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The Council of the City of New York

COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION

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COMMITTEE ON GENERAL WELFARE

Honorable Stephen Levin, Chair

October 31, 2016

Oversight: Child Abuse and the Various City Touchpoints for Families

I. Introduction

On October 31, 2016, the Committee on General Welfare chaired by Council Member Stephen Levin, will hold the following hearing “Oversight: Child Abuse and the Various City Touchpoints for Families.” The oversight hearing is being conducted in response to the fatality of six-year-old Zymere Perkins. Representatives from the Administration for Children’s Services (ACS), the Department of Homeless Services (DHS), the New York City Police Department (NYDP), the Mayor’s Office to Combat Domestic Violence (OCDV), the Children’s Cabinet, and advocates, providers, and other concerned members of the public are expected to testify. The

Committee last held a hearing related to ACS' child welfare system on May 8, 2014, titled "Oversight: Child Welfare Policy Reforms at the Administration for Children's Services." The May 2014 hearing examined recommendations for reforms proposed by the de Blasio Administration in response to the death of four-year-old Myls Dobson.

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II. ACS's Child Protective Structure and Processes

Background

The mission of the city's Administration for Children's Services (ACS) is to protect and promote the "safety and well-being of New York City's children and families."¹ ACS is mandated by New York State law to investigate reports of child maltreatment, as well as oversee the city's juvenile justice and early care and education programs.

¹ NYC Administration for Children's Services, About ACS, *available at* <https://www1.nyc.gov/site/acs/about/about.page> (last visited October 24, 2016).

Child Welfare Investigation Process

A child protective investigation typically begins with a call to the Statewide Central Register of Child Abuse and Maltreatment hotline (SCR), either from members of the public or mandated reporters,² who call a separate hotline or 311.³ The report will then be rejected or accepted by the SCR; a report is rejected only if the victim is over 18, the alleged perpetrator is not the parent or legal guardian, or the allegation does not meet the New York State standard for abuse or neglect.⁴ For accepted reports regarding New York City children, the case is assigned to an ACS child protective specialist who is required to contact the child's family within 24 hours.⁵ ACS then has 60 days to conduct the investigation and reach a finding.⁶ Investigations include a review of the family's ACS history, contacting the reporter, conducting home visits, and conducting interviews with the alleged victim, parents or caretakers, other household members, and other contacts including school officials, health care providers, neighbors, etc.⁷ The report will be deemed unfounded if there is no credible evidence of abuse or neglect, in which case, ACS will close the case or refer the family to voluntary preventative services.⁸ If the report is indicated due to some credible evidence of abuse or neglect, ACS has a range of available options: immediate risks to a child's safety may result in the child's immediate placement in foster care, whereas a lower-risk situation may result in the filing of a case in family court and a

² Mandated reporters include professionals in the medical field, day care providers, individuals in the school system, and law enforcement, among others. For a complete list *see* NYC Administration for Children's Services, Who is a Mandated Reporter? *available at* http://www.nyc.gov/html/acs/html/child_safety/mandated_reporters.shtml#q1 (last visited Oct. 25, 2016).

³ NYC Administration for Children's Services and the NYC Department of Health and Mental Hygiene, What Happens When I Report a Suspected Case of Child Abuse or Neglect? *available at* http://www.nyc.gov/html/acs/downloads/pdf/childsafety_process_mr.pdf.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

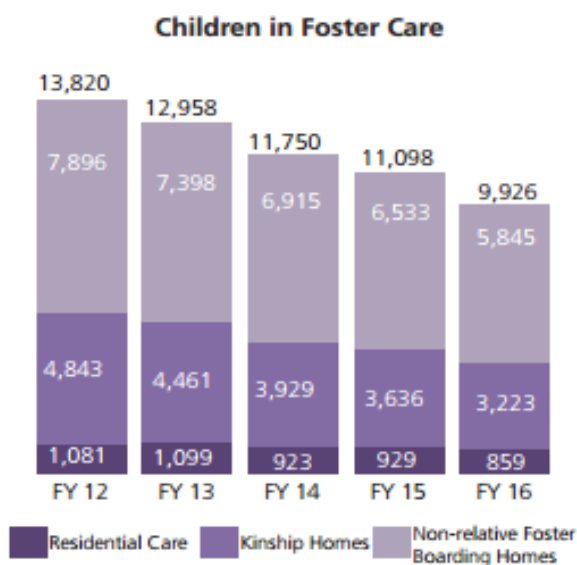
⁷ *Id.*

⁸ *Id.*

request for court-mandated services, and low or no risk could result in voluntary preventative services.⁹

Multiyear Trends in Foster Care, Investigations, and Child Fatalities

Although ACS is empowered to and regularly does remove children from their homes based on some finding of risk,¹⁰ the foster care census in New York City has been steadily declining for years. The number of children in foster care dropped from 26,337 in 2002 to 13,820 in Fiscal 2012.¹¹ Since 2012, the number of children in foster care has decreased even further:



Source: Mayor's Management Report ("MMR"), Administration for Children's Services, p. 185 (Sept. 2016).

⁹ *Id.*

¹⁰ In calendar year 2015, ACS filed 10,257 Article 10 child protective proceedings in the city's family courts, 25.2% of which resulted in the removal of the child from the home. NYC Administration for Children's Services, Monthly Flash, p.8 (August 2016).

¹¹ Mayor's Management Report ("MMR"), Administration for Children's Services, p. 185 (Sept. 2016); Allon Yaroni, PhD, Ryan Shanahan, PhD, Randi Rosenblum, PhD, and Timothy Ross, PhD, "Innovations in NYC Health and Human Services Policy Child Welfare Policy," VERA Institute of Justice, p.1 (Jan. 2014), *available at* <http://www.nyc.gov/html/ceo/downloads/pdf/policybriefs/child-welfare-brief.pdf>.

The September 2016 Mayor’s Management Report reflects the following fluctuation in the number of investigations in the last five years and the rates of substantiation, where ACS found some credible evidence of child maltreatment, as well as the percentage of children in substantiated investigations who are again the subject of a substantiated investigation within a year (sometimes referred to as ‘repeat maltreatment’):

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Number of investigations	57,453	54,039	55,529	54,926	55,329
Substantiation rate	39.6%	39.8%	39.5%	38.7%	36.1%
Children in repeat substantiated investigations within 1 year	16.2%	15.7%	16.2%	15.7%	15.2%

Source: Mayor’s Management Report (“MMR”), Administration for Children’s Services, p. 184 (Sept. 2016).

In 2014, its most recent report on child fatalities statewide, the New York State Office of Children and Family Services (OCFS) reported a statewide increase in reports of child fatalities to the SCR for investigation of the possibility that a parent or caregiver’s maltreatment led to the child’s death.¹² OCFS, however, attributes that increase to expanded categories of mandated reporters under state law in 2011 and 2014, as well as expanded online training for mandated reporters on making reports to the SCR.¹³ OCFS reported that from 2010-2014, the number of child fatalities in open child protective, foster care, and preventive services cases that were caused by accidents, medical conditions, and other non-maltreatment causes “remained relatively unchanged.”¹⁴ OCFS also reported the following statewide data for child fatalities that were

¹² New York State Child Fatality Report 2010-2014, New York State Office of Children and Family Services, available at <http://ocfs.ny.gov/main/reports/2016%20Child%20Fatality%20Report.pdf> (2014), (last viewed October 25, 2016).

¹³ *Id.*

¹⁴ *Id.*

reported to the SCR because of a suspicion that the fatality was caused by caregiver abuse or neglect:

**Fatalities Substantiated After Investigation
2010 – 2014**

	2010	2011	2012	2013	2014
Fatalities Reported to SCR for Investigation	198	193	225	231	221
Substantiated Allegations of Child Abuse or Maltreatment	110	93	128	111	96
Percentage of Allegations Substantiated	55%	47%	55%	48%	43%

Source: New York State Child Fatality Report 2010-2014, New York State Office of Children and Family Services, available at <http://ocfs.ny.gov/main/reports/2016%20Child%20Fatality%20Report.pdf> (2014), last viewed October 25, 2016.

Similarly, in August 2015, ACS Commissioner Gladys Carrion testified before the national Commission to Eliminate Child Abuse and Neglect Fatalities that “the number of fatalities of children of families that are known to the [New York City] child welfare system...remains relatively constant, averaging around 48 a year during the past five years. These fatalities include unsafe sleep death, accidental injuries, as well as death from natural causes, including children with severe medical challenges and a small number of homicides, which number about 10 a year.”¹⁵

Preventive Services

Many experts believe that policy changes at ACS contributed to the decline in the number of children in foster care, particularly reforms triggered by the tragic death of seven-year old Nixzmary Brown in 2006, who ACS was involved with at the time of her death.¹⁶ Over the

¹⁵ Federal Commission to Eliminate Child Abuse & Neglect Fatalities New York City Public Meeting Transcript, (Aug 6-7 2015), Testimony of ACS Commissioner Gladys Carrion, p. 5 *available at* https://eliminatechildabusefatalities.sites.usa.gov/files/2014/11/CECANF_NYC-Mtg-Transcript_Aug-6-and-7.pdf. (hereinafter 2015 Carrion Testimony before Fed. Comm. to Eliminate Child Abuse & Neglect Fatalities).

