary of a private foster care agency caseworker is \$10,000 per year less than the average salary of a public ACS child protective

²⁸⁵ Hess, P., Folaron, G., Jefferson, A., & Kinnear, R. *The impact of caseload size and caseworker/supervisor turnover on foster care reentry* (Indianapolis, IN: Professional Review Action Group Project, Indiana State Department of Public Welfare, and Indiana University School of Social Work, 1991).

²⁸⁶ Walter R. McDonald & Associates and American Humane Association. *New York State Child Welfare Workload Study*. (Rensselaer, NY: New York State Office of Children and Family Services, 2006), at 6-14.

²⁸⁷ Child Welfare League of America. *Recommended Caseload Standards*. Excerpted from *CWLA Standards of Excellence for Services to Abused or Neglected Children and Their Families, Revised 1999* (Washington, DC: Child Welfare League of America, 1999). Retrieved May 18, 2007, from <http://www.cwla.org/newsevents/news030304cwlacase-load.htm>.

²⁸⁸ Purcell, J. F. Testimony before the New York City Council Committee on General Welfare. March 29, 2007.

specialist.²⁸⁹ Stakeholders indicate that this disparity, among other factors, contributes to the high private agency annual staff turnover rate of 40%, as reported by COFCCA.²⁹⁰

2. *Quality of Case Practice*

Since 2000, ACS has conducted annual reviews of foster care case practice and outcomes for each contract agency using the Evaluation and Quality Improvement Protocol (EQUIP). One component of this review is called the Program Evaluation system (PES) which includes a case record review of a sample of cases served by the agency in order to determine the quality of case practice.²⁹¹

The case record review component of the PES includes 24 indices that measure agency performance on factors ranging from the number of case contacts (i.e. worker contacts with children, parents, foster parents), the quality of safety and risk assessments, services provided to the child in foster care and services provided to birth and foster parents. Each of the indices in the PES includes several components. For example, the index on “Auxiliary Services: Child” includes questions regarding whether a child needs particular services (e.g., mental health services, substance abuse treatment, developmental therapy, early childhood education, and behavioral and physical therapy), whether needed services were arranged, whether there were barriers to providing the services and whether steps were taken to overcome the barriers.²⁹²

ACS provided Children’s Rights with the 2005 average scores for all of the agencies combined for each of the 24 indices. ACS declined to provide the scores for the individual questions that make up the indices. Since each of the indices combines many components of case practice into one score and these data were not provided to Children’s Rights by ACS, performance on specific areas of practice cannot be assessed. On any given day, nearly 17,000 children are in foster care in New York City and, in 2006, more than 24,000 children spent at least one day in foster care;²⁹³ the quality of foster care services has an impact on each of these children and their families.

It should be noted that concerns such as the high caseloads discussed above, stakeholders’ comments regarding the barriers that exist to accessing services (including mental health and substance abuse treatment) and the generally poor outcomes children in foster care are continuing to experience highlight the need to closely examine case practice in order to be able to determine why many children in NYC are remaining in foster care for such long lengths of time.

²⁸⁹ Data provided to Children’s Rights by the Council of Family and Child Caring Agencies. May, 2007. [COFFCA 2005 Salary Study].

²⁹⁰ Purcell, J. F. Testimony before the New York City Council Committee on General Welfare. January 30, 2006.

²⁹¹ New York City Administration for Children’s Services. *Foster Boarding Home EQUIP – Final Methodology for CY 2004*, (New York, NY: Administration for Children’s Services), at 2-8.

²⁹² New York City Administration for Children’s Services. *PES Active Case Record Review Instrument, 2006 Review* (New York, NY: Administration for Children’s Services), at 43 and 45-46.

²⁹³ Data provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. April, 2007. [Number of Children in Foster Care at Least One Day].

III. Current Reform Efforts

This section describes the recent significant reform initiatives targeted at improving the provision of foster care services.

Initiating reforms is the first step. These initiatives must be closely tracked and the results reported in order to ensure that they are implemented as planned and achieving their goals.

A. Rightsizing and Realignment

In February 2005, ACS issued a plan entitled “Protecting Children and Strengthening Families: A Plan to Realign New York City’s Child Welfare System.” Following the significant decline in the number of children in foster care over the past 15 years, ACS reduced the number of programs that provided foster care services, which ACS referred to as “right-sizing” the foster care system. ACS used program performance evaluations as a guide to determine which programs should be closed and then made the decision to terminate its “foster boarding home contracts with two agencies and to close one of its own directly operated foster boarding home programs.”²⁹⁴ As of June 2007, ACS had closed all of its direct foster care programs. ACS also began to reduce the system’s total congregate care capacity through decreased congregate care placements, transfers to lower levels of care such as family-based foster care and appropriate discharges.²⁹⁵

ACS’ realignment strategy is based on increasing community-based family supports to avert foster care placements and improving the quality of foster care services for those children who require them in order to decrease their length of stay in foster care.²⁹⁶ ACS reinvested some of the savings resulting from the declining foster care census in preventive and aftercare services. Preventive and aftercare services can help families avoid placement as well as safely reunify children with their families. Aftercare services can include “crisis intervention, respite care, self help groups, information, and referral and education supports” based on the needs of each agency’s clients.²⁹⁷ ACS provided agencies with aftercare funding based on the number of children they had in care and agencies were “given flexibility to identify target populations, and develop program models, staffing patterns and services based on the needs of their individual clients.”²⁹⁸ ACS set a 10% reduction in the number of days children spend in foster care for 2006 compared to the number of days children spent in foster care in FY 2005 as the target for the aftercare initiative. For FY 2007, the target set by ACS remained a 10% reduction in the number of days children spend in foster care

²⁹⁴ New York City Administration for Children’s Services. *Protecting Children and Strengthening Families: A Plan to Realign New York City’s Child Welfare System* (New York, NY: Administration for Children’s Services, 2005), at 6.

²⁹⁵ *Ibid*, at 8-10.

²⁹⁶ *Ibid*, at 12-17.

²⁹⁷ *Ibid*, at 13.

²⁹⁸ Federation of Protestant Welfare Agencies. *True Stories of Investment, Innovation & Inspiration* (New York, NY: Federation of Protestant Welfare Agencies, 2007), at 1.

compared to the number of days in FY 2005.²⁹⁹ Agencies are expected to meet these targets to continue receiving the same level of funding through the aftercare initiative.

B. Preparing Youth for Adulthood

In 2006, ACS issued a plan to address the special needs of adolescents in foster care, called Preparing Youth for Adulthood (PYA).³⁰⁰ This plan stresses the importance of preparing youth for their life after foster care, if they are not being discharged to reunification or adoption. ACS states that “Each year, approximately, 1,200 of New York’s foster youth over the age of 18 leave the foster care system, but only 20% of them are leaving to be reunified with their families or to be adopted.”³⁰¹ Through Preparing Youth for Adulthood, ACS intends to target the needs of children aging out of foster care by establishing six goals that should be achieved for each child before they leave foster care. These goals are: (1) establishing a permanent connection with a caring adult; (2) having a stable living situation; (3) advancing their education and personal development; (4) taking increased responsibility for their decisions; (5) meeting their individual needs and (6) having ongoing supports after they have left foster care.³⁰² ACS has developed a measurable outcome for each of these goals and is including these measures in EQUIP as informational measures in FY 2006 and 2007.³⁰³

C. Recruitment of Foster Homes

ACS reports that it has expanded its traditional efforts to recruit foster homes. As of July 2006, ACS began giving agencies credit on their annual EQUIP evaluation for recruiting foster homes outside of their community district (i.e. neighborhood).³⁰⁴ This includes recruiting foster homes in neighborhoods adjacent to the one the agency is located in and foster homes with the capacity for sibling groups of three or more children in their borough.

ACS has also integrated foster home recruitment into other new initiatives. One of the goals of the Community Partnership Initiative (which is discussed at greater length in Chapter 2) is the recruitment of neighborhood-based foster families so that children who enter foster care can remain in their neighborhood. In addition, ACS has implemented a Families for Teens program which targets recruitment of foster families for teenagers, a traditionally hard to place group. Finally, ACS is working with contract agencies to improve foster parent retention through the Foster Parent

²⁹⁹ Martin, N. Statement at the New York City Administration for Children’s Services Aftercare Forum. September 25, 2006.

³⁰⁰ New York City Administration for Children’s Services. *Preparing Youth for Adulthood* (New York, NY: Administration for Children’s Services, 2006).

³⁰¹ *Ibid*, at 3.

³⁰² *Ibid*, at 1.

³⁰³ *Ibid*, at 12.

³⁰⁴ New York City Administration for Children’s Services. *ACS EQUIP News Flash: Expanded Foster Home Recruitment Options*. (New York, NY: Administration for Children’s Services, 2006).

Support, Training and Recruitment Initiative which provides contract agencies with additional funding for recruitment, training and support for foster parents.³⁰⁵

D. Family Visiting

ACS has committed to improving family visiting for children in foster care. In 2005, ACS created the Office of Family Visiting, which is dedicated to improving the quality of visits. ACS also re-issued its Best Practice Guidelines for Family Visiting Arrangements in Foster Care, which it first issued in 2000. These guidelines stress the importance of family visiting in achieving positive outcomes for children in terms of permanency and well-being. Stakeholders indicate that, while the guidelines do outline best practices for family visiting, they have not been fully implemented seven years after ACS first issued them, most importantly the recommendation for weekly visits between children in foster care and their families.

In September 2006, ACS opened a new Family Visiting Center in Queens to provide a safe and welcoming environment for family visits. The visiting center can provide a more comfortable environment for visiting to occur than at contract agencies, by having family visits occurring in specifically designed spaces rather than agency offices. ACS has staffed the center with visiting specialists who work with parents to improve the quality of their visits. The visiting center is open six days a week and during the evenings to meet the needs of working parents and school-aged children. ACS is planning to open visiting centers throughout the city; it expects to open a second center in Brooklyn by September 2007 and is currently looking for an appropriate site in the Bronx. While many stakeholders viewed the opening of a visiting center as a step forward, stakeholders note that ACS has not issued guidelines for agencies on using visiting hosts, which would allow visits to be held in the community supervised by trusted family and local community members rather than by ACS or agency staff. Without ACS guidelines, agencies may not change their practice.

E. Improved Outcomes for Children

In March 2007, ACS announced a new reform initiative, Improved Outcomes for Children: The Second Phase of ACS' Action Plan for Child Safety. Improved Outcomes for Children (IOC) is intended to redesign ACS oversight of the contract child welfare agencies, implement the family team conferencing approach to child welfare practice and reform foster care financing.³⁰⁶ The goals of this new plan include "shorter lengths of stay, more stable placements, increased rates of adoption and reunification, [and] more family-based placements."³⁰⁷ ACS is planning to rollout the IOC initiative over time, which it began in July 2007. ACS expects to obtain the necessary waivers

³⁰⁵ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 15, 2007.

³⁰⁶ New York City Administration for Children's Services. *Improved Outcomes for Children* (New York, NY: Administration for Children's Services, 2007), at 9.

³⁰⁷ *Ibid*, at 37.

from the Office of Children and Family Services (OCFS) by August 2007.³⁰⁸ ACS plans to complete Phase 1 of the implementation with an initial group of agencies representing 25% of the foster care population by October 2007 and achieve full implementation by July 2008.³⁰⁹

The IOC Family Team Conferencing Framework is designed to “improve critical decision making regarding a child’s safety, well-being and permanency by including people important to the family’s life, key community supports and agencies with whom the family is involved.”³¹⁰ When a child has been placed in foster care the plan requires the agency to facilitate a family permanency conference every three months (quarterly) to “assess the service needs of children and families, and plan and coordinate service delivery.”³¹¹ These conferences are also intended to be used to monitor the family’s progress towards their goals to ensure that children are able to achieve permanency in a timely way. In addition, ACS intends to facilitate family team conferences when a child faces the disruption of their foster care placement and when discharge to reunification or adoption will be determined.³¹²

ACS also intends to expand the role of its technical assistance teams to include teams focused on education, housing, family home care, foster parent recruitment and retention, youth development, parent education, adoption, family engagement and family visiting.³¹³ These units are intended to develop expertise in specific areas to ensure that the appropriate, neighborhood-based services are provided to foster children and their families.

ACS’s new IOC plan will also change the way ACS monitors and evaluates all of the foster care agencies. ACS intends to create a “scorecard” for each agency that will include “quantifiable performance data, case record reviews, site assessments, interviews with parents, foster parents, children and youth and feedback from other stakeholders, including ACS offices and other system participants.”³¹⁴ Teams of performance monitors are to be assigned to each agency to assess the agencies on a regular schedule, either every three months or every six months, depending on the agency’s performance. Together the ACS performance monitors and agency staff will be expected to set specific performance benchmarks and develop strategic plans to meet those targets.³¹⁵

The final component of the IOC plan is a revision of the way foster care is funded in New York City. The goal of this component of the plan is to reduce the time children spend in foster care and reduce the number of days children spend in congregate care facilities by providing agencies with funding up front combined with the funding from several other new initiatives, which will provide agencies

³⁰⁸ Information provide to Children’s Rights by the New York City Administration for Children’s Services Division of Quality Assurance. July, 2007.

³⁰⁹ New York City Administration for Children’s Services. *Improved Outcomes for Children* (New York, NY: Administration for Children’s Services, 2007), at 1 and 77-78.

³¹⁰ *Ibid*, at 27.

³¹¹ *Ibid*, at 27.

³¹² *Ibid*, at 28.

³¹³ *Ibid*, at 15 and 29.

³¹⁴ *Ibid*, at 35.

³¹⁵ *Ibid*, at 36.

with predictable funding for the next two years.³¹⁶ For each agency, the amount of funding they receive will be based on the number of children they had in foster care and their daily reimbursement rate for FY 2006, the projected cost of congregate care (based on the average number of children, in all agencies, who are placed in congregate care facilities), and their FY 2007 allocation from other initiatives, including the reinvestment, Foster Parent Support, Training and Recruitment and Preparing Youth for Adulthood initiatives.³¹⁷

This funding strategy will significantly change the way agencies are funded; agencies currently receive a fixed amount for every night a child remains in foster care (the per diem rate) as well as special funding for specific initiatives. Under the new plan, agencies will be expected to utilize the funding they receive up front to decrease both the length of time children spend in care and the number of children in congregate care facilities. However, if agency initiatives do not produce savings through reducing the number of days in foster care and the number of days in congregate care, the agency must cover the cost of providing the appropriate care for children in foster care out of the agency's second year's budget.³¹⁸ In that situation, the agency will have less money to invest in initiatives in the second year of their contract, raising questions regarding how this may impact on the children that are in their care. This approach is based on the hypothesis that fiscal incentives will drive agency behavior.

The Social Services Employees Union Local 371, which represents 650 ACS employees whose positions will no longer be needed once the IOC is fully implemented, objects to the IOC plan.³¹⁹ The Union has stated that the plan was conceptualized without its involvement and objects to the planned worker layoffs and the shift in case management responsibility to the private providers. At the time this report was written, ACS and the Union were in negotiations regarding the staff positions.

Other stakeholders, including the Council of Family and Child Caring Agencies (COFCCA) and the Citizens' Committee for Children, are supportive of the additional focus on family group conferencing, enhanced technical assistance from ACS to the private agencies and flexibility in foster care funding.³²⁰ However stakeholders are concerned about the lack of adequate resources to carry out this plan, particularly given current foster care worker caseloads, which are double appropriate levels. Stakeholders are also concerned about the shifting of financial risk to providers, which may be difficult for all providers to manage, particularly the smaller providers.

³¹⁶ Ibid, at 47.

³¹⁷ New York City Administration for Children's Services. *Investment Funding for Families (IFF)*, (New York, NY: Administration for Children's Services, 2007), at 6.

³¹⁸ Ibid, at 16-19.

³¹⁹ Ensley, C. Testimony before the New York City Council Committee on General Welfare. March 29, 2007. Ensley, C. President's Message, We Can Do the Job. *The Unionist*, 37(4) (April, 2007), at 2.

³²⁰ Purcell, J. F. Testimony before the New York City Council Committee on General Welfare. March 29, 2007. Gendell, S. Testimony before the New York City Council Committee on General Welfare. March 29, 2007.

CHAPTER 4:
Family Court

FAMILY COURT: HIGHLIGHTS

Data

- Very little data are available regarding the timeliness of hearings. Stakeholders report that fact finding and dispositional hearings are frequently long delayed, sometimes resulting in permanency hearings being held prior to the court even having made the finding that abuse or neglect has occurred; and permanency hearings are not occurring in a timely fashion.
- There are no published data from either ACS or the New York City Family Court regarding the proportion of children in foster care that are receiving the required permanency hearings in a timely fashion (first one at 8 months and then every 6 months thereafter).
- A small, voluntary survey conducted by the Family Court found that 45% of permanency hearings were adjourned at least once. The same Family Court survey found that permanency reports—required by the new legislation to be provided to the parties 14 days prior to a hearing—were submitted on time in only 14% of the cases and no permanency report was submitted in 18% of cases. Another survey by ACS found that 38% of permanency reports were received on time.