¹⁶ Allon Yaroni, PhD, Ryan Shanahan, PhD, Randi Rosenblum, PhD, and Timothy Ross, PhD, “Innovations in NYC Health and Human Services Policy Child Welfare Policy,” VERA Institute of Justice, p.1 (Jan. 2014), *available at* <http://www.nyc.gov/html/ceo/downloads/pdf/policybriefs/child-welfare-brief.pdf>.

course of 2006 and 2007, the Committee on General Welfare held a series of hearings covering concerns about practices at ACS and reforms the agency undertook to improve child welfare practices.¹⁷ Some of the changes at the time included: increasing the number of preventative services slots that were available citywide; developing enhanced and intensified service models; and providing \$9 million of performance based enhancement funding.¹⁸ ACS also changed its policy so that fewer cases with substantiated allegations of abuse and neglect are closed without referrals to preventative services.¹⁹

However, enrollment in preventive services dropped by 4.3 percent in Fiscal Year (FY) 2016, from 11,015 new families in FY 2015 to 10,540 this past year.²⁰ ACS reports that this decrease is attributable to a new policy that gave preventive service providers “additional time to close very complex cases.”²¹ The administration submits that the change has improved outcomes for families, reporting that “while ACS has served slightly fewer families in FY 2016 as compared to FY 2015, repeat maltreatment cases and foster care placements following the conclusion of preventive services have declined.”²²

Investigative caseloads

In September 2016, the administration reported the following yearly averages for child protective specialist caseloads:

¹⁷See The New York City Council, Committee on General Welfare, Oversight: New York City’s Child Welfare System (Jan. 30, 2006); Oversight: Coordination between the Police Department and the Administration for Children’s Services in responding to reports of abuse and neglect (Feb. 21, 2006); Oversight: Coordination between the Administration for Children’s Services and the Department of Education in the identification and investigation of child abuse and neglect (April 11, 2006); Oversight: Reporting Child Abuse and Neglect in New York City (Oct. 26, 2006); Oversight: Coordination between the Department of Homeless Services and the Administration for Children’s Services in Child Welfare Matters (Dec. 7, 2006); Oversight: Child welfare and increased demands on New York City Family Courts (Jan. 11, 2007); Oversight: New York City’s Child Welfare System (Sept. 20, 2007).

¹⁸ Council of the City of New York, Committee on General Welfare, Oversight: ACS’ Newly Reorganized Child Welfare System, Briefing Paper of the Legislative Decision (Oct. 5, 2010) (citing Citizens’ Committee for Children of New York, “The Wisest Investment, New York City’s Preventative Service System,” at 5 (April 2010)).

¹⁹ *Id.*

²⁰ Mayor’s Management Report (“MMR”), Administration for Children’s Services, p. 184 (Sept. 2016).

²¹ *Id.*

²² *Id.*

FY 2012.....8.7

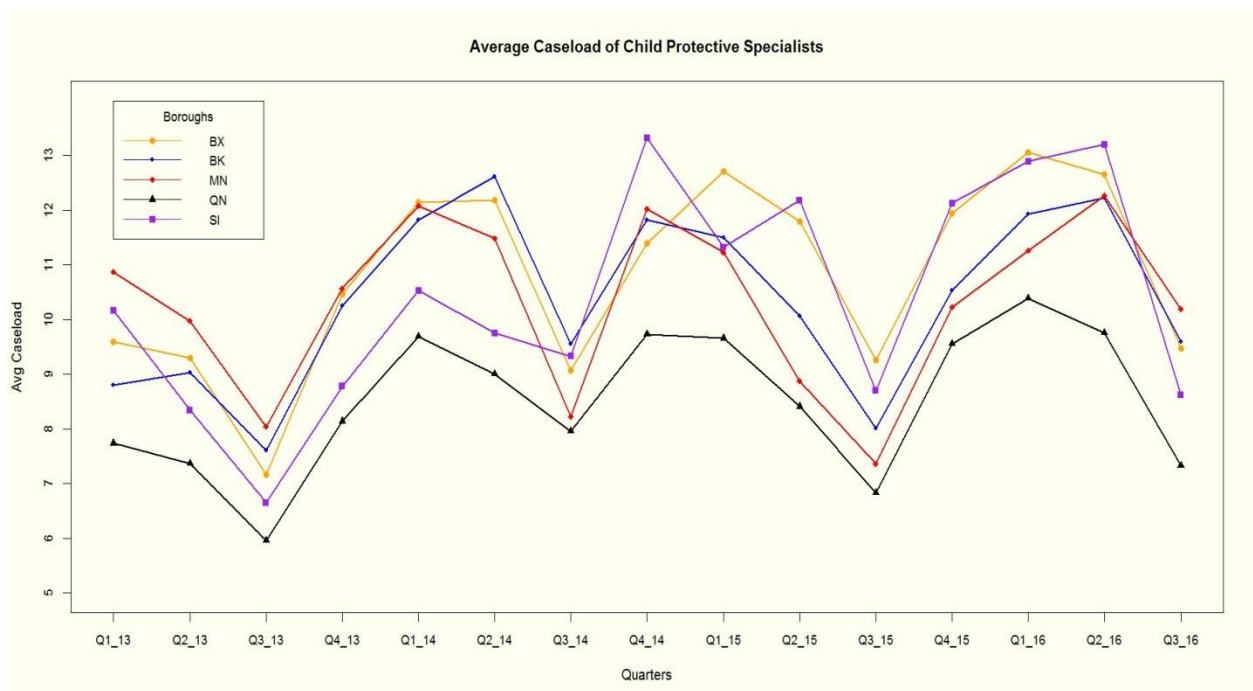
FY 2013.....8.2

FY 2014.....9.8

FY 2015.....10.5

FY 2016.....10.6²³

Investigative caseloads fluctuate widely over the span of the year, with the lowest caseloads occurring during the third quarter of each year, which covers June, July and August.²⁴



As indicated in a recent analysis from the Independent Budget Office, caseloads vary from year-to-year and borough-to-borough. See below for a chart covering investigative caseloads by borough from 2007 – 2016.²⁵

²³ *Id.*

²⁴ ACS Child Welfare Indicators Quarterly Report (2013 – 3rd Quarter 2016). Local Law 20 of 2006.

²⁵ New York City Independent Budget Office, Fiscal Brief, “Investigating Reports of Child Abuse & Neglect: Has NYC Met Its Goal Set 10 Years Ago to Increase Investigative Staff and Lower Caseloads?” (Oct. 26, 2016).

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Bronx	13.6	11.4	9.3	10.5	10.1	9.2	9.3	12.2	11.8	12.7
Brooklyn	13.4	10.6	8.8	9.4	11.0	8.9	9.0	12.6	10.1	12.2
Manhattan	13.6	9.2	7.8	9.5	9.8	9.4	10.0	11.5	8.9	12.3
Queens	12.8	11.2	9.5	8.6	7.9	7.4	7.4	9.0	8.4	9.8
Staten Island	13.5	11.1	8.8	8.7	9.0	7.3	8.3	9.8	12.2	13.2
Citywide Average	13.4	10.8	9.0	9.5	9.8	8.7	8.9	11.5	8.9	12.0

SOURCE: Administration for Children's Services Child Welfare Indicators Annual Reports
NOTE: Because these figures are from a single point in time (June 30 of each fiscal year), they are not directly comparable to the average citywide caseloads shown on page 10.

New York City Independent Budget Office

III. City Council Hearings on Child Abuse Fatalities

In 1995, a 6-year-old girl, Elisa Izquierdo, was beaten to death by her mother. The child was known to ACS prior to her death – numerous reports had been submitted to the SCR and Child Welfare Administration (CWA) (the predecessor to ACS) about the child. In response to the fatality, the City Council Committee on General Welfare held a series of hearings. In December 1995 into January 1996 a hearing was held²⁶ that focused on budget cuts, child protective specialist caseloads and State confidentiality laws. In February 1996, the State passed “Elisa’s Law” which eliminated the requirement to destroy records when a case is unfounded in order to establish patterns of abuse and allowed for the release of certain information when a child dies.²⁷

Further in response to Elisa’s death, on January 11, 1996, Mayor Giuliani released Executive Order No. 26, which created ACS as a separate agency.²⁸ Between February and June of 1996, the Committee on General Welfare held a series of hearings across the City about the child welfare system, including hearings in Brooklyn, the Bronx, Queens, Staten Island and Upper Manhattan. The Committee subsequently released a report titled, “Child Welfare: Where

²⁶ The hearing was recessed twice. The series of hearings occurred on December 19, 1995, December 27, 1995 and January 1, 1996.

²⁷ Hernandez, Raymond, “Law to Ease Disclosures on Child Abuse,” New York Times, (Feb. 13, 1996) available at <http://www.nytimes.com/1996/02/13/nyregion/law-to-ease-disclosures-on-child-abuse.html>.

²⁸ The City of New York, Office of the Mayor, Establishment of the Positions of Commissioner of Children’s Services and Special Advisory to the Mayor, Executive Order No. 26 (Jan. 11, 1996) available at http://www.nyc.gov/html/records/pdf/executive_orders/1996EO026.PDF.

Do We Go From Here?” outlining the issues that led up the issuance of the executive order, summarizing the Committee’s work and recommendations for the new agency.²⁹

ACS was made an official agency in the City Charter via a referendum measure in November 2001.³⁰

After the 2006 death of Nixzmary Brown, the Committee on General Welfare again held a series of hearings over the course of 2006 and 2007 covering concerns about practices at ACS and reforms the agency undertook to improve child welfare practices, including joint hearings regarding collaborative efforts between ACS and various City agencies.³¹ On January 30, 2006, the Committee focused on a number of challenges facing child protective services. Council Members raised concerns regarding collaboration between ACS and the Department of Education (“DOE”) and the New York City Police Department (“NYPD”).³² A February 21, 2006 joint hearing of the Committee on General Welfare and the Committee on Public Safety examined coordination between ACS and NYPD in the investigation of allegations of serious child maltreatment.³³ On April 11, 2006, a joint hearing of the Committee on General Welfare and the Committee on Education focused on coordination between the DOE and ACS in light of

²⁹ See Transcript of the Minutes of the Committee on General Welfare, June 6, 1996.

³⁰ See New York City Charter Chapter 24-B (Administration for Children’s Services).

³¹ See The New York City Council, Committee on General Welfare, Oversight: New York City’s Child Welfare System (Jan. 30, 2006); Oversight: Coordination between the Police Department and the Administration for Children’s Services in responding to reports of abuse and neglect (Feb. 21, 2006); Oversight: Coordination between the Administration for Children’s Services and the Department of Education in the identification and investigation of child abuse and neglect (April 11, 2006); Oversight: Reporting Child Abuse and Neglect in New York City (Oct. 26, 2006); Oversight: Coordination between the Department of Homeless Services and the Administration for Children’s Services in Child Welfare Matters (Dec. 7, 2006); Oversight: Child welfare and increased demands on New York City Family Courts (Jan. 11, 2007); Oversight: New York City’s Child Welfare System (Sept. 20, 2007).

³² See The New York City Council, Committee on General Welfare, Oversight: New York City’s Child Welfare System, Briefing Paper of the Governmental Affairs Division, (Jan. 30, 2006), available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=445304&GUID=07F22461-9E8A-42F5-BB01-746B2C940A86&Options=&Search=>

³³ See The New York City Council, Committee on General Welfare, Oversight: Coordination between the Police Department and the Administration for Children’s Services in responding to reports of child abuse and neglect, Briefing Paper of the Governmental Affairs Division, (Feb. 21, 2006) available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=445412&GUID=8B497B84-2A07-41FE-8969-FBA5CDCA4569&Options=&Search=>

recent fatalities among children whose families were known to the child welfare system.³⁴ At a hearing on October 26, 2006, the Committees on General Welfare and Health addressed the issue of reporting child abuse and neglect in New York City and questioned ACS about the fatality of Sharllene Morillo.³⁵ On December 7, 2006, the Committee on General Welfare held a hearing to examine coordination between ACS and the Department of Homeless Services (DHS) in child welfare matters after the death of Niah Ford, an infant who was residing in a DHS homeless shelter at the time of her death.³⁶ Finally, on January 11, 2007, the Committee on General Welfare explored the role of the Family Court in child welfare matters and the increased demands the Courts have faced since the death of Nixzmary Brown.³⁷

Since then, subsequent City Council hearings occurred in 2010, 2014 and 2015 to address the problems associated with the child welfare system and fatalities caused by child abuse and neglect. On October 5, 2010, the Committee held a hearing regarding ACS' newly reorganized child welfare system with a particular focus on the changes to the provision of preventive

³⁴ See The New York City Council, Committee on General Welfare, Oversight: Coordination between the Administration for Children's Services and the Department of Education in the identification and investigation of child abuse and neglect, Briefing Paper of the Governmental Affairs Division, (April 11, 2006) available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=445699&GUID=63E7F5CE-5A7C-4516-9639-E0EB650CAC78&Options=&Search=>

³⁵ See The New York City Council, Committee on General Welfare, Oversight: Reporting Child Abuse and Neglect in New York City, Briefing Paper of the Governmental Affairs Division, (Oct. 26, 2006), available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=446444&GUID=FE02C851-AB14-4342-A80A-2A8BC2A6A8B9&Options=&Search=> (On July 28, 2006, two-year-old Sharllene Morillo died in the Bronx after reportedly being shaken and dropped four days earlier by her mother's partner. ACS had been investigating the family since June 13, 2006, when the agency received an anonymous report of abuse. See Robert McFadden, "Abuse Report was Investigated Before Death of 2-Year-Old in Bronx," NEW YORK TIMES, (July 31, 2006) available at http://www.nytimes.com/2006/07/31/nyregion/31child.html?_r=0)

³⁶ See The New York City Council, Committee on General Welfare, Oversight - Coordination between the Department of Homeless Services and the Administration for Children's Services in Child Welfare Matters, Briefing Paper of the Governmental Affairs Division, (Dec. 7, 2006) available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=446566&GUID=7F323FA1-A730-4096-887F-9E2A36414FB0&Options=&Search=>

³⁷ See Council of the City of New York, Committee on General Welfare, Oversight – Child welfare and increased demands on New York City Family Courts, Briefing Paper of the Governmental Affairs Division, (Jan. 11, 2007)

services, including the agency's response to the death of four-year old Marchella Piece.³⁸ On May 8, 2014, the Committee held a hearing on protective services reforms after the death of four-year old Myls Dobson. Most recently, on February 27, 2015 the Committee held another hearing on interagency coordination between ACS and DHS regarding reforms to protect homeless children and target high-risk families in the shelter system in response to two children, three-year old Jeida Torres and four-year old Linayjah Meraldo, who were killed by their parents in homeless shelters.

IV. ACS Reforms

Reforms after Nixzmary Brown

In January 2006, Mayor Michael Bloomberg initiated a citywide review of agencies that interact with children to examine the effectiveness of the City's child protection and child safety systems in the wake of the death of Nixzmary Brown.³⁹ In March 2006, Mayor Bloomberg announced a series of new policies and procedures to be implemented by ACS, NYPD and DOE that establish clearer guidelines for identifying early instances of potential child abuse and neglect, and improve the coordination of agencies with responsibilities for responding and investigating the most severe cases of abuse and neglect.⁴⁰ The twenty-five initiatives were

³⁸ See The New York City Council, Committee on General Welfare, Oversight: ACS' Newly Reorganized Child Welfare System, Briefing Paper of the Governmental Affairs Division, (Oct. 5, 2010), available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=775591&GUID=F0BD4A64-B244-4CAC-BE92-F6B49EC21589&Options=&Search=>

³⁹ Press Release, "Mayor Bloomberg Announces New Policies And Procedural Improvements To The City's Child Protection Infrastructure," March 29, 2006, available at <http://www1.nyc.gov/office-of-the-mayor/news/093-06/mayor-bloomberg-new-policies-procedural-improvements-the-city-s-child-protection#/0> (hereinafter Bloomberg 2006 Press Release).

⁴⁰ *Id.*

recommended by the Mayor's Interagency Taskforce on Child Welfare and Safety.⁴¹ Some key initiatives included:⁴²

- Appointing an NYPD supervisor in the rank of Lieutenant to work full-time at ACS headquarters to help improve interagency communications between the NYPD and ACS.
- Requiring DOE to adopt specific time frames for investigating excessive student absences in order to more effectively identify children at risk.
- Revising DOE regulations to further detail the formal standards by which mandated reporters, including school administrators, teachers, guidance counselors, and social workers are to report cases of excessive absences by a child which might be an early indicator of abuse and neglect.
- Adopting new regulations that mandate child protective specialists to seek entry orders when they are denied access to the residence of a child suspected to be at risk.
- Redesigning the system for initiating, documenting and tracking response by either agency to the most severe cases of abuse and neglect or the initiation by either ACS or NYPD of an Instant Response Team (IRT).
- Requiring NYPD to create one central phone number at the Police Department to accommodate ACS requests for law enforcement assistance.
- Requiring ACS caseworkers to attend the NYPD's Special Victims Child Abuse Investigation course.

In addition to the aforementioned reforms, ACS made renewed efforts to hire motivated and qualified staff, improve their training, and support them in the field as they conduct investigations.⁴³ ACS revamped their training program for Child Protective Specialists (CPS)

⁴¹ See "Report of The Interagency Task Force on Child Welfare and Safety," March, 29, 2006, *available at* http://www.nyc.gov/html/om/pdf/interagency_report.pdf

⁴² Bloomberg 2006 Press Release, *supra* note 39.