Challenges, Reform Efforts and Resource Issues

- By most accounts, many families and attorneys still wait the better part of a day for their hearings to be called. Model Court parts have been established with certain promising practices; however, these have not been institutionalized throughout the Family Court.
- In 2005, concerned about New York's long lengths of stay in foster care, the State enacted new permanency legislation intended to facilitate better information sharing and speed the pace at which children in foster care exit the system to permanent families. Key components of the legislation include: (1) Continuous Family Court jurisdiction over cases until they are concluded; (2) permanency hearings every six months, including children between 18 and 21 years old who voluntarily agree to remain in foster care; and 3) submissions of detailed permanency reports 14 days prior to each permanency hearing.

The legislation went into effect in December 2005 and effectively doubled the number of permanency hearings each year for every child in foster care; however, no additional resources were provided and the same

number of judges, attorneys, caseworkers and other court personnel are now required to prepare for and participate in twice as many hearings each year. In addition, in 2006, following the death of Nixzmary Brown, the number of abuse and neglect petitions filed by ACS in Family Court increased by 143%.

- The Family Court and its participants are under-resourced:
 - New York State Chief Judge Judith Kaye and other 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.
 - Advocates are lobbying for legislation that would establish a case cap for lawyers representing children in Family Court. Currently, many law guardians in NYC are carrying upwards of 250 cases. The National Association of Counsel for Children recommends that attorneys represent no more than 100 children.
 - In 2004, ACS established Family Court Legal Services (FCLS), the first free-standing division within ACS dedicated solely to the agency's work in Family Court. In 2006, ACS received additional funds to increase its FCLS attorney staff from 170 to 235 attorneys, an increase of 38%. FCLS attorney caseloads continue to average 85 cases per attorney although the American Bar Association recommends a caseload of no more than 60 cases for attorneys representing public child welfare agencies. High caseloads and low salaries contribute to a high rate of turnover for FCLS attorneys, nearly 23% annually.
 - No resources have been allocated to offset the significant increase in the amount of preparation caseworkers must do prior to court appearances and the amount of time they spend in court.
- A positive development is that New York City recently obligated \$10 million to provide institutional legal representation to approximately 50% of parents who cannot afford to hire an attorney and who are involved in abuse and neglect cases in three of the five New York City Family Courts. This will enable parents to receive legal representation from organizations with particular expertise in the area and that are also able to provide social work assistance to parents. Many of the remaining parents will continue to be represented by court-appointed "18(b)" attorneys, many of whom are solo practitioners and do not have the same access to resources such as social workers and paralegals.

I. Introduction

In addition to ACS and the private contract agencies that provide services to children and families, the New York City Family Court plays a major role in the child welfare system. Considering the facts of the case, the circumstances of the child and family and input and recommendations from the various parties (ACS, the child represented by his/her law guardian, the parent, the contract agency and the foster parent), the court makes decisions about matters including removing children from their homes, children's permanency goals, the adequacy of progress being made toward permanency and whether parents' rights should be terminated. This chapter focuses on issues pertaining to the Family Court and the resources needed to ensure adequate representation in court of children, parents and ACS itself. Certain data reflecting children's experiences in foster care are included in this chapter; however, more detailed data on children in foster care and their permanency outcomes are provided in Chapter 3.

In 1962, the New York State legislature enacted the Family Court Act and established the Family Court system, which was designed to support and protect the lives of children and families. Family Court is administered by the New York State Office of Court Administration (OCA). The New York City Family Court exists in all five boroughs and handles more than 200,000 cases per year³²¹ involving matters including child abuse and neglect, adoption, juvenile delinquency, paternity, custody and visitation.

A fundamental function of Family Court is to determine whether children have been maltreated by their parents or other adults who are legally responsible for them. These cases are brought to the court's attention by the Administration for Children's Services (ACS), which is responsible for investigating allegations of child abuse and neglect. If ACS determines that the court's intervention is needed to protect a child, it must file a petition in Family Court. Once a petition has been filed, the court must ensure that the child is living in a safe home and determine whether the abuse and neglect allegations are true. While the case moves through the legal process, the judge may allow a child to remain at home, when he/she believes it is safe to do so, or order that a child be placed into foster care.

Once a judge determines that a child has been abused and/or neglected, the judge must then decide what needs to happen in order to ensure the ongoing safety of the child. If the judge decides that a child can safely live at home, the judge may order that services be provided to address identified

³²¹ Feinblatt, J. Testimony before the New York City Council Committee on General Welfare. January 11, 2007.

risk factors in the family. These services may include preventive services,³²² Court-Ordered Supervision,³²³ mental health counseling and drug treatment.

Alternatively, a judge may decide that the child cannot safely live at home and must be placed in foster care. When a child is placed into foster care, the permanency goal is typically family reunification. Under ACS supervision, a foster care agency (a private provider under contact with ACS) must provide or arrange for services to ameliorate identified risk factors and facilitate the child's safe return home. When reunification is not possible or appropriate, ACS and the private foster care agency must find another safe, permanent home for the child, typically through adoption.

Foster care is intended to be temporary. Children need the stability and care provided by a permanent family. The Family Court has an extremely important role in ensuring that children move from foster care to permanent homes as quickly as possible. In accordance with the federal Adoption and Safe Families Act (ASFA), enacted in 1997, the court is responsible for ensuring that public child welfare agencies make every effort to find permanent homes for children in foster care and that a petition to terminate parental rights (TPR) be filed when a child has been in foster care for at least 15 of the last 22 months.³²⁴ These requirements were established to ensure that children do not languish in foster care for years, but instead are provided with safe, stable and permanent homes. However, ASFA does provide the following three exceptions to the TPR timeframe requirement: (1) a relative is caring for the child; (2) the agency has documented a compelling reason that a TPR is not in the best interest of the child; and (3) the agency has not provided the family with the services that are necessary to reunite the child with his/her family.

Once a Family Court judge places a child into foster care, the court must hold regularly scheduled hearings, called permanency hearings. In New York City, permanency hearings may be held by a judge or a court attorney referee, who can also issue orders on foster care cases.³²⁵ The purpose of a permanency hearing is to monitor the child's safety and well-being, the family's progress and the efforts being made by the child welfare system to either safely return the child home or find another permanent home for the child. If a child cannot safely return home, he/she may be adopted by a relative or other caring and committed adult or the court may transfer legal guardianship to a relative or other adult.

Children in foster care are not placed in permanent homes in a timely fashion in New York City. The average length of stay in FY 2006 for children in foster care was 45.8 months (3.8 years),³²⁶ which is

³²² Preventive services are supportive services that are provided to families to prevent the removal of the child from the home.

³²³ Court-Ordered Supervision is a preventive service that is specifically ordered by a Family Court judge and is provided directly by ACS.

³²⁴ Child Welfare League of America. *Summary of the Adoption and Safe Families Act of 1997*. (P.L. 105-89) (Washington, DC: Child Welfare League of America).

³²⁵ The Association of the Bar of the City of New York. *Introductory Guide to the New York City Family Court* (New York, NY: The Association of the Bar of the City of New York, 2006), at 4.

³²⁶ City of New York. *The Mayor's Management Report, FY 2007 (Preliminary)* (New York, NY: Mayor's Office of Operations, 2007), at 28.

only a slight improvement from FY 1999 when the average length of stay was 48.1 months (4.1 years).³²⁷ Even though the number of children in foster care has dropped by nearly 57% since 1999,³²⁸ NYC's length of stay far exceeds the national average of 28.6 months.³²⁹ Clearly, reducing the length of stay for children in foster care in New York City must be a priority and Family Court must be a part of the solution.

The Family Court has been described as chaotic and dysfunctional.³³⁰ The Special Child Welfare Advisory Panel, established as part of the *Marisol v. Giuliani* class-action lawsuit settlement, reported in 2000 that New York City Family Courts were “characterized by crowded dockets, long adjournments and not enough attorneys to represent parents and children. With rare exceptions, hearings lack sufficient docket time for a true examination of the issues. A family that becomes the subject of an abuse or neglect proceeding in these courts can expect to return to court repeatedly and to remain involved in litigation for many months, and sometimes for years.”³³¹ A federal audit in 2003 found that court was operating poorly, cases were being mismanaged and necessary documentation was lacking.³³²

In 2005, concerned about New York's long lengths of stay in foster care, the State enacted legislation intended to facilitate better information sharing and speed the pace at which children in foster care exit the system to permanent families. This new permanency legislation was intended to streamline the court process and at the same time ensure that the court has the information it needs to make timely decisions regarding permanency for each child in foster care.

Key components of the 2005 permanency legislation include:

- Continuous Family Court jurisdiction over children's cases until they are concluded;
- First permanency hearing for children in foster care held at eight months, then every six months thereafter;
- Permanency hearings for 18 to 21-year-old children who voluntarily agree to remain in foster care; and

³²⁷ City of New York. *The Mayor's Management Report, FY 2000* (New York, NY: Mayor's Office of Operations, 2000), at 132.

³²⁸ City of New York. *The Mayor's Management Report, FY 1997* (New York, NY: Mayor's Office of Operations). *The Mayor's Management Report, FY 1998*. *The Mayor's Management Report, FY 1999*. *The Mayor's Management Report, FY 2000*. *The Mayor's Management Report, FY 2001*. *The Mayor's Management Report, FY 2002*. *The Mayor's Management Report, FY 2003*. *The Mayor's Management Report, FY 2004*. *The Mayor's Management Report, FY 2005*. *The Mayor's Management Report, FY 2006*.

³²⁹ U.S. Department of Health and Human Services, Administration on Children, Youth and Families. *The AFCARS Report, Preliminary FY 2005 Estimates as of September 2006(13)*. (Washington, DC: U.S. Government Printing Office).

³³⁰ Katz, A. Bringing Order to the Court. *Child Welfare Watch*, 12 (Winter 2005-2006).

³³¹ Special Child Welfare Advisory Panel. *Advisory Report on Front Line and Supervisory Practice* (New York, NY: Special Child Welfare Advisory Panel, 2000), at 44.

³³² Katz, A. Bringing Order to the Court. *Child Welfare Watch*, 12 (Winter 2005-2006).

- The preparation of a detailed and up-to-date permanency report, completed by the family's caseworker, which must be shared with the parties 14 days before each permanency hearing.

Under the previous law, ACS and other child welfare agencies in New York State were required to file a petition in Family Court every 12 months in order to have a foster care case reviewed once a year. The new permanency legislation requires a judge to schedule a permanency hearing eight months after a child is initially placed into foster care and every six months thereafter. Thus, each child's case remains on the court's calendar throughout the duration of the child's foster care placement without a new petition needing to be filed. In addition, doubling the number of permanency hearings each year allows the court and the parties to meet and review each case twice as often, with the expectation that this will result in faster permanency for children.

The new permanency law does not alter the process for filing TPR petitions. The majority of children in foster care are placed with private foster care agencies³³³ and in New York City these agencies have been and continue to be responsible for filing TPR petitions, which, as noted above, must be done in accordance with ASFA requirements.

In addition to increasing the number of permanency hearings, the 2005 permanency legislation also requires that a thorough status report be prepared by the child welfare agency responsible for the child, which must be submitted to all of the parties 14 days prior to each permanency hearing. The purpose of the permanency report is to provide the court and the parties with a comprehensive update regarding the child and family and to assist the court in making decisions regarding the child's safety and well-being and efforts being made to find an appropriate, permanent living arrangement. Previously, workers submitted reports but there was no system-wide standard regarding what had to be included in each report.

The Family Court was already overburdened and its workload further increased as a result of the 2005 permanency legislation, which the legislature passed without providing additional funding or resources, and, more recently, due to the increase in filings in 2006 following the highly publicized deaths of Nixzmary Brown and other children. The number of abuse and neglect petitions filed in New York City's Family Courts increased 143% in one year.³³⁴

Indeed, by most accounts, the court continues to be chaotic, with families and attorneys sometimes waiting the better part of a day for their hearings to be called; fact-finding hearings are long delayed, sometimes resulting in permanency hearings being held prior to the court even having made the finding that abuse and neglect has occurred; and permanency hearings are not occurring in a timely fashion. If the permanency law is to have its intended effects, additional steps must be taken to

³³³ New York City Administration for Children's Services. *ACS Update, January 2007, FY 2007* (New York, NY: Office of Research and Evaluation, 2007), at 2. In January 2007, 158 children were placed in foster homes operated directly by ACS. ACS is responsible for all aspects of the care of these children, including filing TPR petitions. ACS plans to close its last direct foster care program by July, 2007.

³³⁴ Data provided to Children's Rights by the New York City Administration for Children's Services Family Court Legal Services. March, 2007. [Article 10 Filings].

improve the administration of the court and address the significant resource issues affecting the court and its key participants.

New York State Chief Judge Judith Kaye has called for an increase of 39 additional Family Court judges statewide, which would include additional judges for New York City Family Court. Several advocacy groups, including Children’s Rights, Legal Aid Society Juvenile Rights Practice, Center for Family Representation, Council of Family and Child Caring Agencies (COFCCA), Citizens’ Committee for Children and Lawyers for Children have engaged in advocacy to secure necessary increases in the number of judges, caseworkers and attorneys representing children, parents and ACS itself.

Every delay in Family Court can negatively impact children and families. Delaying a trial to determine whether a child was abused or neglected or delaying a hearing to determine with whom a child should live permanently leaves children and families hanging in the balance. Without adequate resources, the ability of caseworkers to provide the services that children and families require and the information the court needs, the ability of attorneys to adequately represent their clients and the ability of Family Court to make timely and appropriate decisions at each stage of a case is seriously compromised.

This chapter provides a discussion of progress, issues and some of the recent reform efforts pertaining to the New York City Family Court system and its key actors.

II. Progress, Issues and Reforms

A. The Permanency Legislation

The new permanency legislation has now been in effect for more than a year and many questions remain regarding its impact on the length of time children spend in foster care. Are hearings being held as required (first one at eight months and then every six months thereafter)? Are permanency reports comprehensive? Do the parties receive permanency reports on time? Are permanency hearings thorough vettings of the issues in a case? Is court time adequate to complete thorough hearings on a timely basis? Are children moving out of foster care and into permanent homes more quickly?

Although very little data exist regarding the impact of the new permanency legislation, there is evidence that many hearings are adjourned and permanency reports are frequently not provided within the required timeframes.

Nearly a year and a half after the 2005 permanency legislation was enacted, very little data exist regarding compliance with the new requirements or the impact of the new legislation on permanency for children in foster care.

Stakeholders have reported that, in some cases, the first permanency hearing takes place before the court has even made a judgment regarding whether abuse or neglect occurred and whether the child

should remain in foster care. This happens when fact-finding and dispositional hearings are not completed by the court in a timely fashion. The system must be able to ensure that hearings are timely and that cases move through the process from fact-finding to disposition to permanency hearing, as intended.

Stakeholders also report that permanency reports are often submitted late and may contain inaccuracies and/or incomplete information. In some instances, the parties do not receive the permanency reports until moments before they enter the courtroom for the permanency hearing or after they have assembled in the courtroom. The submission of a late or inaccurate permanency report may mean that a judge must adjourn a permanency hearing, which may delay permanency for a child.

The New York City Family Court conducted a small, informal survey regarding certain requirements of the permanency legislation in New York City Family Courts. Judges and referees were asked to complete a survey regarding cases scheduled to begin a permanency hearing during a one week period in March 2006.³³⁵ Information was collected pertaining to 315 cases.³³⁶ The survey found that the necessary parties had not been notified of the hearing in 37% of the cases. The permanency report was provided to the parties 14 days prior to the hearing in only 12% of the cases and no permanency report was submitted at all in 18% of the cases.³³⁷

The study also found that 45% of the permanency hearings were adjourned. In order to gather information regarding why the hearings were not completed during the first court appearance, the study looked at the reasons for adjournments in the 76 cases that had no prior court date and were adjourned for the first time during the review period.³³⁸ The study found that 53% of these cases were adjourned because no notice or late notice was given to the parties; 16% were adjourned because the permanency report was late or not submitted; 14% required additional information; all of the parties were not present in 9% of the cases; and no reason was given in 8% of the cases.³³⁹

The study noted that the lack of notification of the parties and late or missing reports were not new issues as both notification and reports were required but not always completed under the previous law; “these findings would suggest that before the number of adjournments increase to the point that case processing grinds to a halt, these issues need to finally be resolved.”³⁴⁰

ACS has upgraded its online Legal Tracking System (LTS), which it uses to store data and documents related to legal proceedings and from which it is able to collect and analyze data regarding its Family Court legal practice. ACS also uses LTS to track the submission of permanency

³³⁵ New York City Family Court. *New York City Family Court Survey* (New York, NY: New York City Family Court, 2006), at 1.

³³⁶ In the Family Court study, cases referred to families and not individual children.

³³⁷ New York City Family Court. *New York City Family Court Survey* (New York, NY: New York City Family Court, 2006), at 2-4.

³³⁸ *Ibid*, at 2.

³³⁹ *Ibid*, at 2-3.

³⁴⁰ *Ibid*, at 6.

reports. Recent LTS data indicate that only 38% of all permanency reports are received on time.³⁴¹ In fact, some foster care agencies (private agencies under contract with ACS) “averaged a submission rate of only 14%.”³⁴²

ACS and its contract agencies must ensure that families are notified of upcoming court dates and that permanency reports are submitted on time. Reliable tracking systems must be in place, both at ACS and within the court system, to provide data that can be utilized to address systemic and agency-specific issues. The Family Court and all of the participants must be provided with the funding and resources needed to function as intended and rigorous analysis of the permanency process must be completed as soon as possible in order to determine whether the objectives of the 2005 permanency legislation are being met.