⁴³ Allon Yaroni, PhD, Ryan Shanahan, PhD, Randi Rosenblum, PhD, and Timothy Ross, PhD, "Innovations in NYC Health and Human Services Policy Child Welfare Policy," VERA Institute of Justice, p.2 (Jan. 2014), *available at* <http://www.nyc.gov/html/ceo/downloads/pdf/policybriefs/child-welfare-brief.pdf>. (hereinafter VERA 2014 Report).

through the Satterwhite Academy.⁴⁴ ACS also provided an array of expert consultants and advisers to assist CPS in making well-informed risk assessments during investigations and decisions about the referral of families to services that target their unique needs and circumstances.⁴⁵ Through the Clinical Consultation Program (CCP), CPS consulted with nurse practitioners and experts in domestic violence, mental health, and substance use.⁴⁶ In addition, ACS hired former law enforcement investigators and investigative supervisors to serve as investigative consultants.⁴⁷ ACS also expanded the use of court ordered supervision.⁴⁸

ChildStat

In July 2006, ACS launched ChildStat (modelled after NYPD's highly accredited Compstat), which monitors child protection practices and outcomes of families that are the subjects of abuse and/or neglect investigations.⁴⁹ The purpose of ChildStat is to review case practice, decision-making processes, to learn what areas need to be strengthened, and to hold agency leaders accountable for making necessary changes.⁵⁰ Childstat meetings occur on a weekly basis and include senior management from across ACS.⁵¹ Executive leaders, field practice managers and quality improvement staff meet on a weekly basis to examine field performance on open cases.⁵² ChildStat is intended to foster a shared sense of accountability and

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* at 2-3.

⁴⁷ *Id.* at 3.

⁴⁸ *Id.* at 3. Court-ordered supervision is an option a Family Court judge may order when a child welfare case involves a court-proceeding. If a child can remain safely in the home or with another family member with ACS' monitoring, court-ordered supervision will be ordered. The Family Services Unit (FSU) conducts such monitoring and caseworkers are responsible for visiting the families at least twice a month, monitoring children's safety, and ensuring that families comply with court-ordered supervision requirements.

⁴⁹ *Id.* at 6.

⁵⁰ *Id.* at 6.

⁵¹ *Id.* at 6.

⁵² See "Implementing ChildStat," Annie E. Casey Foundation (Feb. 2015) available at http://policylab.chop.edu/sites/default/files/pdf/publications/AECF-ImplementingChildStat-2015_0.pdf

system-wide problem solving.⁵³ ChildStat began by focusing on the performance of child protection services, and then expanded to foster care in 2010 and preventive services in 2011.⁵⁴

In 2012, ACS drafted new policy and guidance around the appropriate use of a state-wide risk assessment tool called the Risk Assessment Profile (RAP) that helps structure investigations by requiring the collection of a core set of information that distills risk into a four-point scale, ranging from one (low risk) to four (very high risk).⁵⁵ A high RAP score does not mean that a child is automatically removed from his or her home, but it provides a standardized framework across investigation cases and discourages decisions based on assumptions.⁵⁶ In recent years, the Division of Child Protection (DCP) within ACS has placed increased emphasis on integrating the use of the RAP in management and supervisory practice, staff training, and ChildStat.⁵⁷

In response to the Myls Dobson tragedy in 2014, Mayor de Blasio issued nine recommendations for policy changes at ACS to improve practices at the agency and raise public awareness of child safety issues. The following chart lists the Mayor de Blasio’s recommendations and how they were implemented by ACS:

ACS 2014 CHILD WELFARE REFORMS		
Mayor de Blasio’s Recommended Reforms⁵⁸		ACS’ Enacted Reforms⁵⁹
1	Require an end-of-supervision court appearance to fully explore the child’s well-being and receive approval from a Family Court judge.	Effective Jan. 27, 2014, ACS Family Court Legal Services attorneys began requesting an “End of Supervision” hearing in every case involving court-ordered supervision.
2	Conduct a review of all cases that include court-ordered ACS supervision to ensure that court orders are being followed and children are safe.	By February 14, 2014, ACS conducted status checks on all 3,586 cases on the City that were under court-ordered supervision at that time. In the spring of 2014, ACS conducted full case reviews of approximately 1,600 cases under court-ordered supervision to assess safety and ensure compliance with court orders.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ VERA 2014 Report, *supra* note 43.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ NYC Office of the Mayor, “Mayor de Blasio Releases Preliminary Findings on the Death of Myls Dobson, Orders a Review of Current ACS Services Cases that Include Court-Ordered Supervision,” (Jan. 17, 2014).

⁵⁹ Provided by the Administration for Children’s Services on October 19, 2016 (on file with the Committee on General Welfare).

3	Conduct a thorough review of the Family Support Unit (FSU) which provides preventative services to families through a network of community based organizations, and lay out clear expectations including how frequently FSU personnel must contact a probation or parole officer when a caregiver or a parent is on probation or parole.	ACS worked with Casey Family Programs to thoroughly review how it can better support staff that handles court-ordered supervision to enhance practice and accountability.
4	Expand access to court databases, by seeking to amend the Social Services law and the Executive law in order to allow the agency access to information about active arrests, not just convictions, and allow all caseworkers, not only those who are investigating a report of suspected abuse or neglect, to access arrest and conviction information for any person coming forward as a resource for the child.	In 2014, ACS introduced legislation to expand access to court databases to allow access to information about active arrests, not just convictions.
5	Introduce legislation to strengthen ACS' authority to supervise parents who are not the subject of a child welfare investigation but are caring for a child who is under ACS supervision.	In 2015, the State legislature passed ACS' bill to supervise parents who are not the subject of a child welfare investigation, but are caring for a child who is under ACS supervision.
6	Work with the Office of Court Administration to establish interagency collaborations with the New York State Department of Parole and the New York City Department of Probation, and have the Office of Court Administration or ACS send court orders notifying the respective agencies when a caretaker under the supervision of the Family Court is on parole or probation.	ACS pursued an amendment to Family Court Rules that would allow New York State Parole and New York City Probation to access family records on child protective matters.
7	Enhance the Department of Corrections intake procedures by establishing an interagency agreement with the NYC Department of Corrections directing correction officers to ask incoming inmates who are primary caregivers about what arrangements they have made for their child.	ACS is working with the Department of Corrections to enhance their intake procedures, to clarify with incoming inmates who are primary care givers about what arrangements they have made for their child.
8	Launch a public awareness campaign to encourage New Yorkers to speak out when they see abuse and take proactive steps to get involved in the life of a child, such as signing up to be a mentor.	On Oct. 27, 2014, ACS launched a citywide media campaign that concentrated in the importance of New Yorkers voicing their concerns about child maltreatment.
9	Form an interagency Children's Cabinet to facilitate interagency collaboration, convened by Mayor de Blasio and consisting of representatives from ACS, the Department of Health and Mental Hygiene, the Health and Hospitals Corporation, the Department of Education, and the New York City Police Department.	The Children's Cabinet ⁶⁰ will convene Child Welfare & Safety Subcommittee co-chaired by Deputy Mayors Richard Buery and Dr. Herminia Palacio meeting monthly at minimum to discuss obstacles that undermine child safety. It is expected that the subcommittee participants will be comprised of agency principals who have a focus on child safety as part of their work, specifically ACS, DHS, HRA, DOE, NYPD, and OCDV, with additional agencies engaged as necessary.

ACS embarked on other child welfare reforms in 2014, including:

- Reduced caseloads and supervision ratios in Child Protective Services by hiring 362 new positions and creating additional units that oversee the agency's highest risk cases.⁶¹

⁶⁰ The Children's Cabinet is currently chaired by Deputy Mayor for Strategic Policy Initiatives Richard Buery, and is comprised of commissioners and directors from 24 City agencies and Mayoral offices.

⁶¹ 2015 Carrion Testimony before Fed. Comm. to Eliminate Child Abuse & Neglect Fatalities, *supra* note 15 at 7.

- Increased family engagement by including parent advocates – many of whom have had prior child welfare experience – in child safety conferences to serve as mentors and consultants to families newly involved with child protective services. In 2014, Parent Advocates attended over 3,700 child safety conferences.⁶²
- ACS is also joining other jurisdictions in developing a predictive analytics tool that will harness data from thousands of cases to better identify risk.⁶³

ACS Workforce Institute

On January 5, 2016, ACS and the City University of New York announced a partnership in creating the ACS Workforce Institute, which will enhance professional development for frontline staff serving New York City’s children and families. Through varied and diverse collaborations, the ACS Workforce Institute draws upon the expertise of universities and other partners to strengthen frontline supervision and coaching practices, and implement effective learning strategies, methods, and technologies.⁶⁴ Benefits to frontline staff include:⁶⁵

- Skill-based coaching as part of supervision.
- A supportive culture that addresses vicarious trauma.
- Varied and diverse professional learning experiences.
- Cutting-edge simulation that supports the transfer of learning into everyday practice.
- Scholarship opportunities for ACS staff pursuing advanced education.
- Opportunities to obtain Continuing Education Units (CEUs).
- Increased job satisfaction and employee retention.

V. Zymere Perkins Fatality

On September 26, 2016, 6-year-old Zymere Perkins died after being taken by his mother to a Manhattan hospital with bruises on his body and a contusion to the head.⁶⁶ Although Mayor

⁶² *Id.*

⁶³ *Id.*

⁶⁴ See “About the ACS Workforce Institute,” available at <https://www1.nyc.gov/site/acs/about/inside/wi/about.page>

⁶⁵ *Id.*

⁶⁶ Sit, Ryan, Parasacandola, Rocco and Rayman, Grahamn, “Harlem boy, 6, dies after being rushed to the hospital covered in bruises,” Daily News, (Sept. 27, 2016), available at <http://www.nydailynews.com/new->

Bill de Blasio has disclosed that the Perkins family had been “very clearly looked at by a variety of agencies,”⁶⁷ as of October 28, 2016, the de Blasio Administration has yet to release any additional information about the family or their involvement with City agencies, including ACS. At a joint press conference conducted by Mayor Bill de Blasio, ACS Commissioner Gladys Carrion, Deputy Mayor Herminia Palacio, First Assistant Corporation Counsel Georgia Pestana, and NYPD Chief of Detective Robert Boyce, it was announced that details of the case would not be discussed due to both State confidentiality laws and the ongoing investigation by the Manhattan District Attorney.⁶⁸ The following information has been reported by the media from various sources.

According to most media reports, Zymere’s mother, 26-year-old Geraldine Perkins, had been the subject of five prior child abuse investigations dating back to 2010, the year Zymere was born.⁶⁹ Ms. Perkins was living with relatives in East New York prior to Zymere’s birth in 2010.⁷⁰ According to relatives, “Ms. Perkins had a severe form of lupus that affected her mental state and they had tried to prevent her from living on her own with the boy.”⁷¹ Relatives stated that they first met Mr. Smith, Ms. Perkins’ boyfriend, in late 2015 and become increasingly alarmed by his “controlling behavior.”⁷²

[york/manhattan/harlem-boy-6-covered-bruises-dies-hospital-article-1.2808259](http://www1.nyc.gov/office-of-the-mayor/news/796-16/transcript-mayor-de-blasio-deputy-mayor-palacio-commissioner-carri-n-host-press-conference-on) (hereinafter Daily News, Sept. 27, 2016).

⁶⁷ Southall, Ashley, “Death of 6-Year-Old Boy in Harlem Raises Questions for Children Welfare Agency,” The New York Times (Sept. 28, 2016)(hereinafter New York Times, Sept. 28, 2016).

⁶⁸ Office of the Mayor, Transcript: Mayor de Blasio, Deputy Mayor Palacio, Commissioner Carrión Host Press Conference On Administration For Children’s Services Reforms (Oct. 5, 2016) *available at* <http://www1.nyc.gov/office-of-the-mayor/news/796-16/transcript-mayor-de-blasio-deputy-mayor-palacio-commissioner-carri-n-host-press-conference-on> (hereinafter Oct. 6, 2016 Press Conference).

⁶⁹ Daily News, Sept. 27, 2016, *supra* note 66. An October 21, 2016 Daily News article reported that the five investigations occurred “From the summer of 2015 through April [2016].” Tracy, Thomas, Shayna Jacobs, and Graham Rayman, “Stronger charges to come for abusive guardians of slain tot Zymere Perkins, NYPD detectives say,” Daily News (October 21, 2016), available at <http://www.nydailynews.com/new-york/nyc-crime/heavier-charges-coming-guardians-tot-zymere-perkins-nypd-article-1.2839932>.

⁷⁰ New York Times, Sept. 28, 2016, *supra* note 67.

⁷¹ *Id.*

⁷² *Id.*

Further according to sources speaking to the media and Ms. Perkin's family, Zymere lived most of his life in the City shelter system.⁷³ According to a shelter resident interviewed by the Daily News, Ms. Perkins, Mr. Smith, and Zymere were living in a homeless shelter in Queens during the summer of 2015.⁷⁴ At some point, the family left the shelter system and moved to the Riverview Apartments in Manhattan.⁷⁵ According to the criminal complaint filed, the apartment "does not have electricity, has rotting food in the refrigerator, large amounts of mold, rust, and mildew in the bathroom, and is infested with cockroaches and other insects."⁷⁶

As reported in the Daily News, in April 2016, a school social worker reported to the NYPD that Zymere "may have been the subject of child abuse after she saw bruises on his legs."⁷⁷ After such report, child welfare officials and the Manhattan Child Abuse Squad allegedly conducted an investigation and cleared Ms. Perkins.⁷⁸ According to sources, the case was closed on April 27, 2016 - 12 days after the investigation began.⁷⁹ "Alethea Perkins, 27, the oldest of Geraldine's three sisters, said that after the social worker reported the boy's bruises, Mr. Smith went to the school and cursed at the Principal."⁸⁰ According to sources, Zymere never returned to school in September 2016, although he was supposed to return to Public School 192 for first grade.⁸¹

⁷³ *Id.*

⁷⁴ Sit, Ryan and McShane, Larry, "EXCLUSIVE: Neighbors witnesses warning signs of abuse long before bruise-covered Zymere Perkins, 6, died in Harlem," Daily News, (Sept. 28, 2016) *available at* <http://www.nydailynews.com/new-york/manhattan/neighbors-witnessed-warning-signs-long-zymere-perkins-died-article-1.2810670> (hereinafter Daily News, Sept. 28, 2016).

⁷⁵ New York Times, Sept. 28, 2016, *supra* note 67.

⁷⁶ Ferminio, Jennifer, Smith, Greg, et. al., "City investigating tragic death of 6-year-old Zymere Perkins; mother says she read Bible after boyfriend beat her son with broomstick," Daily News, (Sept. 29, 2016) *available at* <http://www.nydailynews.com/new-york/de-blasio-city-failed-slain-child-abuse-victim-zymere-perkins-article-1.2810084> (hereinafter Daily News, Sept. 29, 2016).

⁷⁷ Daily News, Sept. 27, 2016 *supra* note 66.

⁷⁸ *Id.*

⁷⁹ Daily News, Sept. 29, 2016 *supra* note 76.

⁸⁰ New York Times, Sept. 28, 2016 *supra* note 67.

⁸¹ Daily News, Sept. 29, 2016 *supra* note 76.

On September 26, 2016, Zymere was taken to St. Luke's Hospital and pronounced dead.⁸² Prosecutors stated that Mr. Smith repeatedly beat Zymere with his hands, a broomstick and a baseball bat and the family lived in squalid conditions.⁸³ According to prosecutors, Mr. Smith beat the boy until he lost consciousness and collapsed on the floor.⁸⁴ Mr. Smith then took Zymere to the bathroom and ran water over him before hanging him up by his T-shirt.⁸⁵ When Mr. Smith left the apartment around 11:35 a.m., Ms. Perkins laid the boy on a bed and went to read the Bible.⁸⁶ When he did not wake up, she took him to the hospital, and by the time he arrived in the emergency room at 2:25 p.m he had been dead for hours.⁸⁷

On September 27, 2016, the results of an autopsy revealed that Zymere was malnourished and had several fractured ribs in various stages of healing. Ms. Perkins and Mr. Smith were then arrested.⁸⁸ Ms. Perkins and Mr. Smith were arraigned in Criminal Court in Manhattan on a charge of endangering the welfare of a child.⁸⁹ The City Medical Examiner later ruled that Zymere was the victim of a homicide, and his death was caused by fatal child abuse syndrome.⁹⁰ According to a spokesperson for the Medical Examiner, "this cause of death means that the child had evidence of acute and chronic abuse and neglect that ultimately led to his death."⁹¹

⁸² Seigal, Ida, "Parents Arrested in Death of 6-Year-Old Manhattan Boy Who Had Bruises, Head Contusions: Police," NBC 4 New York, (Sept. 27th, 2016) available at <http://www.nbcnewyork.com/news/local/Dead-6-Year-Old-Boy-Manhattan-St-Lukes-Hospital-Police-NYPD-New-York-394948461.html>; New York Times, Sept. 28, 2016 *supra* note 67.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Tracy, Thomas, Annese, John and Rayman, Graham, "6-year-old Harlem boy Zymere Perkins' death ruled a homicide; mom and boyfriend could face murder charges," Daily News (Oct. 21, 2016).

⁹¹ *Id.*

In response to the fatality ACS reassigned five child welfare workers involved with the Perkin's family and placed them on desk duty.⁹² Four additional staff, an assistant commissioner, a borough commissioner and two other officials in the general counsel's office were suspended for 30 days without pay.⁹³ According to Commissioner Carrion, ACS "identified serious concerns related to ACS' supervision of the staff who worked with this family," and "[a]s a result, ACS has made several disciplinary decisions impacting four staff who failed to follow up about gaps in case practice."⁹⁴ The Commissioner also noted that "other disciplinary action as appropriate" may be taken.⁹⁵

Reforms Announced in Response to the Perkin's Fatality

On October 5, 2016, Mayor de Blasio and Commissioner Carrion announced a series of multi-agency reforms in light of the Zymere Perkin's fatality.⁹⁶ ACS will be working with DOE, NYPD and other city and state entities to implement the following reforms:⁹⁷

1. Refining and enhancing Child Advocacy Center (CAC) practice: ACS is ensuring a sufficient number of experienced NYPD and ACS personnel will jointly investigate cases of children suspected of having endured serious abuse.
2. Requiring ACS to facilitate a Service Termination Conference when a preventive provider seeks to end services on high-risk cases. ACS must approve ending contracted services for cases that involve allegations of physical abuse against children.
3. Work with DOE to finalize guidelines for teachers about what triggers education neglect and protocol for calling reports to the State Central Register (SCR). ACS will work with the DOE to establish clear guidelines for when a series of absences should trigger an investigation.
4. New ACS Workforce Institute child safety training programs. ACS will conduct ongoing, enhanced training for all caseworkers on how to handle suspected physical abuse.