B. Family Court Workload

The New York State Family Court caseload tripled between 1980 and 2000.³⁴³ In addition, the New York City Family Court estimates that judges’ caseloads increased from approximately 1,400 cases in 2005 to 2,500 cases in 2006, a 79% increase.³⁴⁴ It should be noted that the New York City Family Court has functioned with 47 judges since 1991.

In an effort to address the increase in the Family Court workload, New York State Chief Judge Judith Kaye has called for an increase of 39 additional Family Court judges statewide, which would include additional judges for New York City Family Court. “The bottom line,” she said, “is that we are desperately short of judicial resources.”³⁴⁵ In addition to Judge Kaye, many advocates are also calling for this increase. In January 2007, the New York City Council Committee on General Welfare held a hearing regarding the

increased demands on Family Court and on the attorneys and caseworkers who appear in Family

The New York State Family Court caseload tripled between 1980 and 2000. More recently, the New York City Family Court estimates that judges’ caseloads increased from approximately 1,400 cases in 2005 to 2,500 cases in 2006, a 79% increase. New York State Chief Judge Judith Kaye has called for an increase of 39 additional Family Court judges statewide, which would include additional judges for New York City Family Court.

³⁴¹ Weil, Gotshal and Manges LLP in consultation with the Center for Family Representation, Inc. *The Permanency Legislation of 2005: An Unfunded Mandate—Critical Resource Needs for New York City’s Children and Families* (New York, NY: New York City Bar Association, 2007), at 12.

³⁴² *Ibid.*

³⁴³ Vitullo-Martin, J. & Maxey, B. *New York Family Court: Court User Perspectives* (New York, NY: Vera Institute of Justice, 2000), at 1.

³⁴⁴ New York City Council. *Oversight: Child Welfare and Increased Demands on New York City Family Courts* (New York, NY: New York City Council, Governmental Affairs Division, Committee on General Welfare, 2007), at 5.

³⁴⁵ Kaye, J. S. *The State of the Judiciary, 2007* (Albany, NY: New York State Unified Court System, 2007), at 10.

Court. There is a clear consensus in the child welfare community that resources must be increased in order for the Family Court to carry out its responsibilities in a timely way. Overburdened courts may result in hearings being postponed for months at a time. Judges may have less time to devote to each case and children may even be in foster care for extended periods of time before the court is able to determine if they were, in fact, abused or neglected.

C. Family Court Administration and Management

As noted above, Family Court has been disorganized and overburdened for many years. In its 2000 report, the Special Child Welfare Advisory Panel noted many concerns regarding the performance of Family Court and the impact on children and families. These concerns included crowded dockets,

Improved internal court processes that will result in less waiting and timelier judgments are needed.

frequent and lengthy adjournments, considerable amounts of time spent waiting, brief hearings used to review complex issues and judges who see themselves as powerless to change the system.³⁴⁶ The Panel found that “it is not

uncommon for children to be in care for a full year...without having had a disposition of the original protective proceeding.”³⁴⁷ In 2001, the New York State Permanent Judicial Commission on Justice for Children reported that only 33% of Family Court cases in New York City reached disposition within six months and almost half took more than seven months.³⁴⁸

With the additional hearings required by the new permanency law and the increase in abuse and neglect cases being filed, these problems persist. In some cases, permanency hearings, which must be held eight months after the petition is filed and the child is placed in foster care, actually precede the fact-finding and dispositional hearings which establish that abuse and neglect has actually occurred, due to delays in completing these fact-finding and dispositional hearings.

In many cases, parents, caseworkers and attorneys are still spending hours or even all day in court waiting for their hearings to be called. Some judges and referees are attempting to set hearings for specific times, known as “time-certain” calendaring. However, this does not occur consistently across the court. In addition, due to the heavy caseloads of judges and attorneys, as well as emergency hearings that must take priority, time-certain hearings often do not begin on time and, in fact, may be adjourned.

Increased resources must be provided and improved management of court processes must be implemented that reduce the amount of time that families, caseworkers and attorneys spend waiting

³⁴⁶ Special Child Welfare Advisory Panel. *Advisory Report on Front Line and Supervisory Practice* (New York, NY: Special Child Welfare Advisory Panel, 2000), at 44-48.

³⁴⁷ *Ibid.*, at 44-45.

³⁴⁸ New York State Permanent Judicial Commission on Justice for Children. *Second Interim Report to the Court of Appeals on the State Court Improvement Project* (Albany, NY: New York State Permanent Judicial Commission on Justice for Children, 2001).

for a case to be called into court and which can result in fewer adjournments and more timely decisions.

D. Legal Representation of ACS, Children and Parents

In order to ensure a full vetting of the issues in a child welfare case and facilitate informed decision making by the court, it is important that each of the parties is adequately represented. This section discusses the current status and challenges pertaining to the legal representation of ACS, children and parents in Family Court.

1. Family Court Legal Services

In 2004, ACS Commissioner John Mattingly established Family Court Legal Services (FCLS), the first “free-standing division within ACS dedicated solely to the agency’s work in Family Court.”³⁴⁹ Previously, the ACS Division of Legal Services, which handled the legal representation of ACS in Family Court, was within the same department that handled general legal issues for the agency.

FCLS attorneys represent the Commissioner of ACS in Family Court, from the filing of petitions through the achievement of permanency.³⁵⁰ These attorneys appear in Family Court in more than 100,000 proceedings each year and the majority of their cases involve advocating for permanency plans on behalf of children in foster care.³⁵¹

ACS attorney caseloads currently average 85 cases, well over the ABA recommended caseload of 60 cases. Many law guardians representing children carry upwards of 250 cases, well above the 100 case maximum recommended by the National Association of Counsel for Children. On a positive note, the city recently obligated \$10 million in new funding to support institutional legal representation for parents.

After establishing FCLS, one of the first procedural changes implemented was assigning a single FCLS attorney to each case for the duration of the legal proceedings. In the past, different attorneys were assigned to handle a single case at different stages of the court process. According to ACS, the “continuity of representation” enables attorneys to “carry a child’s history with them through the case, resulting in more effective representation and investment in a successful outcome for that child.”³⁵²

³⁴⁹ Richter, R. Testimony before the New York City Council Committee on General Welfare. January 11, 2007.

³⁵⁰ Ibid.

³⁵¹ New York City Administration for Children’s Services. *Legal Services* (New York, NY: Administration for Children’s Services). Retrieved March 9, 2007, from www.nyc.gov/html/acs/html/support_families/legal_services.shtml

³⁵² Richter, R. Testimony before the New York City Council Committee on General Welfare. January 11, 2007.

Historically, the attrition rate of FCLS attorneys has been a concern. In 2001, ACS set a target rate of 5% for attorney turnover each year.³⁵³ In 2006, a study conducted by the Public Advocate for the City of New York found that nearly 23% of FCLS attorneys leave the agency annually.³⁵⁴ This rate of turnover can significantly impact the progress of a court case and children's lives, as newly assigned attorneys take over cases that may have lengthy and complicated histories with which they are not familiar.

In 2006, in an effort to address high FCLS caseloads and the attrition rate, ACS received additional funds from New York City in order to hire 65 additional FCLS attorneys, increasing the total number of attorneys by 38%, from 170 to 235.³⁵⁵ In addition, training for FCLS attorneys was revised and additional trainers were hired. New attorneys now shadow child protective specialists, spending a week in the field observing investigations, visiting out-of-home placement facilities and attending family visits and case conferences.

Even with additional staff and enhanced training, high caseloads and attrition continue to be concerns. In March 2007, ACS Commissioner Mattingly testified before the New York City Council Committee on General Welfare that FCLS caseloads were 85 cases per attorney,³⁵⁶ well above the maximum caseload of 60 cases recommended by the American Bar Association.³⁵⁷ The Commissioner also testified that the rate at which FCLS attorneys leave their positions continues to be a "problem," noting that many attorneys leave the agency due, in part, to high caseloads and low salaries.³⁵⁸

In addition to concerns regarding caseloads and turnover rates, ACS is also making efforts to address the need for new technology to enhance communication between FCLS attorneys and caseworkers. Because FCLS attorneys spend much of their day in court, contacting them to discuss a case is often difficult. To improve communication between attorneys and casework staff, FCLS attorneys are now provided with Blackberries, which allows every FCLS attorney to send and receive emails when not in his/her office.³⁵⁹

³⁵³ New York City Administration for Children's Services. *A Renewed Plan of Action for the Administration for Children's Services* (New York, NY: Administration for Children's Services, 2001), at 85.

³⁵⁴ Tumarkin, L. & Woltman, M. *A Dangerous Cycle: Attorney Turnover at ACS Leaves Children Unprotected* (New York, NY: Office of the New York City Public Advocate, 2006), at 3.

³⁵⁵ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 15, 2007.

³⁵⁶ *Ibid.*

³⁵⁷ American Bar Association. *Standards of Practice for Lawyers Representing Child Welfare Agencies* (Chicago, IL: American Bar Association, 2004), at 10.

³⁵⁸ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 15, 2007.

³⁵⁹ Feinblatt, J. Testimony before the New York City Council Committee on General Welfare. January 11, 2007.

2. Law Guardians for Children

Currently, there is no limit on the number of children that a law guardian can represent. According to the Juvenile Rights Practice of the Legal Aid Society, its law guardians often represent upwards of 250 children at a time.

In March 2007, a bill was introduced in the New York State Assembly that would, for the first time, place a cap on the number of children each law guardian could represent in Family Court. The proposed cap is 150 children per law guardian and will be a step in the right direction, if the law is passed with the necessary funding required to actually implement it. The National Association of Counsel for Children recommends that attorneys representing children in child protection proceedings represent no more than 100 children at a time.³⁶⁰ A federal lawsuit filed by Children's Rights in Georgia resulted in a ruling that children are entitled to effective legal representation and established a caseload cap of 130 cases for attorneys representing children.³⁶¹

3. Parent Representation

Regarding the representation provided to many parents in Family Court, the New York State Appellate Division First Department Committee on the Representation of the Poor (the Committee) released a report in 2001 that confirmed what many have observed for quite some time, that the legal representation provided to the poor was "outmoded, underfunded, overburdened and organizationally chaotic and deprives New York's poor of the meaningful and effective representation they are guaranteed under New York law and the New York State Constitution."³⁶² More than 35 years had passed since the system for providing legal counsel to the poor had been reviewed. Caseloads had increased and fewer lawyers were available to represent people who could not afford to hire an attorney, which had a "devastating impact on large numbers of children and poor adults," including "thousands of children kept too long in foster care."³⁶³

County Law Article 18(b) requires that each county in New York State provide an attorney to parents who cannot afford to hire their own attorneys.³⁶⁴ Historically, these parents were generally represented by so-called 18(b) attorneys, who are mostly solo practitioners who accept case assignments from the court. The Committee recommended increasing the hourly rates paid to the 18(b)'s and the rates were increased in 2004.

³⁶⁰ Katner, D., McCarthy, P., Jr., Rollin, M., & Ventrell, M. *NACC Recommendations for Representation of Children in Abuse and Neglect Cases* (Denver, CO: National Association of Counsel for Children, 2001), at 7.

³⁶¹ U.S. District Court, Northern District of Georgia, Atlanta Division, *Kenny A. v. Perdue*, Consent Decree Between Plaintiffs and DeKalb County, Georgia. March 23, 2006, at 3.

³⁶² New York State Unified Court System. *Appellate Division First Department Committee on the Representation of the Poor Calls for Restructuring of the Ways Governmentally Funded Legal Representation is Provided to the Poor in New York* (Albany, NY: New York State Unified Court System Press Release, March 26, 2001).

³⁶³ *Ibid.*

³⁶⁴ New York State Unified Court System. *Assigned Counsel Compensation in New York: A Growing Crisis* (Albany, NY: New York State Unified Court System, January, 2000), at 2.

The Committee also recommended the establishment of institutional providers to represent parents in Family Court, as was already the case for ACS and most children involved in Family Court cases. Institutional providers are organizations focused on this type of legal representation. These kinds of providers can offer training, supervision and oversight of their attorneys as well as support staff that may include social workers and paralegals.³⁶⁵ During the last few years, institutional providers began to represent a small portion of the parents involved in Family Court cases, obtaining funding from both private and public sources.

In 2007, New York City dedicated \$10 million for institutional representation of parents in Family Court and issued a Request for Proposals (RFP) for agencies interested in providing this legal service.³⁶⁶ As of April 2007, the city was negotiating contracts with three providers, one in the Bronx, one in Brooklyn and one in Manhattan.³⁶⁷ These organizations will provide legal and social services to approximately 50% of parents involved in cases in Family Court in the three boroughs mentioned.³⁶⁸ Contracts are not currently being negotiated for Queens or Staten Island because the proposals that were submitted to represent parents in those boroughs did not meet the minimum requirements set forth by the city and, as a result, the RFP will be reissued.³⁶⁹

Increasing institutional representation of parents is a positive step. The 18(b) attorneys may not have access to the same resources that institutional providers have and which may improve the quality of parent representation.

E. Caseworker Workloads

For many years, caseworkers and families have complained about the amount of time they spend in the courthouse waiting for their cases to go before the judge, sometimes to be adjourned to another

The requirements of the new permanency legislation and the concurrent increase in Family Court cases means that caseworkers are spending more time preparing for and attending court hearings and, as a result, have less time to work with children and families.

day, possibly months later. In 2004, prior to the new permanency legislation, the Council of Family and Child Caring Agencies (COFCCA) conducted a study of the time caseworkers spent in court and found that caseworkers spent more than 80% of their time in Family Court waiting for cases to be heard.³⁷⁰ Given the recent increase in case filings and the new permanency hearing requirements, it is

³⁶⁵ McMillan, T. A Matter of Judgment: Deciding the Future of Family Court in NYC. *Child Welfare Watch*, 12 (Winter 2005-2006), at 20.

³⁶⁶ Feinblatt, J. Testimony before the New York City Council Committee on General Welfare. January 11, 2007.

³⁶⁷ Appel, H. New Influx of Lawyers Coming to Family Court, *City Limits Weekly*, 583, (April 16, 2007).

³⁶⁸ Ibid.

³⁶⁹ Ibid.

³⁷⁰ Dessables, M. J. *Time at Family Court* (New York, NY: Council of Family and Child Caring Agencies, 2005), at 3.

possible that this has gotten even worse. Time spent by caseworkers waiting outside a courtroom means less time spent working with children and families.

In addition, caseworkers are now required to complete a more comprehensive permanency report twice a year for each child. These reports are an important piece of the permanency hearing process; when thorough and accurate, they may greatly assist the court in making decisions regarding what is in the child's best interest. These reports do, however, add to the amount of paperwork that a caseworker must complete. In 2006, the New York State Office of Children and Families (OCFS) issued a Child Welfare Workload Study done by Walter R. McDonald & Associates, which found that, state-wide, caseworkers spent nearly 31% of case-related time on documentation.³⁷¹

Much of the documentation done by caseworkers, including the Family Assessment and Service Plan report that caseworkers complete twice a year for each family, is entered into the state-wide CONNECTIONS computer system administered by OCFS. However, permanency reports are not currently prepared within the CONNECTIONS system. In July 2007, a CONNECTIONS update that includes the permanency report function was released; however, operational issues must be resolved before the permanency report can be completed using CONNECTIONS, thus delaying the implementation.³⁷² ACS is working with OCFS to bring these reports into CONNECTIONS, in order to increase efficiency and decrease duplicative paperwork. The target date for completing this integration process is March 2007.³⁷³ It should be noted that CONNECTIONS has been 10 years in the making, has repeatedly been revised and, according to ACS Commissioner Mattingly, still needs "major changes," including making the system web-based.³⁷⁴ A web-based system would permit a worker to log on and utilize a password to access CONNECTIONS from any computer, not just the computer on the worker's desk. Such a system would allow workers to enter documentation into a laptop while waiting for a case in court, for example.

F. Increased Communication between Caseworkers and Attorneys Representing Children and Parents

ACS has developed a new protocol intended to enhance communication between caseworkers (ACS and contract agency caseworkers) and attorneys who represent children and parents. In the past, workers were not permitted to speak to these attorneys unless the FCLS attorney was present, which created problems such as utilizing court time to inform the parent's attorneys or the law guardian of a change in the visitation schedule. The attorneys must then get the court's permission to consult

³⁷¹ Walter R. McDonald & Associates and American Humane Association. *New York State Child Welfare Workload Study*. (Rensselaer, NY: New York State Office of Children and Family Services, 2006), at 4-8.

³⁷² Information provided to Children's Rights by the New York City Administration for Children's Services Office of Research and Evaluation. July, 2007.

³⁷³ Weil, Gotshal and Manges LLP in consultation with the Center for Family Representation, Inc. *The Permanency Legislation of 2005: An Unfunded Mandate—Critical Resource Needs for New York City's Children and Families* (New York, NY: New York City Bar Association, 2007), at 13.

³⁷⁴ Mattingly, J. B. Testimony before the New York City Council Committee on General Welfare. March 15, 2007.

with their clients and quickly make decisions, based on information they have just received. Sharing information outside of the courtroom can allow in-court time to be utilized more efficiently. The new protocol permits some types of communication between caseworkers and attorneys representing parents and children, including communication regarding “families’ needs, provision of individualized services and optimal family visiting plans.”³⁷⁵ The protocol also includes specific topics that may not be discussed, including interpretations of court orders, allegations of abuse and neglect or the caseworker’s opinion regarding any issues in the case.³⁷⁶ Whenever appropriate, ACS and the contract provider agencies should work with parents’ and children’s attorneys to address the needs of children and families outside of court. Improving communication amongst the parties outside of court may result in more efficient use of the court’s time.