⁹² Smith, Greg, "EXCLUSIVE: Four top NYC child welfare officials suspended over handling of case leading to 6-year-old Zymere Perkins' death, sources say," Daily News (Oct. 13, 2016) *available at* <http://www.nydailynews.com/new-york/exclusive-city-officials-suspended-harlem-boy-death-article-1.2828650>.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Oct. 6, 2016 Press Conference, *supra* note 68.

⁹⁷ Administration for Children's Services, 2016 Multi-Agency Reforms (document on file with Committee staff).

5. Strengthen ACS internal oversight of child protection. ACS will strengthen oversight of its child protective staff by appointing a team outside their division to hold them accountable.
6. Re-establish ACS liaisons to the District Attorney Offices. ACS will establish dedicated liaisons to work with each of the five District Attorney's Offices to share information, refer cases and enhance investigations.

VI. City Touchpoints for Families involved with ACS

Families involved in the child welfare system typically interact with many more City agencies beyond ACS. For example, according to various news reports, the Perkins family had contact with several City agencies over the course of Zymere's lifetime, including DHS, DOE and the NYPD.⁹⁸ The work of three of those agencies, and how they interact with ACS and serve at-risk families, will be discussed below.

Department of Homeless Services

As of October 20, 2016, the number of individuals living in the Department of Homeless Services (DHS) shelter system hit an all-time high of 60,059 individuals; almost 70 percent of which are comprised of families with children.⁹⁹ There are currently 23,598 children under 18 residing in homeless shelters.¹⁰⁰ The average length of stay for families in shelter continues to increase and for FY 2016 has reached 431 days, up from 337 days in FY 2012.¹⁰¹ Further, due to ongoing capacity issues faced by DHS, families are often placed outside their communities of origin. In FY 2016, the percentage of families placed in shelter according to their youngest school-aged child's school address was only 55%, which is down from 76.5% in FY 2012.¹⁰²

⁹⁸ See *supra* Section V, notes 66-95.

⁹⁹ NYC Dept. of Homeless Services, Daily Report, Oct. 20, 2016, *available at* <http://www1.nyc.gov/assets/dhs/downloads/pdf/dailyreport.pdf>.

¹⁰⁰ *Id.*

¹⁰¹ Fiscal Year 2016 Mayor's Management Report, Dept. of Homeless Services, p. 197.

¹⁰² *Id.* (MMR)

In 2015, the General Welfare Committee held a hearing on the coordination between ACS and DHS, and the agencies' response to the deaths of two children who were killed by their parents in homeless shelters in October 2014.¹⁰³ According to testimony provided by ACS at the hearing, "families with children experiencing homelessness are among the city's most vulnerable families."¹⁰⁴ In early 2015, ACS and DHS conducted a joint review of families living in the shelter system after a three-year-old girl, Jeida Torres, was allegedly beaten to death by her stepfather and a four-year-old, Linayjah Meraldo, was allegedly beaten to death by her mother.¹⁰⁵ Over the course of the review, 3,629 families, approximately one-fourth of the families in shelter, were identified as being actively involved with ACS either through a preventive program, a child protective investigation, court-ordered supervision, or they had children in foster care.¹⁰⁶

In response to the fatalities, ACS and DHS began a pilot project to identify and work with high-risk families that could benefit from social services and supports.¹⁰⁷ DHS planned to hire a total of 33 social workers to make two "Safety First Teams," each headed by a supervisor.¹⁰⁸ At the time of the hearing, 21 social workers had been hired.¹⁰⁹ The Safety First Teams would conduct visits with families identified by ACS and DHS as having met three of six

¹⁰³ See The New York City Council, Committee on General Welfare, Oversight - Interagency Coordination Between DHS and ACS to Protect Homeless Children, Briefing Paper of the Human Services Division, (Feb. 27, 2015) available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2172103&GUID=92504F69-83EA-4129-8E4D-CA0AB752987D&Options=&Search=>

¹⁰⁴ Testimony Dr. Jacqueline McKnight, Administration for Children's Services, before the Committee on General Welfare, Oversight: Interagency Coordination Between DHS and ACS to Protect Homeless Children, (Feb. 27, 2015) (hereinafter Feb. 2015 ACS/DHS Hearing –McKnight Testimony).

¹⁰⁵ Testimony Deputy Commissioner Jahmani Hylton, Department of Homeless Services, before the Committee on General Welfare, Oversight: Interagency Coordination Between DHS and ACS to Protect Homeless Children, (Feb. 27, 2015) (hereinafter Feb. 2015 ACS/DHS Hearing –Hylton Testimony).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*; See also Hu, Winnie, "After 2 Deaths, New York City Adopts New Strategy to Protect Homeless Children," The New York Times (Jan. 7, 2015).

¹⁰⁸ Feb. 2015 ACS/DHS Hearing –Hylton Testimony, *supra* note 105 at 30.

¹⁰⁹ Testimony Judge Jody Adams, Special Advisor, Department of Homeless Services, before the Committee on General Welfare, "Interagency Coordination Between DHS and ACS to Protect Homeless Children," (Feb. 27, 2015) (hereinafter Feb. 2015 ACS/DHS Hearing –Adams Testimony).

of the following criteria, which were developed based on consultations with child welfare experts, empirical studies, and established best practices:

1. A single parent raising three or more children;
2. Households with children under the age of four;
3. A parent who is 18 to 24 years old;
4. The presence of an unrelated male in the household composition;
5. Medically fragile children; and
6. Families with past or current child welfare involvement.¹¹⁰

The social workers would monitor family and child safety and well-being through observing parent-child interactions, assess and refer families to services, and provide feedback to DHS to shape its policies and practices.¹¹¹ At the time of the hearing, 2,500 families had been identified and 1,000 families had received a visit from a social worker.¹¹² DHS testified that it would conduct bi-weekly reviews of its Client Assistance and Rehousing Enterprise System (CARES) in order to identify new families that met the criteria.¹¹³ Based on the information collected by the social workers and collected in a database, DHS and ACS were going to conduct an internal data analysis.¹¹⁴ In the FY 2016 Budget, \$1.7 million was baselined to hire a total of 30 social workers for this project.

In addition to identifying existing families in shelter, DHS and ACS testified about the work to immediately flag families who fall into one of the high-risk categories.¹¹⁵ According to ACS, if there is no other option for a family with an open ACS case than entering shelter, ACS will notify DHS about the incoming family prior to their arrival at PATH. When possible, ACS staff accompanies families to PATH.¹¹⁶ At the hearing, ACS testified that at that point in time

¹¹⁰ Feb. 2015 ACS/DHS Hearing – Hylton Testimony, *supra* note 105 at 11-12.

¹¹¹ *Id.* at 12.

¹¹² Feb. 2015 ACS/DHS Hearing –Adams Testimony, *supra* note 109 at 38.

¹¹³ Feb. 2015 ACS/DHS Hearing – Hylton Testimony, *supra* note 105 at 41.

¹¹⁴ *Id.* at 62.

¹¹⁵ *Id.* at 12.

¹¹⁶ Feb. 2015 ACS/DHS Hearing –McKnight Testimony, *supra* note 104.

there were only four ACS Child Protective staff located at the DHS PATH intake center.¹¹⁷ This ACS unit primarily performs child maltreatment clearances on incoming families to determine whether the family has an active protective or preventive case.¹¹⁸ ACS also testified that given the small size of the ACS presence at DHS intake, “ACS [was] planning to add two additional child protection units at DHS intake facilities. The units would include 17 staff (one Child Protection Manager, two Child Protective Supervisors, and ten Child Protective Specialists, in addition to the four current staff members).”¹¹⁹ At the hearing, the Committee expects to learn from DHS and ACS the current status of this pilot project, including whether social workers are continuing to identify and visit high-risk families, how many families have received visits to date, and what findings the collected data has shown.

Department of Education

Teachers and other educational professionals are included in the list of job titles that are considered mandated reporters under State law.¹²⁰ Mandated reporters must immediately make a report or cause a report to be made when in their professional role they are presented with “reasonable cause to suspect abuse or neglect.”¹²¹ “Reasonable cause to suspect child abuse or neglect” means that based on an individual’s observations of the evidence, training and experience, they suspect that the parent or legal guardian of the child has harmed or placed the child in danger of being harmed.¹²²

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.* Through data sharing with DHS, ACS learned that 25% of families in homeless shelters have child welfare involvement with ACS (See 2015 Carrion Testimony before Fed. Comm. to Eliminate Child Abuse & Neglect Fatalities *supra* note 15.)

¹²⁰ N.Y. Soc. Serv. Law § 413.

¹²¹ NYC Administration for Children’s Services, Mandated Reporters, *available at* <https://www1.nyc.gov/site/acs/child-welfare/mandated-reporters.page> (last visited Oct. 25, 2016).

¹²² *Id.*

ACS and the DOE have a joint policy on reporting and investigating educational neglect. According to the policy, “[e]ducational neglect is considered to be a failure of a parent to ensure their child’s prompt and regular attendance in school, or the keeping of a child out of school for impermissible reasons resulting in an adverse effect on the child’s educational progress or imminent danger of such an adverse effect.”¹²³ Pursuant to the joint policy, a report must be filed to the SCR when the following three elements exist:¹²⁴

1. Reasonable cause to suspect that the parent(s) are aware or should have been aware of the illegal absences or lateness;
2. Reasonable cause to suspect that the parent(s) contributed to the problem or is failing to take steps to effectively address the problem (i.e., failure to provide a minimum degree of care); and
3. Reasonable cause to suspect an educational impairment/harm to the child or imminent danger of impairment/harm. (Proof of actual educational harm is not necessary so long as harm can be reasonably presumed.)

Despite the guidelines in place to identify cases of educational neglect due to prolonged absences, at today’s hearing the Committee is interested in learning from DOE how the system addresses the issue of children who do not enroll at the start of a new school year, as was the case with Zymere Perkins.

New York City Police Department

In 1998, in response to several high-profile fatalities, then-Mayor Rudy Giuliani announced the creation of an Instant Response Team (IRT) program to target the most serious cases of child abuse.¹²⁵ IRTs coordinate the efforts of ACS, the NYPD and the five District Attorneys to provide for a rapid response by ACS and law enforcement officials in cases of

¹²³ NYC Administration for Children’s Services, Joint Policy Statement on the Reporting and Investigating of Educational Neglect, (March 1, 2010) available at http://docs.nycenet.edu/docushare/dsweb/Get/Document-416/Educational_Neglect_Policy_020101.pdf.

¹²⁴ *Id.*

¹²⁵ Mayor Giuliani Announces Instant Response Team Program To Target Most Serious Child Abuse Cases, Release #070-97 (Feb. 12, 1998) available at <http://www.nyc.gov/html/om/html/98a/pr070-98.html>.

severe physical and sexual abuse of children.¹²⁶ IRT investigations were created to ensure both coordination among the agencies, but also to provide a way for a child to be interviewed in one location and forgo the need for multiple interviews.¹²⁷ Annually, there are over 4,000 IRT investigations commenced by the NYPD and ACS.¹²⁸

Year	Total Investigations
2013	4,345
2014	4,732
2015	4,579

IRT interviews typically occur at one of the five Child Advocacy Centers (CACs) across the City – one in each borough – operated by Safe Horizon.¹²⁹ At the CACs, children are seen by teams which typically include:

- Child Protective Specialists from ACS;
- Detectives from the NYPD;
- Assistant District Attorneys from the borough District Attorney's offices;
- Corporation Counsel from the Law Department;
- Pediatricians; and
- Clinical Forensic Specialists from Safe Horizon.¹³⁰

CACs are not walk-in facilities; each case of child abuse must be referred to the SCR or the NYPD in order for the case to be referred to a CAC.¹³¹

At today's hearing the Committee expects to learn about how ACS and the NYPD coordinate through the IRT process and whether these investigations can be improved.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ Child Welfare Indicators Annual Report (Local Law 20 of 2006) (2013, 2014, 2015).

¹²⁹ Safe Horizon, Child Advocacy Centers, available at <https://www.safehorizon.org/child-advocacy-center/>.

¹³⁰ *Id.*

¹³¹ *Id.*

VII. Accountability Measures for Child Protective Services

Accountability Review Panel

Since 1988, New York City has convened an “Accountability Review Panel” (“The Panel”) a multi-disciplinary advisory body that performs confidential reviews of child fatalities reported to the SCR that occur in families known to ACS.¹³² A family is considered “known” if it meets any of the following three criteria:¹³³

1. An adult in the family had been the subject of an allegation of child maltreatment report within 10 years before the fatality; or
2. When the fatality occurred, ACS was investigating an allegation involving an adult in the family; or
3. When the fatality occurred, a family member was receiving ACS services such as foster care or preventive services.

ACS’s staff compiles and summarizes each fatality that meets the criteria of a family that is known to ACS.¹³⁴ The Panel, joined by representatives from ACS, reviews each case individually in order to ascertain case characteristics and compile common themes and trends.¹³⁵

The Panel meets monthly and reviews up to five cases per month, addressing the fatality, case history, investigations, assessments, service planning and delivery, and information from ACS and others involved with the family.¹³⁶ Based on the case reviews, Panel members make recommendations to improve ACS policies and procedures and/or front line practice in child protective services and provider agencies.¹³⁷ The Panel members may also make

¹³² See Federal Commission to Eliminate Child Abuse & Neglect Fatalities New York City Public Meeting Transcript, p. 5-6, Aug 6-7 2015, Testimony of ACS Commissioner Gladys Carrion, *available at* https://eliminatechildabusefatalities.sites.usa.gov/files/2014/11/CECANF_NYC-Mtg-Transcript_Aug-6-and-7.pdf

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ Provided by the Administration for Children’s Services on October 26, 2016 (on file with the Committee on General Welfare).

¹³⁷ *Id.*

recommendations involving inter-agency communication and coordination, and propose legislative amendments.¹³⁸ Though the Panel is not a disciplinary body, findings and recommendations may also address the performance of individuals within the child protective system or other systems known to the family.¹³⁹ The Panel’s findings and recommendations are disseminated in a report.¹⁴⁰ An internal ACS inter-divisional committee reviews the Panel members’ recommendations each month, and selects a subset. If approved, they are sent to the ACS divisions for implementation.¹⁴¹

The Panel has found some common characteristics among the cases they have reviewed:¹⁴²

- A significant number of families experience domestic violence, substance abuse, homelessness and housing instability, and mental health issues.
- Families have, on average, three children.
- They have a wide range of contact with ACS, with an average of 3.5 SCR reports per family.
- About half of mothers were also subjects of reported abuse and neglect when they were children.
- Fatalities most often occur when the child is an infant—most of whom are under three months old.

VIII. DOI/Comptroller reports

Department of Investigation report

This spring, the Department of Investigation (DOI) issued a report on child welfare practices at ACS.¹⁴³ DOI reviewed the cases of three children “whose families were known to ACS and who died or nearly died due to abuse and/or neglect in the last two years” and issued

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ 2015 Carrion Testimony before Fed. Comm. to Eliminate Child Abuse & Neglect Fatalities *supra* note 15 at 5-6.

¹⁴¹ Provided by the Administration for Children’s Services on October 26, 2016 (on file with the Committee on General Welfare) *supra* note 59.

¹⁴² *Id.*

¹⁴³ “Report on ACS Policy and Practice Violations Identified in Three Child Welfare Cases and Related Analysis of Certain Systemic Data,” New York City Department of Investigation (April 2016), available at http://www.nyc.gov/html/doi/downloads/pdf/2016/May%202016/14-ACS%20Report%2005-03-16_FINAL%20w%20Report.pdf (last viewed on October 25, 2016).

recommendations.¹⁴⁴ DOI reported the following deficiencies in ACS and contract agency practice:

1. In one case, noncompliance with state mandated reporting requirements;¹⁴⁵
2. A systemic failure by foster care agencies to either file termination of parental rights (TPR) petitions within the federal 17-month time frame, or document a compelling reason that would excuse an agency from that time frame;¹⁴⁶
3. In all three cases, a failure to identify “potential chronic neglect risk factors” that ACS has identified as a way to focus heightened scrutiny on families most at risk, and overall, an agency-wide failure to reduce the percentage of children in repeat substantiated cases;¹⁴⁷
4. Different failures in each of the three cases to comply with case work protocols;¹⁴⁸
5. A deficiency in the ACS policy that assigns new investigations in cases already under ACS supervision to the same ACS worker monitoring the family at the time;¹⁴⁹ and
6. A failure by ACS to oversee foster care agency case practice.¹⁵⁰

At a June 2016 Committee on General Welfare hearing, ACS raised the following objections to DOI’s conclusions:

Regarding termination of parental rights (TPR) petition filing time frames, ACS reported that:

- A “significant majority of children with a goal of adoption are placed in pre-adoptive homes” before the TPR is filed;¹⁵¹
- Courts rule that agencies have made reasonable efforts toward the court-approved goal (of adoption, reunification, etc.) in 97% of cases;¹⁵² and
- The case records reviewed by DOI may not reflect documentation of compelling reasons that would excuse an agency from filing a TPR petition, but findings of reasonable efforts by the courts reflect that the compelling reasons exist;¹⁵³

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at 15-16.

¹⁴⁶ *Id.* at 17-18.

¹⁴⁷ *Id.* at 18-20.

¹⁴⁸ *Id.* at 21-24.

¹⁴⁹ *Id.* at 24-25.

¹⁵⁰ *Id.* at 26-27.

¹⁵¹ Council of the City of New York, Committee on General Welfare, Oversight: Foster Care in New York City (June 16, 2016).

¹⁵² *Id.*

Regarding ACS's oversight of foster care agencies, ACS reported that it has "thoroughly overhauled its provider monitoring and evaluation system" and has protocols for heightened monitoring and closure of agencies;¹⁵⁴ and

Regarding DOI's methodology, that DOI "based their systemic findings on three cases."¹⁵⁵ Please see the DOI report for a full list of DOI's recommendations.

Comptroller report

In June 2016, the Office of the Comptroller released a management audit of ACS's child protective investigations, based on a review of 25 randomly selected indicated cases.¹⁵⁶ The audit concluded that ACS "lacked sufficient controls" to enforce its own formal guidelines for investigations, and issued recommendations to ACS.¹⁵⁷ Those recommendations pertain to supervisory review of investigations, the promotion of uniform practices for investigations and the enforcement of investigation requirements, and ensuring adequate staffing.¹⁵⁸ Please see the audit report for a full list of the recommendations and ACS's responses.