G. Special Family Court Initiatives

During the last nine years, Family Court initiatives have been implemented in some courts in an effort to ensure that Family Court judges have all of the necessary information to make critical and timely decisions. For example, in 1998, one Manhattan Family Court part was designated a Model

In an effort to provide enhanced oversight and expedite permanency, New York City Family Court has instituted specialized court parts that utilize additional staff, conferences, progress reports and hearings to gather information, monitor progress and make decisions in child abuse and neglect proceedings. In addition, mediation programs are being utilized to resolve disputes regarding children’s permanency outside of the court room.

Court by the National Council of Juvenile and Family Court Judges. Model Courts may employ additional personnel, such as a case manager and masters-level social worker, and the Model Court Team provides increased “oversight and coordination of all aspects of a child protective case from the filing of the original petition to the final permanency decision” in an effort to expedite permanency.³⁷⁷ According to the New York State Permanent Judicial Commission on Justice for Children, the

Model Court utilizes frequent case conferences, hearings and progress reports to carefully monitor progress and address issues in a timely way.³⁷⁸ Two Model Court parts have since been established in the Bronx, two in Brooklyn and two in Queens, bringing the total number of what are now

³⁷⁵ New York City Administration for Children’s Services. *Protocol for Communication between ACS and Provider Agency Caseworkers and Attorneys Representing Children and Parents* (New York, NY: Administration for Children’s Services, 2006).

³⁷⁶ Ibid.

³⁷⁷ New York State Permanent Judicial Commission on Justice for Children. *Second Interim Report to the Court of Appeals on the State Improvement Project* (Albany, NY: New York State Permanent Judicial Commission on Justice for Children, 2001).

³⁷⁸ Ibid.

referred to as “Best Practice Parts” to seven.³⁷⁹ Although the establishment of Model Courts was a positive step, the practices in these models have not been institutionalized throughout the Family Court. The purpose of a pilot is to determine whether something works on a small scale and, if successful, to institute the practice across the system.

In an effort to address the particular needs of parents struggling with substance abuse, the first Family Treatment Court (FTC) was established in 1998 in Manhattan Family Court.³⁸⁰ The purpose of this specialized program is to serve parents who have been brought to court by ACS based on allegations related to substance abuse. The parent must be willing to admit that he/she neglected his/her child due to substance abuse and to participate in treatment, which is arranged and monitored by court staff. In addition, court appearances are frequent and compliance with treatment and permanency planning is discussed in detail.³⁸¹ Either full or part-time FTCs have now been established in Brooklyn, Queens and the Bronx.

In 2004, the Child Permanency Mediation Program was piloted in Brooklyn Family Court and has since been expanded to the Bronx, Manhattan and Queens Family Courts. The goal of mediation is to resolve disputes, outside of the courtroom, in the permanency phase of child abuse and neglect proceedings. Mediation provides the parents, family members and service providers with the opportunity to explore options and achieve agreement regarding solutions that will facilitate a child’s return to their family or expedite their placement in an adoptive or other permanent home while avoiding protracted legal proceedings that can extend a child’s length of stay in foster care.³⁸²

H. Youth Participation in Hearings

The Pew Commission recommends that children in foster care play an active role in their family’s court case, noting that “children, parents and caregivers all benefit when they have the opportunity to actively participate in court proceedings, as does the quality of decisions when judges can see and hear

Children do not routinely attend Family Court hearings in New York City.

³⁷⁹ The Center for Court Innovation. *New York City Family Court, Permanency Planning, Blueprint for Change* (New York, NY: The Center for Court Innovation, 2003).

³⁸⁰ The Center for Court Innovation. *Family Treatment Court – How it Works*. (New York, NY: The Center for Court Innovation). Retrieved February 8, 2007, from <http://www.courtinnovation.org/index.cfm/fuseaction/Page.viewPage/pageId/598>

³⁸¹ New York State Unified Court System. *New York City Family Court, Family Treatment Court* (Albany, NY: New York State Unified Court System). Retrieved February 8, 2007, from http://www.courts.state.ny.us/courts/nyc/family/faqs_family_treatment.html

³⁸² New York Society for the Prevention of Cruelty to Children. *Child Permanency Mediation* (New York, NY: New York Society for the Prevention of Cruelty to Children). Retrieved May 16, 2007, from <http://www.nyspcc.org/programs/mediation.htm>

from key parties.”³⁸³ In New York City, stakeholders report that children do not routinely attend Family Court hearings; the prevailing practice in New York City is that children do not go to court unless their testimony is needed.

In May of 2006, the Interdisciplinary Center for Family and Child Advocacy at Fordham University held a Youth Summit, which focused on engaging youth in Family Court proceedings. The purpose of the summit was to discuss youth participation in Family Court proceedings and to give youth in foster care an opportunity to speak about their own experiences and concerns. Recommendations from the Youth Summit included: (1) permitting and encouraging youth to attend their family’s Family Court hearings; (2) evening and weekend court calendars to accommodate youths’ school and activity schedules; (3) transportation for youth to and from court; (4) teen centers in each courthouse to provide a place that is safe and comfortable for teens to wait for their cases to be called; (5) time for law guardians and caseworkers to speak with their clients before and after court appearances; and (6) a procedure for youth to communicate with the judge when they are not going to be in court.³⁸⁴

I. Family Court Facilities

A few years ago, “walking into any Family Court in New York City meant walking into a sad, confusing and cramped building.”³⁸⁵ The court houses were crowded, noisy, and uncomfortable and finding a private place for attorneys and clients to meet could be a challenge. In some boroughs, these problems continue; however, in 2002 and 2005, new “state-of-the-art” Family Courts were opened in Queens and Brooklyn.³⁸⁶ Renovations are currently underway at Manhattan Family Court and planning has begun for renovating the Staten Island and Bronx Family Courts.³⁸⁷ There is still much to be done to make all Family Court facilities in New York City as comfortable and functional as possible.

During the last five years, new Family Courts were opened in Brooklyn and Queens. Manhattan Family Court is currently undergoing renovations and plans are being developed to renovate the Bronx and Staten Island courthouses.

³⁸³ The Pew Commission on Children in Foster Care. *Foster the Future: Safety, Permanency and Well-Being for Children in Foster Care* (Washington, DC: The Pew Commission on Children in Foster Care, 2004), at 42.

³⁸⁴ Interdisciplinary Center for Family and Child Advocacy. *New York City Youth Summit: Engaging Youth in Family Court Proceedings, Conference Report* (New York, NY: Fordham University Interdisciplinary Center for Family and Child Advocacy, 2006).

³⁸⁵ Feinblatt, J. Testimony before the New York City Council Committee on General Welfare. January 11, 2007.

³⁸⁶ *Ibid.*

³⁸⁷ *Ibid.*

CHAPTER 5:
Child Fatalities

CHILD FATALITIES: HIGHLIGHTS

Data

REVIEW OF RECENT CHILD FATALITIES Children's Rights reviewed the Child Fatality Reports produced by the New York City Regional Office (NYCRO) of OCFS covering fatalities that occurred between July 1, 2004 and March 21, 2006. Forty-nine children in 47 families previously known to ACS were reviewed by NYCRO during this 21-month period.

- In 16% of these cases, a parent/caregiver directly caused the fatality, e.g., beat the child to death. Nearly half (49%) of the deaths were due to a parent/caregiver's failure to appropriately supervise or provide a safe environment for a child. In 12 cases (24%) no parent/caregiver was found to be at fault, either directly or indirectly, although ACS and OCFS did not agree in all cases about the nature of a parent/caregiver's responsibility.
- A significant portion of these families had repeated involvement with ACS prior to the fatality. Almost half (47%) had four or more prior reports investigated by ACS. Approximately one-third (32%) had had a prior indicated investigation with no post-investigation services provided. More than one-quarter (26%) had had a prior preventive services case that closed before the fatality occurred. Half of the families were involved with ACS at the time of the child's death; more than one-fifth had an open CPS investigation, one-fifth had an open preventive services case.

These data raise concerns regarding the quality of investigations, decision making regarding whether services will be provided and the effectiveness of preventive services, including the degree of ongoing oversight provided and the decisions made regarding when to report abuse and neglect concerns to the SCR. Regarding investigations, NYCRO found that 40% of the families had prior CPS investigations (investigations that occurred prior to the fatality) that were not thorough. NYCRO frequently noted that, when ACS was conducting an investigation on a family with multiple prior investigations, ACS did not always consider what it already knew about the family, overlooking critical patterns of behavior and missing opportunities to intervene.

- Fatalities occur in a miniscule proportion of the families known to ACS, however some of the case practice issues noted above are in fact reflected in system-wide data (presented in detail in Chapters 1 and 2 of this report) showing that approximately 14% percent of indicated investigations do not result in an ongoing case being opened for services and approximately 17% of children receiving preventive services experience repeat maltreatment. ACS has

recently begun to focus on decreasing the number of indicated investigations it closes without referring the family for services and is in the initial stages of developing a long overdue mechanism by which to evaluate the quality of preventive services.

- Almost one-fourth (24%) of the deaths occurred while the child was "co-sleeping" with an adult or older child.
- In almost one-fifth of the families (19%), there was documentation that the parent of the deceased child had been maltreated him/herself as a child.

Reform Efforts

FATALITY REVIEW PROCESSES

- In December 2004, ACS announced that Commissioner Mattingly would meet with the ACS Accountability Review Panel (ACS' fatality review board) bimonthly rather than biennially, as previous commissioners had, in order to identify the lessons learned from fatalities that can be used to inform ACS' work with children and families. It should also be noted that, in 2005, the New York State Office of Children and Family Services (OCFS) designated the Accountability Review Panel a "State-approved fatality panel." In order to receive this approval, the panel had to broaden its membership to include OCFS and law enforcement representatives, as well as follow all other state requirements for state-approved fatality review teams.
- In December 2006, a new law was passed in New York State requiring that local and regional fatality review teams, which include NYCRO and the Accountability Review Panel, broaden the scope of their fatality reviews. The new law requires that fatality review teams review all fatalities of children whose families were undergoing a child protective investigation or receiving preventive services at the time of the child's death, in addition to the deaths of children in foster care and deaths reported to the state central registry, as required under the previous version of the law.

PUBLIC SERVICE CAMPAIGN In 2005, New York City launched a public service child safety campaign designed by ACS and the Department of Health and Mental Hygiene. The campaign is intended to raise parents' awareness of child safety issues. The campaign features public service announcements that appear on subways, buses, billboards and are broadcast on radio stations. These announcements focus on issues such as the need for window guards, how to carefully choose a caregiver and the dangers of sharing a bed with a baby and shaking a baby. The campaign also encourages parents to seek help, for example, for anger or drug abuse issues.

I. Introduction

In late 2005 and early 2006, a series of high profile child fatalities highlighted apparent failures of the New York City child welfare system and captured the attention of the public, politicians and the child welfare system itself. The death of a child, particularly as a result of child abuse and neglect, is a tragedy. However, the number of fatalities in a given year, and even fluctuations in this number between years, are not particularly good indicators of how well a child welfare system is performing. The number of child fatalities is extremely small, compared to the overall number of children involved with the child welfare system. ACS investigates more than 50,000 reports of suspected abuse and neglect each year and more than 40,000 children are in contact with ACS at any given time in preventive services and foster care cases. During the last decade, an average of 26 children per year who were previously known to ACS died as a result of child abuse and neglect. Fluctuations in such a small number from year to year are likely to be random and not due to the nature or quality of particular policy or service approaches being utilized by the child welfare agency.

Although a focus on the *number* of fatalities is not particularly instructive, these cases often highlight what turn out to be *systemic* case practice problems, particularly regarding families that had repeated contact with ACS prior to the death of their child. The practice deficiencies that are identified in cases in which fatalities have occurred—such as untimely or poor decision making during a prior CPS investigation—are often not isolated instances in child welfare systems, but rather problems that are more pervasive in nature, and thus potentially impact thousands of children and families. Therefore, these cases can provide a window into practice, and highlight areas where new approaches, policies, additional training, enhanced supervision, etc., may be necessary.

In New York City, an apparent child abuse or neglect-related fatality triggers at least three different investigations/reviews:

1. ACS' Division of Child Protective Services (CPS) investigates the allegations, as it does with all other reports of suspected child abuse and neglect. The purpose and scope of ACS' CPS investigations are discussed in Chapter 1 of this report.
2. When a child whose family was known to ACS within the last 10 years dies as a result of suspected maltreatment, ACS' own internal Accountability Review Panel (ARP) performs a review of past and current child welfare practice. The ARP reviews fatality cases in order to identify case-specific and system-wide concerns and to recommend "ways to improve interventions and overall functioning in ACS and in other service systems."³⁸⁸

Historically, the ARP has included members from within ACS as well as representatives

³⁸⁸ New York City Administration for Children's Services. *Accountability Review Panel Report 2005* (New York, NY: Administration for Children's Services, 2006), at 5.

from the NYC Medical Examiners Office, the Mayor’s Office, the Department of Education, the Health and Hospitals Corporation and Family Court,³⁸⁹ and utilized experts in “medicine, psychiatry, psychology, social work and public administration” to review child fatality cases.³⁹⁰ In 2006, OCFS designated the ARP a “State-approved fatality panel” which required the addition of certain members including representatives from OCFS and the police.³⁹¹

The ARP meets every other month with ACS Commissioner Mattingly and ACS senior management to discuss its findings, identify emerging trends and develop strategies to address concerns.³⁹² This more frequent meeting schedule was announced ACS in December 2004; the practice of previous commissioners was to meet with the ARP once a year.³⁹³ Current members of the ARP include physicians, social workers, mental health professionals and a nurse. The staff of the ARP consists of ACS employees, including social workers, analytic staff and attorneys. There is no designated chairperson.³⁹⁴

The ARP publishes annual fatality reports which present aggregate data such as the age and gender of the deceased children and the causes and manners of death. The reports also include a discussion of risk factors in these cases, such as parental substance abuse, domestic violence, and the special needs of the deceased children. In addition, the ARP presents its findings on case practice performance and systemic issues and makes recommendations to address identified practice deficiencies. It should be noted that the ARP reports do not specifically discuss the circumstances of each individual case, but do provide very brief summaries of the homicide cases and include case-specific examples to highlight particular concerns.

3. The New York City Regional Office (NYCRO) of the New York State Office of Children and Families (OCFS) reviews child deaths, including fatalities involving families known to the child welfare system. Previously, NYCRO was required to review all New York City child fatalities that were reported to the State Central Registry (SCR) as a result of suspected abuse or neglect (whether or not the family was previously known to ACS) and all fatalities of children in foster care. Effective December 14, 2006, NYCRO (and all other local and regional New York State fatality review teams) are also required to conduct fatality reviews regarding children who were involved in an active CPS investigation or preventive services

³⁸⁹ Ibid.

³⁹⁰ Ibid, at 9.

³⁹¹ Ibid, at 5.

³⁹² New York City Administration for Children’s Services. Commissioner’s Message. *Children’s Services Update*, (December, 2004), at 2.

³⁹³ Ibid.

³⁹⁴ Information provided to Children’s Rights by the New York City Administration for Children’s Services Office of Research and Evaluation. July, 2007.

case at the time of death.³⁹⁵

NYCRO's reviews include an examination of ACS case practice prior to the fatality (when the family was previously known to ACS) as well as after the fatality, e.g., assessing ACS' investigation of the child's death and its handling of surviving siblings. NYCRO produces a Child Fatality Report on each death, which may include recommendations regarding ACS practice, based on its findings.

Children's Rights reviewed the NYCRO Child Fatality Reports covering child deaths that occurred between July 1, 2004 and March 21, 2006. Children's Rights received copies of these reports through a Freedom of Information Law (FOIL) request. The time period of the review was selected in order to focus on recent practice and based on what Child Fatality Reports were available at the time of the FOIL request. There were 116 child fatalities during this time period that were reviewed by NYCRO. Of these, 49 children, who were members of 47 families,³⁹⁶ were documented by NYCRO as being previously known to ACS. Children's Rights collected information from each of the NYCRO reports regarding the characteristics of the deceased children; the manner of death; the circumstances surrounding the child fatality; the nature of the family's involvement with ACS prior to the death; and the deficiencies in case practice identified by NYCRO through its review. A more detailed description of the methodology for this review is provided in Appendix B.

In addition to reviewing the NYCRO reports on these 49 deaths, Children's Rights also reviewed aggregate data, including the ARP reports from 2000 to 2005.

The NYCRO Child Fatality Reports reviewed by Children's Rights for this report mirror some of the concerns that were raised in *Marisol v. Giuliani* a decade ago, the ARP reports of recent years and two prior studies of fatalities conducted by Children's Rights (examining deaths that occurred from 1999 through mid-2001 and 2003 through mid-March 2004).

In 1997, the Marisol Joint Case Review Team identified CPS case practice deficiencies including incomplete investigations and inadequate assessments, decision-making and supervision. The two previous studies of fatalities conducted by Children's Rights also raised concerns including the quality of assessments regarding safety and risk factors, both prior to the fatalities and after the fatalities (regarding the surviving siblings), decision-making and the scope of supervision. Children's Rights recommended that "the focus should be on the development and strengthening of sound casework practice, not simply on compliance with rules, regulations or documentation requirements."³⁹⁷ Other recommendations included the establishment of an independent New York City child fatality review team, increased attention to risk factors such as domestic violence,

³⁹⁵ New York State Office of Children & Family Services. *Local Commissioners Memorandum, Notification to OCFS of the Death of Children in Open Child Protective or Preventive Services Cases* (Rensselaer, NY: Development and Preventive Services, 2006).