IX. Funding Trends

The following graph illustrates ACS' spending from Fiscal 2007 to Fiscal 2017 for protective and preventive services. After a significant tragedy, such as the death of Nixzmary Brown, ACS' budget, in particular, funding for protective services tends to increase to address underlying factors and oversight that may have prevented the death. In the case of Myles

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

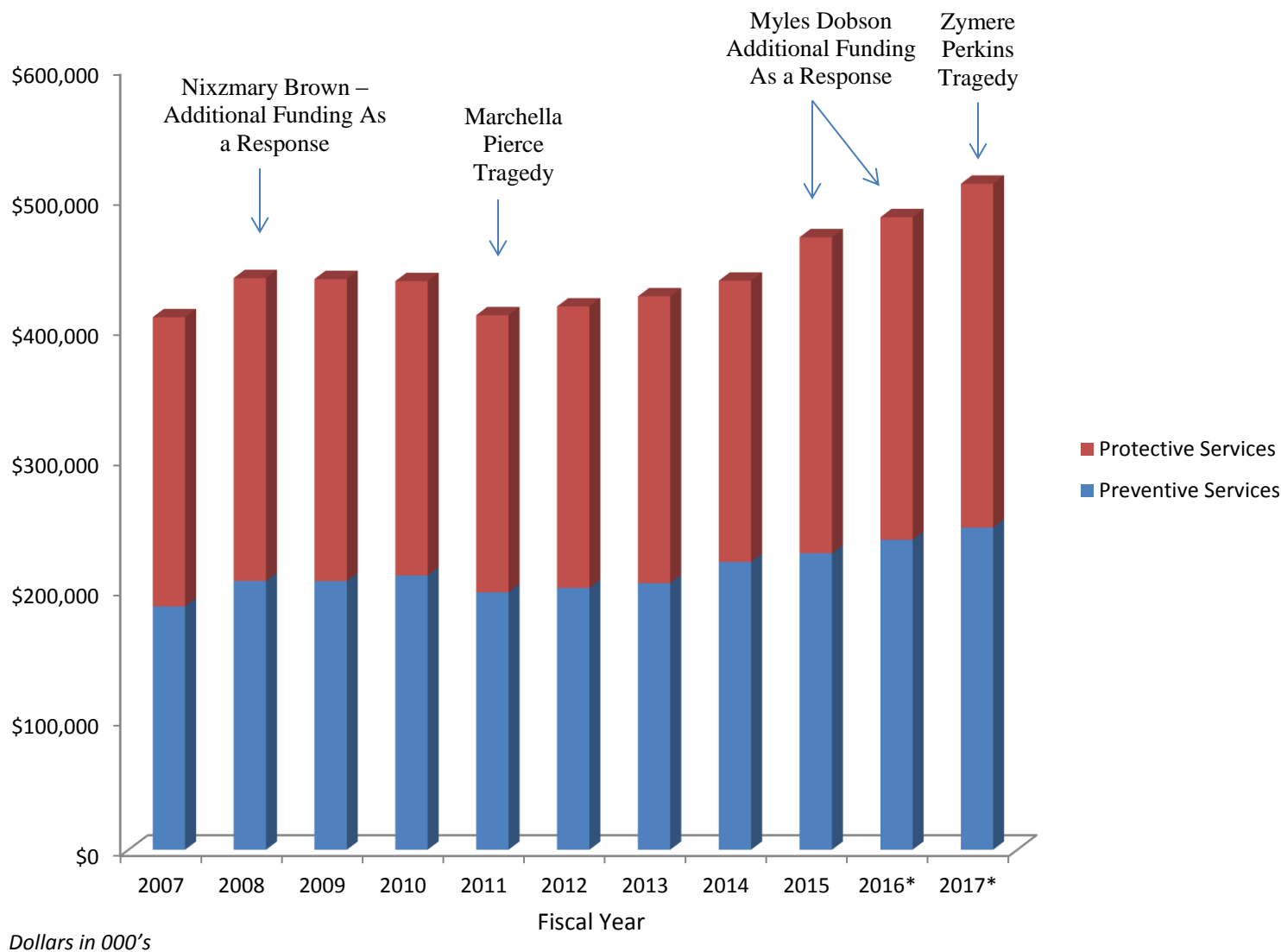
¹⁵⁶ "Audit Report on the Administration for Children's Services' Controls Over Its Investigation of Child Abuse and Neglect Allegations," Office of the Comptroller, MG15-061A (June 15, 2016) at 23, available at http://comptroller.nyc.gov/wp-content/uploads/documents/MG15_061A.pdf (last viewed October 25, 2016).

¹⁵⁷ *Id.* at 8.

¹⁵⁸ *Id.* at 14-16, 20-21.

Dobson, ACS created Operation SAFE, a Child Protective reform plan to improve and strengthen the child protective services.

ACS Funding for Preventive and Protective Services: Fiscal 2007 to Fiscal 2017

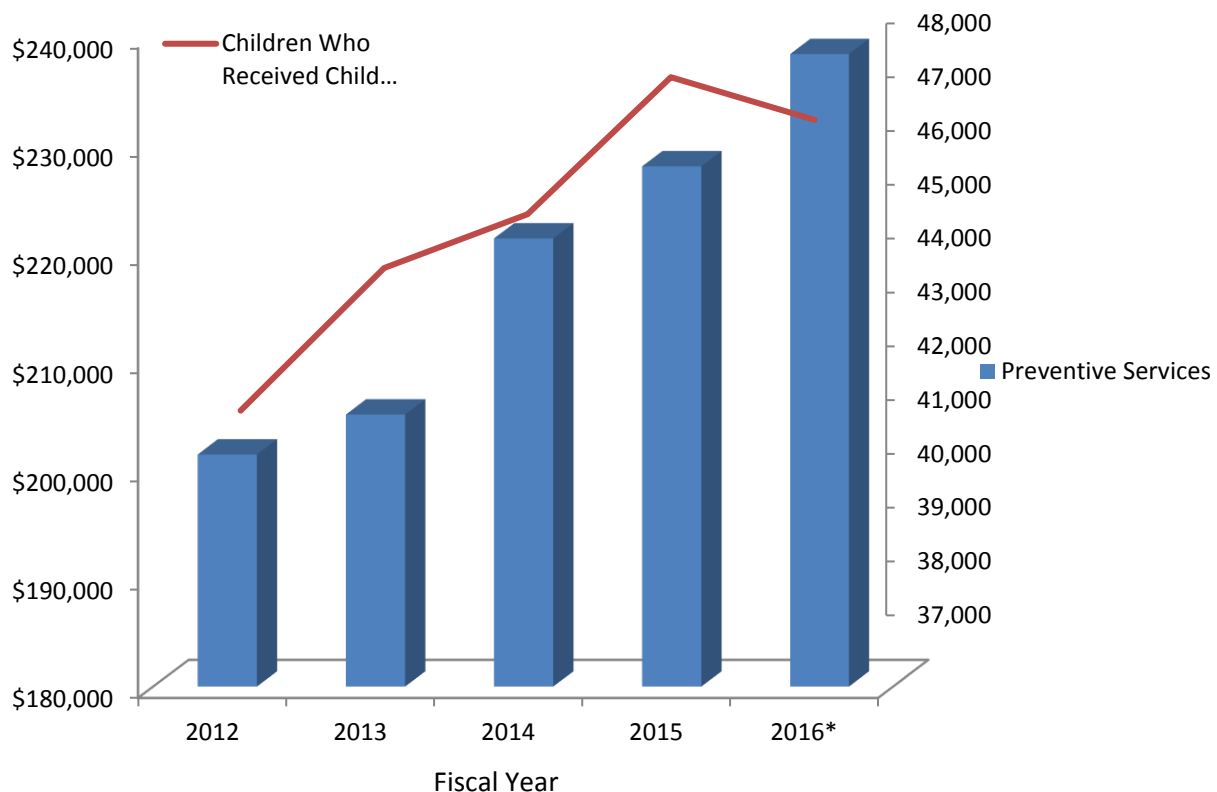


Source: Office of Management and Budget

*Fiscal 2016 and Fiscal 2017 reflect planned spending

The following graph depicts ACS funding for protective services against the number of children who received child welfare protective services from Fiscal 2012 to Fiscal 2016. The trend shows that as ACS funding for protective services increased, so did the number of children receiving services with the exception of Fiscal 2016. In Fiscal 2016 the number of children receiving protective services declined by 1.7 percent when compared to Fiscal 2015, although funding increased during the same time period. As a response, ACS will increase enrollment by ensuring referral management procedures are being realigned to streamline referrals to preventive agencies.

ACS Funding for Preventive Services: Fiscal 2012 to Fiscal 2016



Dollars in 000's

Source: Office of Management and Budget

**Fiscal 2016 reflect planned spending*

X. Conclusion

At today's hearing the Committee will focus on the various City touchpoints that families involved with the child welfare system may interact with. Just as the family of Zymere Perkins was involved with not only ACS, but DHS, DOE, and the NYPD, a majority of the families involved with ACS are also involved with these agencies. For families in crisis, having to navigate the complex City systems can only magnify problems. At today's hearing the Committee expects to learn how these systems work together, and how they can improve their ability to work together, to help support families and prevent future tragedies.