³⁹⁶ Three of the children that died were members of one family. These children died in a fire.

³⁹⁷ Freundlich, M., Gerstenzang, S., Diaz, P., & London, E. *Continuing Danger: A Report on Child Fatalities in New York City* (New York, NY: Children's Rights, 2003), at 34. Freundlich, M. *Continuing Danger Revisited: Child Fatalities in New York City 2003-2004* (New York, NY: Children's Rights, 2004), at 16.

substance abuse and housing conditions, improved health care for foster children and supervision that supports training curricula and practice guidelines.³⁹⁸

In recent years, the ARP has identified many of the same concerns raised by the Marisol Joint Case Review Team and in the two previous Children's Rights' studies. In its 2004 report, the ARP noted concerns regarding thorough investigations, stating that "staff continues to see reports in isolation," and fail to recognize that "a current allegation may be another manifestation of the family's long-term dynamics."³⁹⁹ In addition, the ARP noted that "staff did not always carry out the supervisors' instructions, but supervisors approved case closings...even though their directions may not have been followed completely and certain issues may remain unresolved."⁴⁰⁰ Regarding collaboration with other service providers, the ARP "found continued examples of insufficient communication and information sharing" between ACS and the other service providers involved with families. The ARP has also consistently identified concerns regarding the ability of ACS staff to recognize and address mental health issues, to include fathers and other significant males in case assessments and service planning and to work with families with multiple problems and chronic neglect.

In the most recent ARP report, which reviews fatalities that occurred in 2005, the ARP again noted that "reports were considered in isolation," and that workers were not communicating with other service providers or the source of the abuse and neglect allegations in every case. Other ACS practice concerns highlighted by the ARP in its 2005 report included: (1) the on-going need to ensure comprehensive child protective investigations and appropriate assessments of safety and risk; (2) the lack of practice guidelines for preventive services providers and parenting skills training programs; and (3) the lack of an adequate transition period and lack of adequate supports for families prior to a child returning home from foster care.⁴⁰¹

This chapter provides an analysis by Children's Rights of the fatalities that occurred between July 1, 2004 and March 21, 2006, based on a review of NYCRO Child Fatality Reports, and a summary of the reforms directly related to child fatalities. (General practice reforms are discussed in other chapters of this report.) Appendix A provides a brief summary of the circumstances surrounding the death of each of the 49 children that died during this time period.

³⁹⁸ Freundlich, M., Gerstenzang, S., Diaz, P., & London, E. *Continuing Danger: A Report on Child Fatalities in New York City* (New York, NY: Children's Rights, 2003), at 15-16.

³⁹⁹ New York City Administration for Children's Services. *Accountability Review Panel Report 2004* (New York, NY: Administration for Children's Services, 2005), at 26.

⁴⁰⁰ *Ibid.*

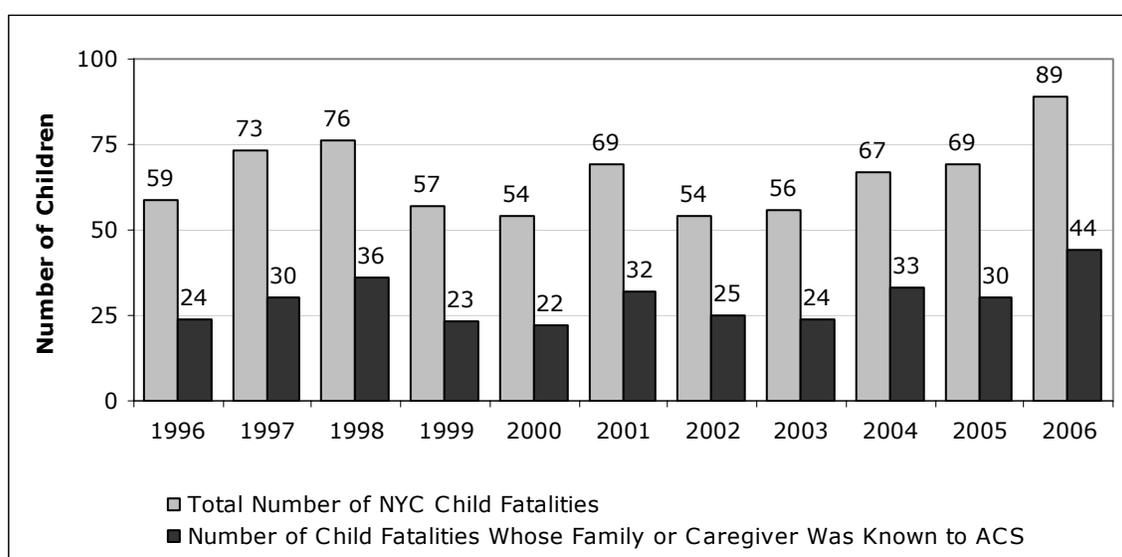
⁴⁰¹ New York City Administration for Children's Services. *Accountability Review Panel Report 2005* (New York, NY: Administration for Children's Services, 2006), at 30-41.

II. Data

A. Numbers of Child Fatalities

Chart 5.1 below provides the total number of NYC child fatalities that were reported to the New York State Central Registry (SCR) and the sub-group of those children whose families were previously known to ACS.⁴⁰² These data are presented annually from 1996 through 2006.

CHART 5.1
Total Number of NYC Fatalities Reported to the SCR and
Number in Families Previously Known to ACS, by Calendar Year



During the past decade, the total number of child fatalities reported to the SCR has ranged from 54 to 89 and the number of fatalities in families previously known to ACS has ranged from 22 to 44. During this time period, 40% to 49% of all fatalities reported to the SCR in a given year occurred in families known to ACS.

Children's Rights reviewed the NYCRO fatality reports for 116 fatalities that occurred between July 1, 2004 and March 21, 2006. Of these 116, there were 49 children in 47 families⁴⁰³ previously known to ACS. This chapter focuses on these 49 fatalities.

⁴⁰² Ibid, at 9 for the number of total child fatalities 1996-2005, at 71 for number of child fatalities in families known to ACS 1996-2005. Data for 2006 provided to Children's Rights by the New York City Administration for Children's Services Commissioner John Mattingly, May, 2006. The ARP characterizes a family as "known to ACS" if the family was involved with ACS within 10 years prior to the child's death.

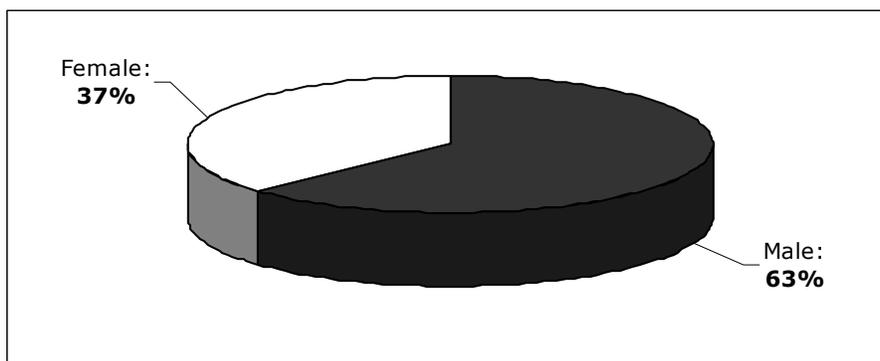
⁴⁰³ Three of the children were siblings who died in a fire. Thus, there were 49 children in 47 families.

B. Characteristics of the Children

The majority of children were boys and under the age of 2.

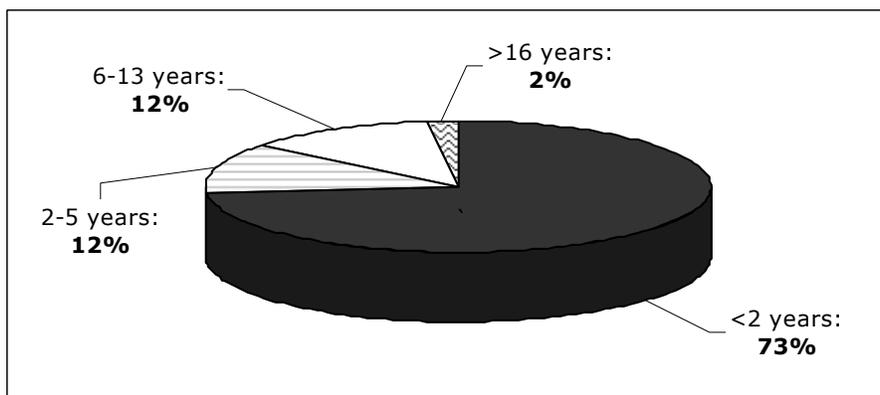
As shown in Chart 5.2, 63% of the deceased children were male and 37% were female.

CHART 5.2
Gender of Deceased Child (n=49)



As shown in Chart 5.3, 73% of the children were under the age of two years, 12% were between the ages of two and five years, 12% were between six and thirteen years, and one child (2%) was over the age of sixteen years at the time of death.⁴⁰⁴

CHART 5.3
Age of Deceased Child (n=49)



⁴⁰⁴ Percentages do not always total 100 due to rounding of the numbers.

C. Manner of Death

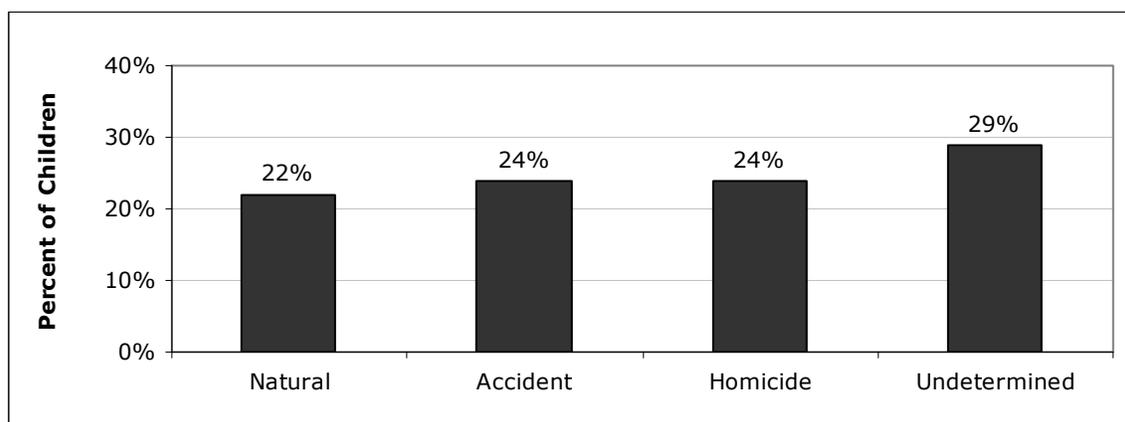
The NYCRO reports note the manner of death for each of the 49 children as reported by the medical examiner. Manner of death is categorized as natural, accident, homicide or undetermined.⁴⁰⁵ Chart 5.4 below provides the findings of the medical examiner as reported by NYCRO.

The manner of death alone does not necessarily shed light on whether abuse or neglect by a parent or caregiver was a factor in the child's death. For example, although the medical examiner

determined that the manner of death for one child was homicide, the child was allegedly murdered by two people who were not related to the child and were not the child's caregivers. In that case, ACS determined that the caregiver had not abused or neglected the child. In another case, the medical examiner determined that the child died of natural causes, specifically Sudden Infant Death Syndrome (SIDS). ACS determined that, although the manner of death was natural, the caregiver had neglected the infant by placing the infant to sleep on a bed instead of in a crib and by abusing drugs, which affected her ability to supervise the child. The following sections provide some additional detail regarding the circumstances surrounding these fatalities.

According to the Medical Examiner, 22% of the deaths were natural, 24% were accidents and 24% were homicides. In the remaining 29% of cases, the manner of death was undetermined.

CHART 5.4
Manner of Death (n=49)



⁴⁰⁵ New York City Administration for Children's Services. *Accountability Review Panel Report 2005* (New York, NY: Administration for Children's Services, 2006), at 13. Manners of death are defined as follows: (1) natural – when disease or a medical condition is the sole cause of death; (2) accident – when the death results from injury caused inadvertently; (3) homicide – when the death results from an act of commission or omission by another person or through the negligent conduct of a caregiver and (4) undetermined – when the manner of death cannot be established with a reasonable degree of medical certainty.

D. Co-Sleeping

The 49 deaths occurred in a variety of circumstances. However, one particular circumstance was present in a significant minority of cases. Twelve (24%) of the 49 fatalities occurred while an infant

Twelve of the 49 fatalities (24%) occurred while an infant was “co-sleeping” with an adult or older child.

was “co-sleeping” with an adult or older child. It can be difficult for a medical examiner to determine the cause of death in these cases, e.g., whether a child died as a result of Sudden Infant Death Syndrome or from having an adult or older child roll over on them. These 12 deaths were

classified by the medical examiner as either accident or undetermined.

Regardless of the medical examiner’s findings, ACS must carefully investigate each fatality and assess each family in order to determine what happened to the child, who, if anyone, abused or neglected the child prior to his/her death and what needs to be done to ensure the safety and well-being of the surviving children. The remainder of the “Data” section of this chapter focuses on ACS practice, including who ACS determined was responsible for the deaths and in what way they were responsible, what type of involvement ACS had with these families before the children died and NYCRO’s assessment of ACS’ casework.

E. Parent/Caregiver Involvement in Child’s Death

Children’s Rights collected relevant information from the NYCRO reports and categorized whether ACS determined that fatalities were **caused** by the parent or caregiver, whether a parent/caregiver **failed to protect** the child from the person who caused the death and/or failed to seek or delayed

In 16% of the 49 fatalities, a parent/caregiver was found by ACS to be responsible for the child’s death; in nearly half of the cases ACS determined that a parent/caregiver failed to adequately supervise or provide a safe environment for the child, which placed the child in harm’s way.

seeking medical treatment for the child and whether parents or caregivers **contributed** to the child’s death by failing to appropriately supervise or provide a safe environment for their child.⁴⁰⁶ For example, a parent who hit their child causing fatal injuries was categorized as having caused the child’s death. A parent who was present when their companion

beat their child and then did not seek immediate medical treatment for the child was categorized as having failed to protect the child. A parent who placed her infant to sleep on soft bedding, which resulted in the child suffocating, was categorized as having contributed to the child’s death, by creating an unsafe environment.

⁴⁰⁶ It should be noted that the NYCRO reports do not include and thus this report does not present information about whether criminal cases were pursued or the outcomes of any criminal cases. Thus, “caused the child’s death,” as used here, does not necessarily mean that a person was prosecuted and found criminally responsible.

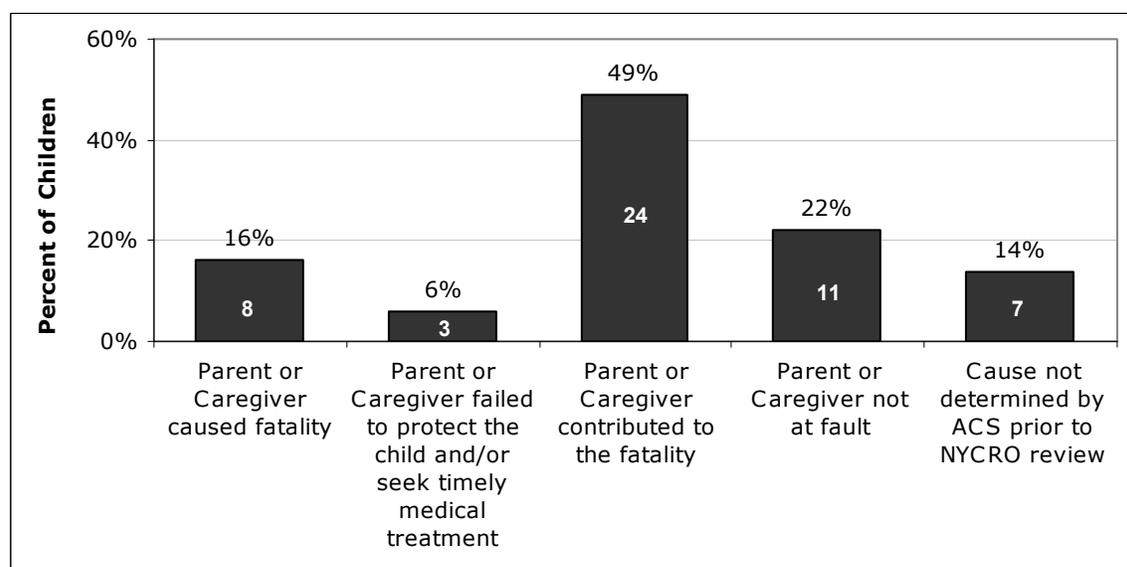
Chart 5.5 below illustrates the nature of parent/caregiver involvement in the 49 fatalities.⁴⁰⁷

In 16% (8) of the fatalities, ACS determined that a parent or caregiver **caused** the child's death, which represents 8 of the 12 deaths ruled as homicides by the Medical Examiner.⁴⁰⁸ Chart 5.6 below provides which caregiver, specifically, caused the deaths of these nine children. In two of the homicides, ACS had not yet made a determination regarding whether a parent or caregiver had caused the child's death by the time NYCRO reviewed the cases.

In 6% (3) of the fatalities, ACS determined that a parent or caregiver **failed to protect** the child from fatal injuries and/or failed to seek or delayed seeking medical treatment for the child. In two of these fatalities, the injuries were caused by the mother's companion; however, the mother was present, failed to protect the child and did not seek or delayed seeking medical treatment for the child. In a third case, the babysitter caused serious and obvious injuries to the child and, when the mother returned to the home, she delayed seeking medical treatment for the child.

CHART 5.5

Type of Parent/Caregiver Involvement in Fatalities, as Determined by ACS (n=49)



⁴⁰⁷ Percentages total more than 100% and numbers total more than 49 because more than one parent/caregiver could have been involved in the child's death and could be included in different categories of "involvement."

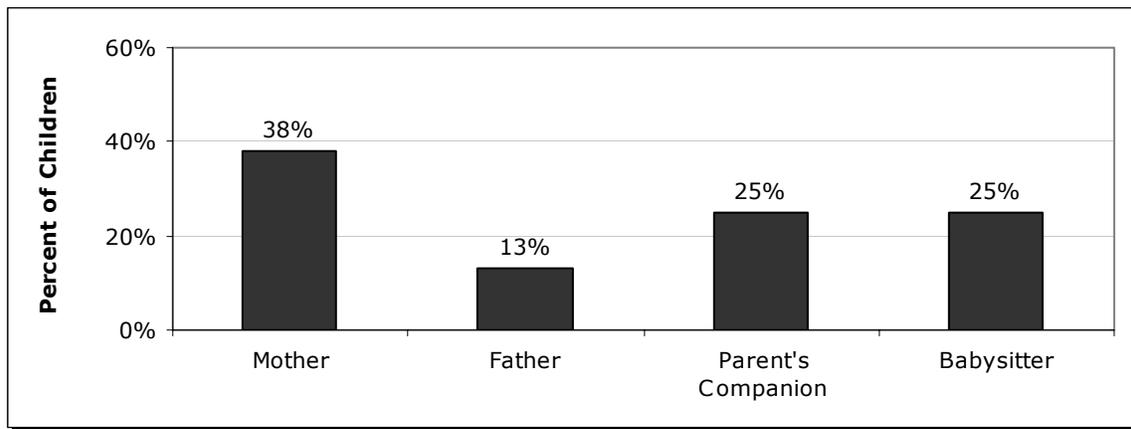
⁴⁰⁸ The two homicides not included in this category involved 1) a child that was allegedly murdered by two people who were not related to the child and who were not the child's caretakers. ACS did not substantiate child abuse or neglect against the child's parent/caregiver; thus, this case is reflected in Chart 3 in the category of "No Parent/Caregiver at Fault"; and 2) a child who was suffocated in his crib at a day care center after other children placed stuffed animals on top of him. This "caregiver" (the day care provider) was included in the "Contributed to the Fatality" category in Chart 3 because ACS substantiated lack of appropriate supervision.

In 49% (24) of the fatalities, ACS determined that a parent or caregiver **contributed** to the child's death by failing to appropriately supervise or provide a safe environment for their child. For example, in one case, a window guard in the family's apartment was not secured and the child fell out of the window. In another case, a child was playing alone in his room, pretending to be a character from the Spiderman movies and accidentally hung himself from his bedroom window. In another case, a child was playing with a rubber glove, swallowed a piece of the glove and suffocated.

In 11 cases (22%) ACS determined that no parent or caregiver was at fault and in seven cases (14%) ACS had not made a determination before NYCRO reviewed the cases. It should be noted that in four of the 11 cases in which ACS determined that no parent or caregiver was at fault, NYCRO disagreed with ACS' determination.

Chart 5.6 below provides who, specifically, caused the deaths of the eight children that ACS determined were fatally injured by a parent or caregiver. Three of these deaths were at the hands of the mother, one was at the hands of the father and the remaining four were at the hands of the parent's companion or a babysitter. Four of these eight children were beaten to death; the remaining four children died due to being burned, suffocated or drowned. As noted above, ACS had not made a determination in two additional homicide cases. In both of those cases the children were beaten to death, allegedly by the father in one case and by the mother's companion in the other case (data not included in Chart 5.6).

CHART 5.6
Person who Caused the Child's Death in Homicides Caused by Parent/Caregiver,
as Determined by ACS (n=8)



F. ACS Involvement with the Family/Caregiver

Children's Rights collected relevant information from the NYCRO reports and categorized the nature of families' involvement with ACS prior to the child fatality. Children's Rights gathered information on parents/caregivers who: (1) had been and/or were currently involved in a CPS investigation; (2) had received and/or were currently receiving preventive services and/or (3) previously and/or currently had a child in foster care. The review team considered the child welfare history of the deceased child's parents or caregiver (relative, foster parent, day care provider, etc.) at the time of death.

This section examines the timing of ACS' involvement (i.e., whether ACS was involved with the family when the child died, prior to the child's death or both), how often these families came to ACS' attention and what services, if any, ACS provided to the families prior to the fatality.

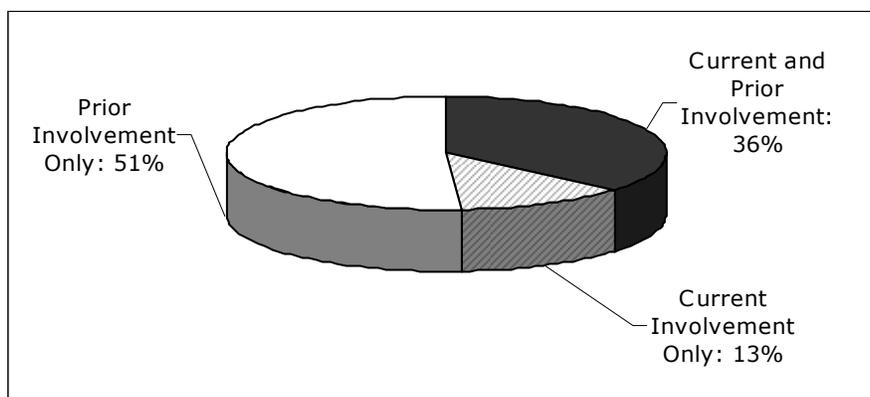
1. Timing of ACS Involvement

Information was collected on the timing of families' involvement with ACS prior to the child fatality.

As shown in Chart 5.7 below, 13% (6) of the families were involved with ACS when the child died and had no other prior ACS involvement. Just over half, 51% (24) of the 47 families were not involved with ACS at the time of the child's death, but had been previously involved with ACS; and 36% (17) families had both current and prior involvement with ACS.

Thirteen percent were involved with ACS when the child died and had no other prior involvement; half had been previously involved with ACS, but were not involved with ACS at the time of the child's death; and 36% had both current and prior involvement with ACS.

CHART 5.7
Timing of ACS' Involvement with Families (n=47)



Combining the “current only” with the “current and prior” and the “prior only” with the “current and prior,” a total of 23 families (49%) were involved with ACS at the time the child died, and 41 families (87%) had previously been involved with ACS.

2. Number of Prior ACS Investigations

Chart 5.8 provides data on the number of reports ACS investigated in these families prior to the child fatality.⁴⁰⁹ Almost half of the families (47%) had been investigated by ACS four or more times.

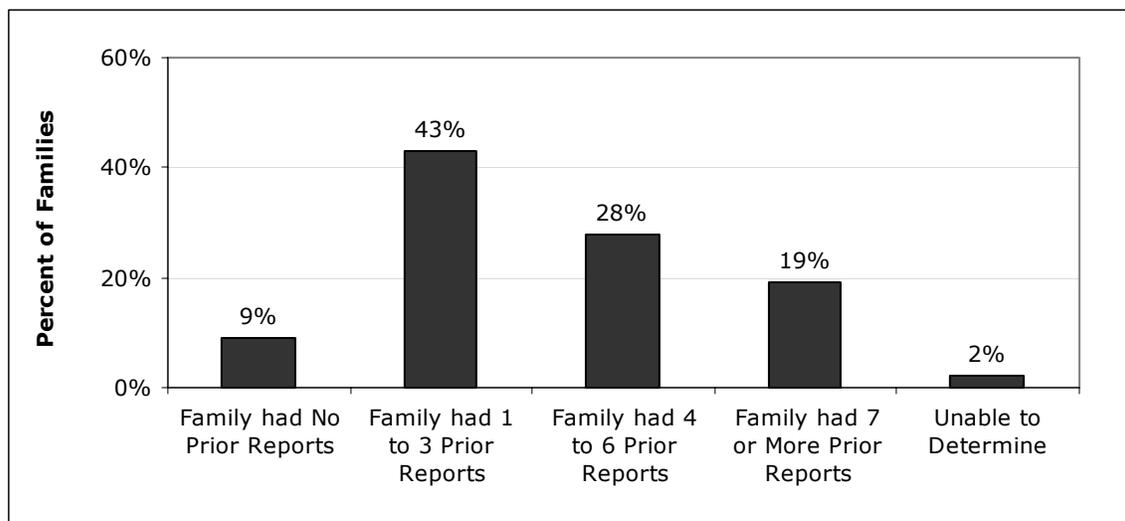
Nearly half of the families had been investigated by ACS four or more times prior to the child’s death.

This includes families whose prior investigations were either indicated (evidence of abuse and/or neglect was found) or unsubstantiated (no evidence of abuse or neglect found) by ACS. This may raise questions about whether the prior investigations were thorough and whether

appropriate assessments and decisions to remove children from their homes were made and/or may indicate repeated missed opportunities to provide these families with the help they needed to safely care for their children at home.

⁴⁰⁹ The 9% of families with no prior reports reflected in Chart 9 involved four fatalities that occurred in foster homes. Two children died after being placed in foster homes and the foster mothers who were caring for these children had not been reported to the SCR for abuse or neglect prior to the children’s deaths. The other two children were living in foster homes with their teen mothers. The two teen mothers had not been reported to the SCR for abuse or neglect prior to the children’s deaths.

CHART 5.8
Number of Child Abuse/Neglect Reports Investigated by ACS
Prior to the Child Fatality (n=47)



3. Type of ACS Involvement with Families

As noted above (in Chart 5.7), 13% of families were involved with ACS at the time of the child's death; just over half of the families were not involved with ACS at the time of the child's death, but had been previously involved with ACS; and 36% had both current and prior involvement with ACS.

Chart 5.9 below provides more detail on the nature of families' current and prior involvement with ACS.⁴¹⁰ More than one-fifth (23%) were involved in a CPS investigation⁴¹¹ that had not yet been completed when the child died; almost one-fifth (19%) were receiving preventive services when the child died;⁴¹² and 15% of the families were receiving foster care services^{413, 414} at the time of the child's death.

⁴¹⁰ Percentages total more than 100% because families can be involved with ACS in multiple ways.

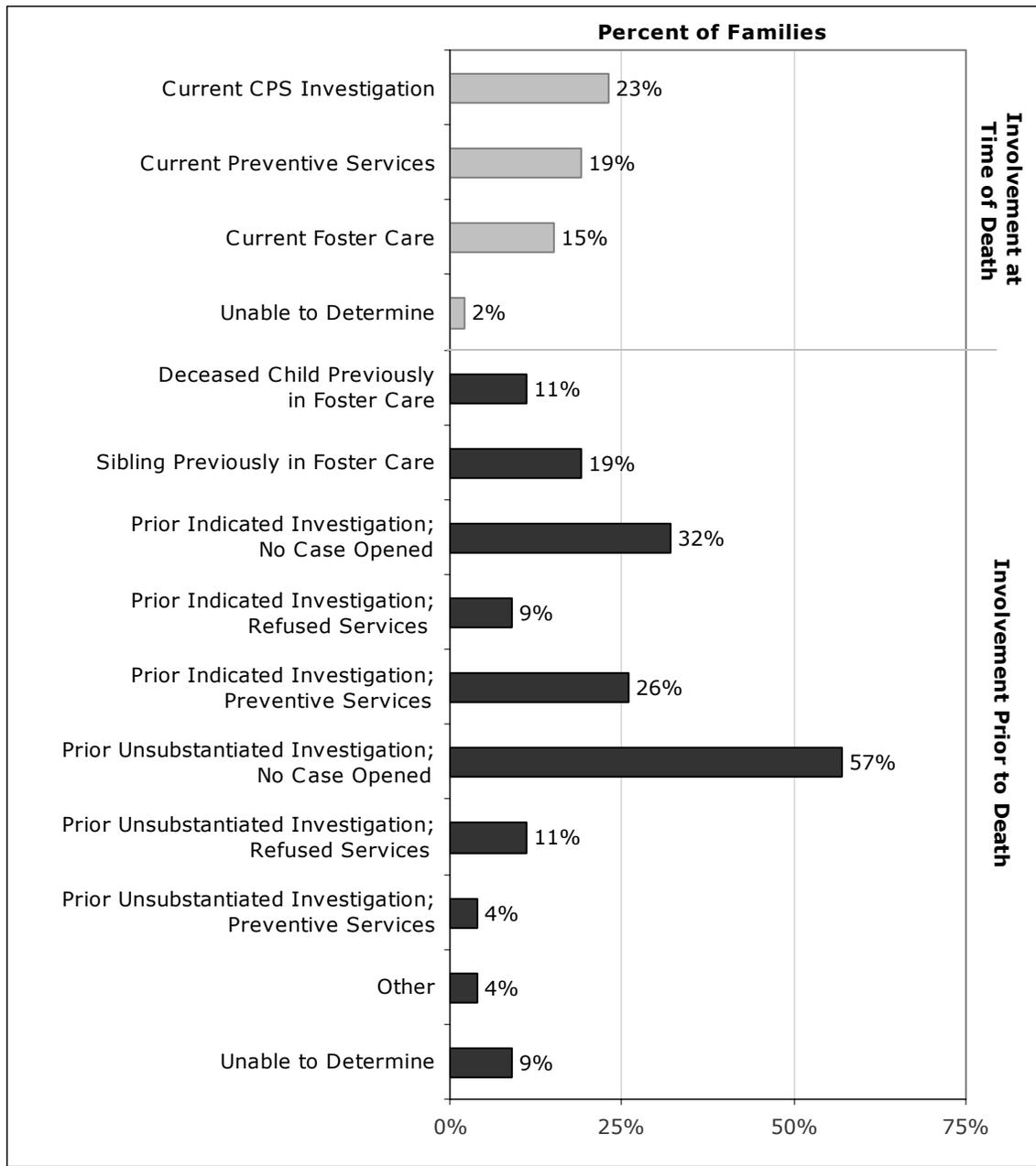
⁴¹¹ When allegations of abuse or neglect of a child in New York City are reported to the SCR, ACS is responsible for investigating the validity of the allegations and evaluating the safety of and risk to the child if the child remains at home.

⁴¹² Preventive services are supportive services that are provided to families to prevent the removal of the child from the home.

⁴¹³ Foster care is an out-of-home placement of a child when it is no longer safe for the child to remain at home.

⁴¹⁴ The seven families who were receiving foster care services at the time of their child's death include three families who had a child living at home (who died) and children in foster care; two foster families in whose home a foster child died; and two teen mothers who were in foster care with their children when their children died. All four

CHART 5.9
 Type of ACS Involvement with Families (n=47)



children who died while living in foster homes were less than one year old. According to the medical examiner, the cause of death for two of the infants was Sudden Infant Death Syndrome (SIDS); the third infant died of natural causes related to an “upper respiratory tract infection”; and the medical examiner was unable to determine the cause or manner of death for the fourth infant.

One third (32%) had a prior indicated investigation (meaning a finding by ACS that abuse and neglect had occurred), which did not lead to a case being opened for ongoing services. More than half (57%) had prior unsubstantiated investigations. More than one-quarter (26%) had a prior indicated investigation and a preventive services case which had been closed prior to the child's death.

The data presented here indicate that a significant portion of families in which fatalities ultimately occurred had repeated involvement with ACS. Of particular concern is the portion of cases in which evidence of abuse or neglect is found, but no services are provided to the family. As discussed in Chapter 1, recent data indicate that, across the system, approximately 30% percent of indicated investigations do not result in an ongoing case being opened for services. ACS has recently begun to focus on decreasing the number of indicated investigations it closes without referring the family for services.⁴¹⁵ In addition, the cases in which families were receiving preventive services at the time of the child's death or previously raise questions about the effectiveness of these services, the degree of ongoing oversight provided and the decisions made regarding when to report abuse and neglect concerns to the SCR. Although the numbers of children involved with ACS who die is very small, a substantial number of children in families receiving preventive services suffer repeat maltreatment of some type. As noted in Chapter 2, approximately 17% of children receiving preventive services from providers under contract with ACS experience repeat maltreatment.

G. Intergenerational Abuse and Neglect

One of the many risk factors associated with child abuse and neglect is the parent's own history of childhood maltreatment. Intergenerational abuse and neglect refers to a parent who was abused or neglected as a child and later abuses or neglects his/her own child. Experiencing abuse and neglect as a child does not mean that the child will always become an abusive or neglectful parent, but the risk is greater than for those who were not abused or neglected as a child.⁴¹⁶ Intergenerational abuse and neglect was a factor in 19% (9) of the 47 families.

Intergenerational abuse and neglect was a factor in 19% of the 47 families.

⁴¹⁵ Kaufman, L. After 7-Year-Old's Death, Agency Monitors Cases More Aggressively, *The New York Times*. (December 11, 2006).

⁴¹⁶ U.S. Department of Health and Human Services, Office on Child Abuse and Neglect. *A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice* (Washington, DC: Child Welfare Information Gateway, 2003). Retrieved April 18, 2007, from <http://www.childwelfare.gov/pubs/usermanuals/foundation/foundation.cfm>

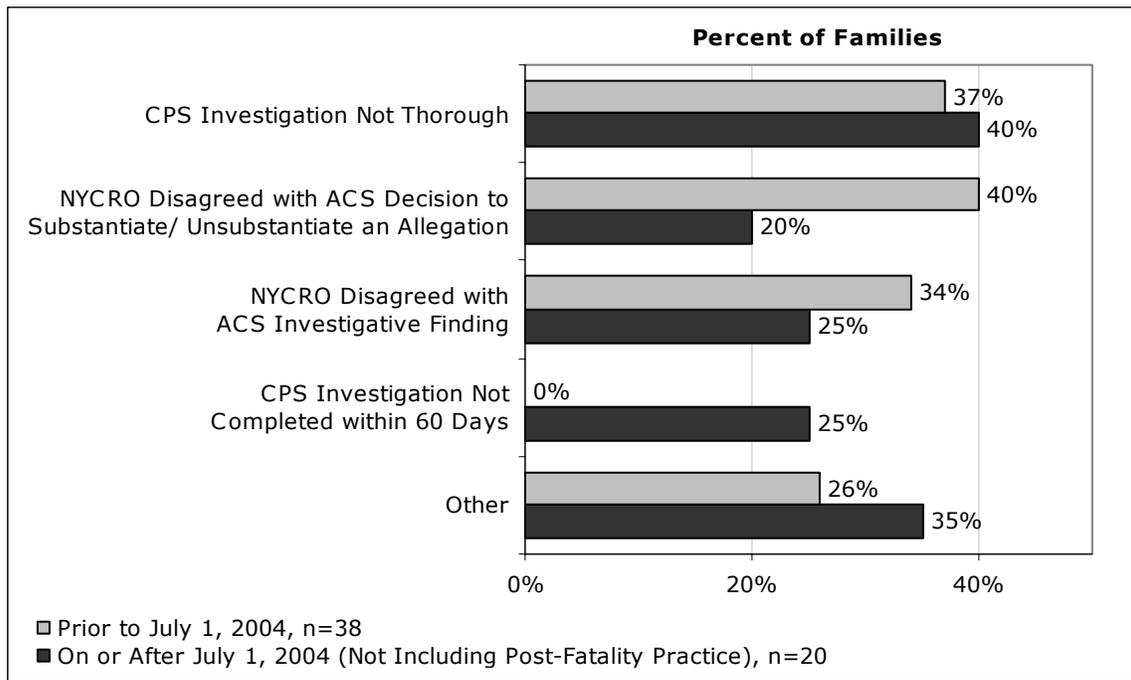
H. ACS Practice Deficiencies

Children’s Rights recorded the ACS practice deficiencies that were documented by NYCRO. Chart 5.10 provides the deficiencies NYCRO documented related to ACS investigative practice, e.g. the

quality of prior abuse and neglect investigations conducted on the family (excluding the fatality investigations themselves, which are addressed in Chart 5.11).⁴¹⁷ The distinction between deficiencies in practice that occurred prior to July 1, 2004 and post July 1, 2004 was made in order to enable a focus on practice under the recent administration.

NYCRO documented deficiencies related to ACS practice prior to and following the children’s deaths. Particular areas of concern were the thoroughness of child protective investigations and the decisions made by ACS regarding whether or not allegations of abuse or neglect had been proven.

CHART 5.10
Practice Deficiencies Identified by NYCRO (Excluding Fatality Investigations) ⁴¹⁸



⁴¹⁷ It should be noted that, in some cases, NYCRO was not able to review all of the prior case records; some case records had been created prior to the advent of on-line record keeping and could not be located.

⁴¹⁸ The “n” values noted in Chart 10 indicate the number of families who were investigated by CPS at least once during the time period noted.

As shown in Chart 5.10, NYCRO found that approximately 40 percent of the families had prior CPS investigations (investigations that occurred prior to the fatality) that were not thorough, e.g., ACS did not interview all family members, address the allegations with each family member, contact all of the service providers involved with family, etc. NYCRO disagreed with ACS' decisions regarding individual allegations and/or the overall investigative finding more often in investigations conducted prior to July 1, 2004 than after July 1, 2004.

Notable deficiencies documented by NYCRO, captured in the category of "Other" in Chart 5.10, included: (1) ACS treated each report as a separate issue rather than as part of a bigger picture; (2) ACS failed to adequately assess family functioning and services needs; (3) ACS uncovered evidence of new allegations while investigating a report but did not add these allegations to the report; (4) ACS did not take legal action when necessary; (5) ACS had insufficient communication with other service providers; and (6) ACS staff did not follow supervisory directives.

Two significant themes emerged from NYCRO's comments on ACS practice prior to the fatalities, which are well-represented by the following quotes taken from two of the NYCRO reports:

- "Throughout this family's history, ACS supervisors approved the unsubstantiation of allegations even when there was credible evidence present. ACS supervisors also approved the determination of allegations when the Specialist did not address the allegations for each child individually. ACS did not conduct thorough investigations of the allegations of the reports."
- "The prior history of this family reflected that ACS treated each report as a separate incident as opposed to assessing the family's functioning and the on-going service needs of the family. There was no continuum of service provision and ACS' involvement with this family was crisis oriented."

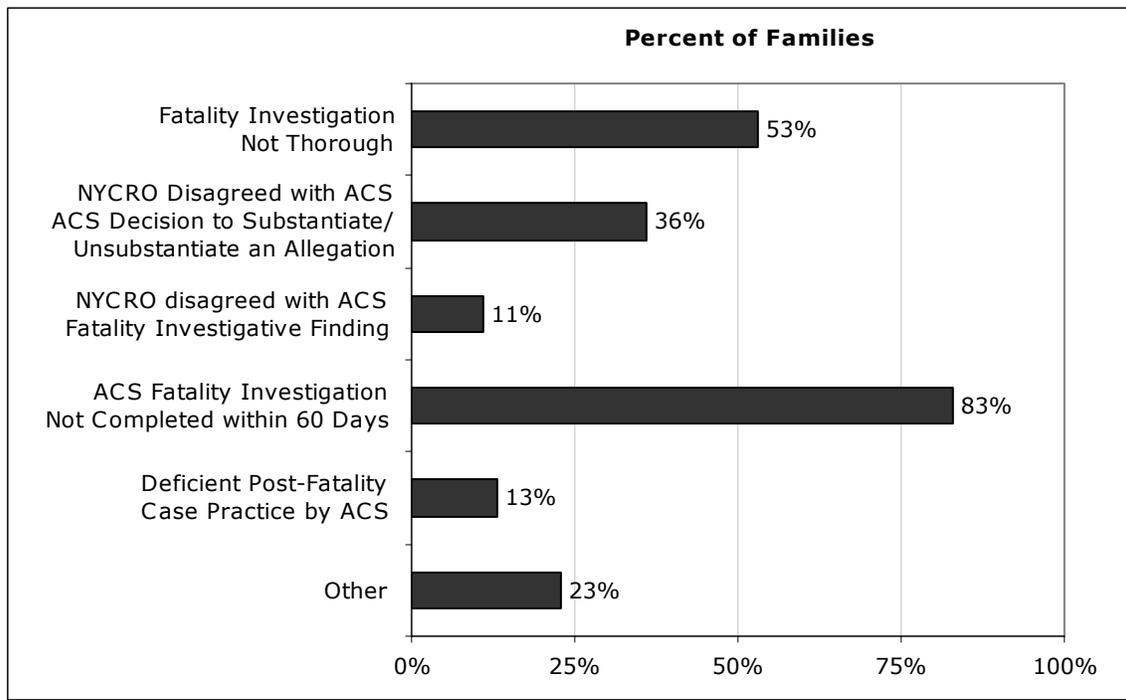
Each child protective investigation must be comprehensive and consider both the past and the present in order to formulate a complete picture of a family. Only then can appropriate decisions be made regarding how to ensure that children are safe and well-cared for in their homes.

Chart 5.11 below provides the practice deficiencies identified by NYCRO specifically pertaining to ACS' case practice after the fatality occurred, e.g., the quality of ACS' fatality investigation itself. NYCRO identified one or more deficiencies in 94% (44) of the 47 cases.

Fatality investigations are high priority and one would assume that they would be more closely supervised and monitored than any other type of investigation; however, NYCRO noted that more than half (53%) of the investigations were not thorough. In addition, ACS did not complete 39 (83%) of the fatality investigations within the 60 day time frame, as required in New York State.

"Other" post-fatality practice deficiencies documented by NYCRO included concerns regarding inaccurate safety and risk assessments of the surviving children and delayed documentation.

CHART 5.11
Practice Deficiencies Identified by NYCRO in Fatality Investigations
and Post-Fatality Case Practice (n=47)



III. Reform Efforts

ACS reform efforts related to child protective investigations, preventive services and foster care are discussed in Chapters 1, 2 and 3 respectively. The following initiatives and reforms are specifically related to child fatalities.

A. Commissioner’s Involvement with the Accountability Review Panel

The ARP meets on a regular basis with ACS Commissioner Mattingly and ACS senior management to discuss its findings on individual cases. In December 2004, ACS announced that Commissioner Mattingly would meet with the ARP “bimonthly [every other month, instead of once a year, as previous commissioners had]...to look closely at the cases they’re [sic] examining, try to find emerging trends and seek ways to prevent future fatalities.”⁴¹⁹ As stated earlier in this chapter, the number of fatalities of children known to the child welfare community is extremely small when

⁴¹⁹ New York City Administration for Children’s Services. Commissioner’s Message. *Children’s Services Update*, (December, 2004), at 2.

compared to the total number of children who are receiving and have received child welfare services. At the same time, these cases can provide insight into systemic issues that impact many children and families. The Commissioner must ensure that the lessons learned as a result of the work of the ARP and NYCRO are passed on to all levels of staff and that policy and practice improvements are instituted when needed.

B. Increased Scope of Fatality Reviews

Previously, New York State law required reviews of all New York City child fatalities that were reported to the SCR as a result of suspected abuse or neglect and all fatalities of children in foster care. Effective December 14, 2006, all local and regional New York State fatality review teams, including NYCRO and the ARP, are also required to conduct fatality reviews regarding children who are involved in active CPS investigations or preventive services cases at the time of death.⁴²⁰

C. Child Safety Campaign

On April 13, 2005, New York City Mayor Michael Bloomberg launched the “Take Good Care of Your Baby” child safety campaign. The goal of this campaign, designed collaboratively by ACS and the Department of Health and Mental Hygiene, is to raise awareness among parents and caregivers of practices to avoid when caring for children. Some of the most common child and infant-related injuries include window falls, drowning, shaken baby syndrome and unintended poisonings in the home. The campaign features public service announcements that appear on subways, buses, billboards and are broadcast on radio stations. The campaign includes the following ten safety messages: 1) It is safest for baby to sleep alone; 2) child proof your home; 3) water safety; 4) window guards save lives; 5) don’t shake your baby; 6) how to choose your caregiver wisely; 7) anger management; 8) don’t leave children alone; 9) get help for drug and alcohol abuse; and 10) ACS: We are here to help.⁴²¹ Although only some of these messages are related to child abuse and neglect, they are all intended to focus parents on child safety and to encourage parents to ask for help, for example, with anger or substance abuse issues.

⁴²⁰ See N.Y. Soc. Serv. §422-b (2006).

⁴²¹ New York City Administration for Children’s Services. *Mayor Michael R. Bloomberg Announces “Take Good Care of Your Baby” Child Safety Campaign* (New York, NY: Administration for Children’s Services Press Release, April 13, 2005). Retrieved June 26, 2007, from http://home2.nyc.gov/html/acs/html/pr/pr05_04_13.shtml.

Appendix A:

Brief Summaries of 49 Child Fatalities that Occurred from July 1, 2004 to March 21, 2006 in Families Known to ACS

Key: BM – Birth Mother
 BP – Birth Parents
 MGM – Maternal Grandmother
 BF – Birth Father
 FM – Foster Mother
 ME – Medical Examiner

Age & Gender of Child at Time of Death	Date & Manner of Death	Circumstances Surrounding Death ⁴²²	Current and Prior ACS Involvement
13 years, female	07/01/04 Homicide	“Asphyxiation by ligature strangulation (a wire was around her neck) and intra-oral gag.” Two suspects (not related to child) were charged with murder. ACS unsubstantiated all allegations in fatality report.	Child and her legal custodian (MGM) not involved with ACS at time of death. Custodian had history with ACS dating back to 3/25/04; 1 indicated report. BM had history with ACS dating back to 1988; 15 reports – 8 indicated.
2 months, male	07/12/04 Undetermined	ME listed cause of death as “SIDS” initially, later amended autopsy report to state that death was caused by “co-sleeping with parent and sibling in a bunk bed.” ACS unsubstantiated all allegations in fatality report.	Family not involved with ACS at time of death. Family had history with ACS dating back to 1999; 3 unsubstantiated reports.

⁴²² Text shown here in quotes was taken verbatim from the NYCRO reports, which were referencing the Medical Examiner’s report.

Age & Gender of Child at Time of Death	Date & Manner of Death	Circumstances Surrounding Death ⁴²²	Current and Prior ACS Involvement
10 years, male	07/24/04 Accidental	"Inadvertent hanging during Spiderman play in child with ADHD." ACS substantiated allegations of DOA/Fatality and Inadequate Guardianship by BP's.	Sibling was in kinship foster care with grandmother and family had open preventive services case at time of death. BM had history with ACS dating back to 1980; 6 reports – 4 indicated.
6 weeks, female	07/31/04 Undetermined	"Probably SIDS" as there was no trauma found to child. ACS unsubstantiated all allegations in fatality report.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 1999; 9 reports – 1 indicated.
18 days, female	07/31/04 Undetermined	Possible cause listed as "co-sleeping with adults, on a pillow face down." ACS substantiated allegation of Inadequate Guardianship by BM.	BM had history with ACS dating back to 1995; 3 indicated reports. BM known to ACS as a maltreated child.
4 months, male	08/08/04 Natural	"SIDS." FM placed child on his stomach to sleep, despite being trained not to. ACS unsubstantiated all allegations in fatality report.	Child and his twin were in foster care at time of death. FM was known to ACS as foster parent only. BM and various BFs had history with ACS dating back to 1991; 11 reports – 9 indicated.
6 months, male	08/11/04 Homicide	"Compression of body by foreign objects (toys)." Child was found under a pile of toys thrown into playpen by other children at daycare center. ACS substantiated allegations of Lack of Supervision and Inadequate Guardianship by family day care provider.	Family day care provider had history with ACS dating back to 1999; 1 unsubstantiated report.
16 months, male	08/30/04 Natural	"Anoxic Encephalopathy (lack of oxygen to the brain) that was related to the child's chronic medical condition." ME stated that child's death was not caused by lack of medical care. ACS unsubstantiated all allegations in fatality report.	Family was not involved with ACS at time of death. BM had history with ACS dating back to 2003; 1 unsubstantiated report.
3 years, male	09/09/04 Homicide	"Blunt impact to torso." ACS substantiated allegations of DOA/Fatality by BF and Inadequate Guardianship by BM and BF.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 1997; 6 reports – 2 indicated.

Age & Gender of Child at Time of Death	Date & Manner of Death	Circumstances Surrounding Death ⁴²²	Current and Prior ACS Involvement
10 months, female	09/10/04 Undetermined	"Asphyxia by overlaying." BM's companion was father of deceased child's older sibling and was under the influence of alcohol and drugs when he rolled over on child. ACS substantiated allegations of DOA/Fatality, Inadequate Guardianship and Parent's Drug/Alcohol misuse by BM and companion.	Family had open preventive services case at time of death. BF had history with ACS dating back to 2002; 1 indicated report. BM had history with ACS dating back to 2003; 1 report – unclear whether was indicated or unsubstantiated. No ACS history noted for companion. BF known as maltreated child.
16 years, male	09/13/04 Accidental	"Multiple fractures and visceral lacerations due to blunt impact." Child fell five floors trying to enter burned out building from roof. ACS substantiated allegations of Inadequate Guardianship, Inadequate Food, Clothing and Shelter by BM.	Family had open ACS investigation at time of death that was later unsubstantiated. BM had history with ACS dating back to 1989; 15 reports – 6 indicated.
5 years, male	09/20/04 Accidental	"Asphyxia due to aspiration of a portion of a rubber glove." ACS substantiated allegations of DOA/Fatality and Inadequate Guardianship by BM.	Family had open ACS investigation at time of death that was later indicated. Family had history with ACS dating back to 2000; 3 reports - 1 indicated.
2 months, female	10/03/04 Natural	"SIDS." Child had been placed on a bed instead of in a crib; MGM had inappropriate living conditions and used illicit drugs, of which the parents were aware. ACS substantiated allegation of Inadequate Guardianship by MGM, BM and BF.	Child living with MGM through informal family arrangement. MGM not involved with ACS at time of death. MGM had history with ACS dating back to 1999 and had her parental rights terminated for 5 of her 6 children. BM known to ACS as a maltreated child.
1 year, male	10/15/04 Accidental	"Drowning." Child was left alone in bathtub for approximately 15 minutes. ACS substantiated allegations of DOA/Fatality and Inadequate Guardianship by BM and MGM.	Family was not involved with ACS at time of death. BM had history with ACS dating back to 2001; 8 reports - 5 indicated.
4 months, male	11/18/04 Accidental	"Postural asphyxia due to wedging between bedding and wall." Mother of babysitter was caring for child when child died; babysitter was at work. ACS substantiated allegation of Inadequate Guardianship by BM and mother of the babysitter.	Family was not involved with ACS at time of death. BM had history with ACS dating back to 1996; 1 unsubstantiated report. Neither the babysitter nor the babysitter's mother was known to ACS.

Age & Gender of Child at Time of Death	Date & Manner of Death	Circumstances Surrounding Death ⁴²²	Current and Prior ACS Involvement
23 days, male	11/29/04 Accidental	"Overlaying." Child was co-sleeping with BM and sibling. ACS substantiated allegations of DOA/fatality and Inadequate Guardianship by BM.	BM known to ACS as a maltreated child. BM was living in a therapeutic foster home with her two children at time of death.
3 months, female	12/04/04 Accidental; child found on 12/09/04	"Dehydration." Child died while in care of BF. BF had a heart attack and died. Subsequently, child died. ACS unsubstantiated all allegations in fatality report.	Family was not involved with ACS at time of death. BM had history with ACS dating back to 1990; 8 reports – NYCRO report not clear regarding how many were indicated. Four of BM's children were adopted, one lived with their BF.
2 months, female	12/10/04 Undetermined	"Infant's death was possibly related to nutritional neglect. Infant weighted 6 pounds at the time of death, but had weighted 9 pounds at her last medical appointment one month before." ACS notes that parents gave child over the counter Dimetapp that was not recommended for child's age. ACS substantiated allegation of Inadequate Guardianship by BPs and unsubstantiated allegation of DOA/Fatality by BP's.	Family had open preventive services case at time of death. The day before the child died the BM and infant were at the preventive services agency when BM revealed that BF beat her in front of the children the previous night. BM was referred for domestic violence services. Family had history with ACS dating back to 2002; 5 reports – 2 indicated.
2 months, male	01/03/05 Undetermined	"No findings to establish that the manner of death was accidental or intentional." Child was co-sleeping with BM. ACS substantiated allegation of Inadequate Guardianship by BM.	Sibling in foster care at time of death. Family had open ACS investigation at time of death that was later indicated. BM and child were living in a domestic violence shelter at time of death. BM had history with ACS dating back to 2003; 1 indicated report. BM known to ACS as a maltreated child.
2 months, female	01/03/05 Undetermined	"Unable to state whether the cause of death was due to SIDS or overlay." Child was co-sleeping with both parents. ACS substantiated allegation of Inadequate Guardianship by BM and BF.	Family was not involved with ACS at time of death. BF had history with ACS dating back to 2000; 2 unsubstantiated reports. BM had history with ACS dating back to 2001; 2 indicated reports.
6 months, male	02/26/05 Natural	"Bronchopneumonia complicating upper respiratory tract infection." Child had a chronic terminal illness. ACS substantiated allegation of Inadequate Guardianship by BM.	Family was not involved with ACS at time of death. BM had history with ACS dating back to 2002; 4 unsubstantiated reports.

Age & Gender of Child at Time of Death	Date & Manner of Death	Circumstances Surrounding Death ⁴²²	Current and Prior ACS Involvement
1 year, female	03/03/05 Homicide	"Multiple complications following scald burns of 50% of child's body." Babysitter submerged child in hot water. ACS substantiated DOA/Fatality, Burns, Scalding, Inadequate Guardianship and Lack of Medical care by babysitter and BM.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 2002; 6 reports – 3 indicated. Babysitter was not known to ACS.
18 months, male	03/06/05 Homicide	"Suffocation." Babysitter admitted killing child. ACS substantiated allegations of DOA/Fatality, Lacerations, Bruises and Welts, and Inadequate Guardianship by babysitter. ACS substantiated allegation of Inadequate Guardianship by BM and BF.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 1999; 5 reports – 3 indicated. Babysitter was not known to ACS.
2 months, female	03/15/05 Undetermined	"Sudden Unexpected Infant Death with contributing factors of co-sleeping with family, maternal substance abuse, anamnestic and comorbidities such as contusions of the forehead and scalp." Child had been co-sleeping with BM and 2 siblings. ACS substantiated allegations of Lacerations, Bruises and Welts and Inadequate Guardianship by BM.	Family had open ACS investigation at time of death that was later indicated. Family had open preventive services case at time of death. Last home visit was conducted day before death. BM had history with ACS dating back to 2002; 4 reports – 2 indicated.
1 year, male	04/09/05 Homicide	"Intraperitoneal hemorrhage due to laceration of liver, due to blunt force trauma of the abdomen." BM's companion responsible for inflicting fatal injuries. ACS substantiated allegations of DOA/Fatality, Lacerations, Bruises, and Welts and Internal Injuries by BM and Companion.	Family had open ACS investigation at time of death that was later unsubstantiated. Family had open preventive services case at time of death. Family became known to ACS in 1997 when court ordered ACS to conduct an investigation regarding a petition filed by father of one of deceased child's older siblings. BM had history with ACS dating back to 1999; 8 reports; 2 indicated. Companion not known to ACS.
2 months, female	04/10/05 Undetermined	"Could not be attributed to SIDS because the child had been co-sleeping with the mother on the bed." ACS unsubstantiated all allegations in fatality report.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 2002; 2 indicated reports. BF known to ACS as a maltreated child.

Age & Gender of Child at Time of Death	Date & Manner of Death	Circumstances Surrounding Death ⁴²²	Current and Prior ACS Involvement
2 years, male	04/24/05 Accidental	"Blunt trauma of head, neck, torso and extremities with multiple fractures and a trans-section of the spinal cord." Child fell out a window. ACS substantiated allegations of DOA/Fatality, Lacerations, Bruises, and Welts, Internal Injuries, and Inadequate Guardianship by BM.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 2002; 3 reports – 1 indicated.
3 months, female	04/27/05 Natural	"SIDS." As of the writing of NYCRO's report, ACS had not made a determination on the fatality report.	Child and siblings in kinship foster care at time of death. Foster parents were known to ACS as foster parents only. Family had history with ACS dating back to 2004; 4 indicated reports.
6 months, male	07/03/05 Undetermined	"(1) Sudden death in an infant placed prone on a couch, (2)Bronchial asthma, (3)Global glomerulosclerosis, (4) Gliosis, Medullary Nuclei, (5) Microbiology Studies negative, (6)Metabolic Screen negative." ACS substantiated allegations of Inadequate Guardianship and Lack of Supervision by maternal aunt.	Maternal aunt, who was caring for child through an informal childcare arrangement between herself and BM, had an open preventive services case at time of death. BM had history with ACS dating back to 2000; 1 unsubstantiated report. BM and maternal aunt known to ACS as maltreated children.
4 months, male	07/13/05 Natural	"Acute Viral Upper Respiratory Tract Infection in Down Syndrome child with Ventricular Septal Defect and Cardiac Hypertrophy." ACS unsubstantiated all allegations in fatality report.	Family had open ACS investigation at time of death that was later unsubstantiated.
13 years, male	08/16/05 Natural	ME did not conduct autopsy; child was under the care of a physician. ACS report notes "deplorable conditions in mother's home triggered the asthma attack that led to the child's demise." ACS substantiated allegation of Inadequate Guardianship by BM.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 1998; 2 reports – 1 indicated.
3 months, male	09/04/05 Undetermined	"Prone sleeping position with soft bedding." Maternal aunt placed child on his stomach to sleep. ACS substantiated allegation of Inadequate Guardianship by maternal aunt.	Maternal aunt granted legal custody three days before death. Maternal aunt had history with ACS dating back to 1986; 4 reports – 1 indicated. BM had history with ACS dating back to 1986; 7 reports – 5 indicated.

Age & Gender of Child at Time of Death	Date & Manner of Death	Circumstances Surrounding Death ⁴²²	Current and Prior ACS Involvement
2 months, male	9/25/05 Accident	"Airway obstruction due to overlaying." Child had been co-sleeping with BM. ACS substantiated allegations of DOA/Fatality and Inadequate Guardianship by BM.	Family was not involved with ACS at time of death. BF had history with ACS dating back to 2004; 1 indicated report.
4 months, male	09/26/05 Homicide	"Asphyxia due to obstruction of airway with foreign body (dime)." BM admitted to BF that she caused child's death, stating she poured bleach and lighter fluid down child's throat. ACS substantiated allegations of DOA/Fatality and Inadequate Guardianship by BM.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 2003; 1 indicated report.
2 months, male	10/23/05 Undetermined	"Sudden death in a previously healthy two-month old, co-sleeping in bed." Child was co-sleeping with BM. ACS substantiated allegation of Inadequate Guardianship by BM.	Family had an open ACS investigation at the time of death that was later substantiated. BM known to ACS as a maltreated child.
7 years, female	10/25/05 Homicide	"Complications due to blunt trauma to the torso with laceration of the small intestine." As of the writing of NYCRO's report, ACS had not made a determination.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 1998; 1 indicated report. NYCRO noted that ACS should have made a report to the SCR based on additional information it obtained in 2003, but did not.
2 months, male	10/27/05 Undetermined	"Co-sleeping in adult bed with soft bedding." ACS substantiated allegation of Inadequate Guardianship by BM.	Family was not involved with ACS at time of death. BF had history with ACS dating back to 2002; 1 unsubstantiated report.
16 months, male	11/06/05 Homicide	"History of submersion in the bathtub and contusions of body surfaces, occipital (back of) scalp and mesentery (membrane surrounding abdomen)." Cause of death listed as drowning. The child also suffered from submersion burns. ACS substantiated allegations of DOA/Fatality, Inadequate Guardianship, Burns, Scalding, Lacerations, Bruises and Welts by BM.	Family had open preventive services case at time of death. Family had history with ACS dating back to 2003; 2 indicated reports. BM known to ACS as a maltreated child.
16 days, female	11/08/05 Natural	"Upper respiratory tract infection." ACS unsubstantiated all allegations in fatality report.	BM known to ACS as a maltreated child and was living in a foster boarding home with her child at time of death.

Age & Gender of Child at Time of Death	Date & Manner of Death	Circumstances Surrounding Death ⁴²²	Current and Prior ACS Involvement
20 months, female 5 years, male 6 years, male	12/06/05 Accidental	Three children died of “smoke inhalation and extensive thermal injuries, which included burns to their heads, faces and bodies” due to residential fire started by one of the deceased children’s siblings. As of the writing of NYCROs report, ACS had not made a determination.	Family was not involved with ACS at time of death. Family had history with ACS dating back to 1999; 9 unsubstantiated reports.
1 year, male	12/28/05 Homicide	“Blunt impact of neck and torso with multiple rib fractures and hemorrhages due to laceration of pulmonary mesenteric vessel and liver.” ACS substantiated allegations of DOA/Fatality, Internal Injuries and Inadequate Guardianship by BM.	Sibling was in foster care at time of death. Another sibling was adopted in 2002. Family had history with ACS dating back to 2001; 5 reports – 3 indicated.
2 years, male	12/31/05 Natural	“Bronchopneumonia of Undetermined etiology.” ACS unsubstantiated all allegations in fatality report.	Family had open ACS investigation at time of death that was later unsubstantiated. Family had history with ACS dating back to 2000; 8 unsubstantiated reports.
4 months, female	01/02/06 Undetermined	Parents objected to autopsy due to religious beliefs. Child was co-sleeping with BF. ACS unsubstantiated all allegations in fatality report.	Family had open preventive services case at time of death. Family had history with ACS dating back to 9/2/05; 1 indicated report.
2 months, male	01/11/06 Natural	ME listed cause of death as undetermined. ACS investigation revealed that BM had a history of drug use and admitted smoking crack cocaine until 3am on the day of child’s death. ACS substantiated allegations of DOA/Fatality, Parental Drug and Alcohol Misuse, and Inadequate Guardianship by BM.	Family had open preventive services case at time of death. BM had history with ACS dating back to 1999; 5 reports – 2 indicated.
7 years, female	01/11/06 Homicide	“(1) Blunt Impact to head, with: subdural hematoma, (2) Child Abuse Syndrome, with: multiple contusions of head, torso and extremities of varying ages, (3) Malnutrition, and (4) Focal bronchopneumonia.” ACS substantiated allegations of DOA/Fatality, Inadequate Guardianship, and Lacerations, Bruises and Welts by BM and Companion.	Family had open ACS investigation at time of death that was later substantiated. Family had history with ACS dating back to 5/16/05; 1 unfounded report.

Age & Gender of Child at Time of Death	Date & Manner of Death	Circumstances Surrounding Death ⁴²²	Current and Prior ACS Involvement
4 years, male	01/30/06 Homicide	"Multiple blunt impacts to trunk and head, with lacerations of pancreas and liver and subdural hemorrhage." As of the writing of NYCRO's report, ACS had not made a determination.	Family had open ACS investigation at time of death that was later substantiated. BM had history with ACS dating back to 1996; 9 reports – 6 indicated. Companion not known to ACS.
6 weeks, female	02/05/06 Natural	"SIDS." As of the writing of NYCRO's report, ACS had not made a determination.	Family had open ACS investigation at time of death that ACS had not determined as of NYCRO's fatality review. Family had open preventive services case at time of death. Family had history with ACS dating back to 1999; 4 reports – 2 indicated. BM and BF known to ACS as maltreated children. BM was in foster care from 9/14/99 – 7/3/03 and first became known to ACS as a parent/subject on 12/21/00.

Appendix B:

Methodology for Review of Child Fatalities

The New York City Regional Office (NYCRO) of the New York State Office of Children and Families (OCFS) reviews the cases of all child fatalities in New York City that were reported to the State Central Register (SCR) and the deaths of children in foster care.⁴²³ Reports of child fatalities are typically made to the SCR when the death appears to be abuse or neglect related.

For each fatality, NYCRO reviews all of the available ACS case records pertaining to the family, including those related to a family's prior involvement with ACS, when applicable, and obtains copies of the Autopsy Reports issued by the Office of the Chief Medical Examiner, when such reports exist. NYCRO prepares a Child Fatality Report that includes a summary of the family's child welfare history and the ACS fatality investigation. Each Child Fatality Report includes NYCRO's assessment of the actions taken by ACS, both before and after the fatality, and may include recommendations regarding how to improve practice in the future.

Children's Rights reviewed the Child Fatality Reports issued by NYCRO pertaining to the reported deaths of 123 children in New York City that occurred between July 1, 2004 and March 21, 2006. These reports were obtained by Children's Rights through a Freedom of Information Law (FOIL) request. The reports do not include identifying information, such as names or dates of birth of the deceased children, family members or caregivers. The time period of review was selected in order to focus on recent practice and based on reports that were available at the time the FOIL request was made.

In 7 of the 123 cases, NYCRO found that the report was bogus, i.e., the child reported dead was in fact alive, the reported family was non-existent, etc. Of the remaining 116 cases, there was

⁴²³ In December 2006, a new law was passed requiring local and regional fatality review teams in New York State to not only review child fatalities that occur in families known to the local child welfare agency or children who die in foster care, but also children whose families are undergoing a child protective investigation or receiving preventive services at the time of the child's death. This study reviewed fatalities of children that occurred prior to the passage of this new law.

documentation of ACS involvement with the family at the time of or prior to the fatality for 49 children in 47 families.⁴²⁴

Children's Rights staff and Columbia University MSW interns reviewed these 47 Child Fatality Reports covering the deaths of these 49 children⁴²⁵ and collected information including the deceased child's age and sex, the manner of death, the nature of ACS involvement with the family and ACS practice deficiencies notes by NYCRO.

⁴²⁴ Three of the deceased children were siblings in one family.

⁴²⁵ NYCRO produced one report on the family with 3 children that died. Thus, there were 47 Child Fatality Reports covering the 49 fatalities.

Appendix C:

Information Gathering Efforts

In addition to gathering all available data pertaining to the child welfare system spanning the past decade, during the past 18 months, Children's Rights staff met with ACS Commissioner Mattingly and other senior ACS staff and conducted confidential interviews with approximately 20 stakeholders including service providers, advocates and others. In addition, we attended dozens of meetings, conferences and hearings where information regarding a variety of child welfare issues was presented and discussed by ACS and other stakeholders, including the following:

- ACS New Initiatives meetings;
- ACS Preventive EQUIP meetings;
- ACS Private Foster Care Providers meetings;
- ACS Private Preventive Services Providers meetings;
- ASFA Task Force meetings;
- Child Welfare Organizing Project (CWOP) community meetings;
- NYC Council Committee on General Welfare hearings;
- Youth Summit: Engaging Youth in Family Court Proceedings, sponsored by the Fordham Interdisciplinary Center for Family and Child Advocacy (May 25, 2006);
- Chronic Neglect: A Working Strategy Session, sponsored by ACS (August 8, 2006);
- Family Court in New York City in the 21st Century: What Are Its Roles and Responsibilities, sponsored by the New York County Lawyers' Association (October 26 & 27, 2006);
- Bridges to Opportunity: Developing Policy for Disconnected Youth Child Welfare Forum, sponsored by the Federation of Protestant Welfare Agencies (December 8, 2006);
- Reforming Family Court, sponsored by the Milano School (March 16, 2007); and
- Family Visiting and the Path to Permanency, sponsored by the Fordham Interdisciplinary Center for Family and Child Advocacy (June 20, 2007).



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