

Good afternoon, Chair de Blasio and members of the General Welfare Committee. I am John Mattingly, Commissioner of the New York City Administration for Children's Services. With me is Jan Flory, Deputy Commissioner for the Division of Child Protection, and Susan Morley, my Senior Advisor for Investigations.

I would like to thank the committee for providing us with this opportunity to share with you the tremendous amount of work that has been underway since the inception of our March 2006 Safety Action Plan to enhance our ability to keep New York City's children safe.

I want to express my gratitude for the dedicated and compassionate professionals who do this important work. I am particularly proud of the efforts that have been put forward from all levels of the agency over the past 18 months to keep children safe and to support families who are struggling to care for their children. I want to take a moment to thank our leadership team, particularly our Child Protective Borough Commissioners. I am honored to be part of such a talented team of managers who, along with our 1200 protective investigators, are implementing the changes underway to strengthen our system and enhance our ability to do this work.

We are also grateful to have the continuous support of Mayor Bloomberg and Deputy Mayor Gibbs. Their support, along with the new leadership in Albany, has enabled us to closely monitor these changes and put needed resources in place.

I want to share some figures that highlight the magnitude of the work that these Borough Commissioners oversee:

- From January 2006 through June 2007, over 103,000 abuse and neglect reports were investigated.

- In that same time period, almost 38,000 reports were indicated for abuse or neglect, and over 11,000 children came into foster care.
- Our indication rate has risen from an average of about 33% from 2001 through 2005 to 40% in 2006 and 2007.
- In terms of our service response, we enrolled over 17,000 families in preventive services from January 2006 through June 2007.
- In that same time period, we doubled the number of families under Court Ordered Supervision, from about 1,700 families in January 2006 to over 3,500 families in June 2007.

These are just a few of the figures that highlight what we do. No figures can demonstrate the difficult decisions that need to be made every day by every protective investigator about the safety and well-being of children who come to our attention. There is bound to be frustration when children are hurt. We feel it. Our community feels it. But, based on real-time data, we are convinced that ACS is on the right track.

I. Safety Plan Update

Our Safety Plan focuses on three major areas: strengthening the performance of direct and provider staff, sharpening investigatory skills and decision making, and strengthening the child safety focus throughout the agency. Earlier this week, we released the second report highlighting updates of these efforts. Today, I am going to share our progress in some of this work. I am also going to talk about the lessons we have learned about frontline practice and the steps that we are taking to address problem areas.

As the committee knows, the Safety Plan was developed after a series of child fatalities occurred in late 2005 and early 2006; the same cases recently reported on by DOI. I was concerned at the time about the weak practice we saw in these cases and ordered a system-wide review of open cases to see to it that the children whom we were involved with were safe. These reviews identified trends in how we investigate and plan for the safety of children. We recognized that in order to make a meaningful impact on practice, we needed to strengthen our systems for supporting staff to make sound decisions. I know from my experience working with child welfare systems throughout the country that good practice will only sustain itself if you have effective systems in place to support it. We are fortunate to have many hard working and dedicated individuals at Children's Services who chose to make child welfare their life's work. As the commissioner of this agency, it is my first responsibility - and the responsibility of my deputies - to continuously strengthen the supports and the resources that enable our staff to make sound decisions to keep children safe.

ChildStat

As Councilmember de Blasio experienced first hand when he and his staff recently attended one of our ChildStat sessions, ACS leadership meet on a weekly basis to take a close look at practice, learn what areas we need to strengthen, and hold ourselves accountable for making necessary changes. ChildStat is modeled after NYPD's Compstat and helps ACS senior management monitor and manage the work in the 17 field offices located throughout the City. Every Thursday, ACS senior leadership spend an entire morning having challenging discussions with frontline

managers about the performance data for their office as well as an intensive qualitative review of two cases that are under investigation at the time of the meeting. These meetings are led by the Deputy Commissioner for Child Protection, the Associate Commissioner for Child Protection, and myself. Child protective leaders from each of the City's 20 geographic zones meet with us on a rotating basis. In addition, leaders from every ACS division are required to be represented at each ChildStat so that issues that impact practice on the frontline – such as facilities, staff equipment, data monitoring, and training – get understood and addressed. I will talk more about what we are learning from ChildStat in a few moments.

Investigative Consultants

To support the work in the field offices and strengthen our investigations, we have created new positions that bring extensive law enforcement investigative experience to our agency to help child welfare professionals obtain all the facts needed to make sound decisions. By November 2006, twenty investigative consultants were hired by ACS. They provide consultation and support to the child protective workers and help to improve their investigative skills. These consultants were co-trained with classes of child protective staff and work under the direction of my Senior Advisor for Investigations, Susan Morley. Ms. Morley has more than twenty years of experience with the NYPD, most recently heading its Special Victims Division. Last month, the Mayor authorized us to hire 100 additional Investigative Consultants within this fiscal year so that every manager in our field

offices will be assigned their own law enforcement professional to strengthen investigations in their area.

Training

In the Spring of 2006, we began developing our new Leadership Academy for Child Safety, which provides a continuum of trainings and activities for Child Protective Managers, led by experts in child protective practice, management, policy, and leadership. The thirty managers currently attending the Leadership Academy are directly accountable for protective investigations. Our James Satterwhite Academy for Training also provides targeted assistance to individual managers to enhance their leadership capacity. We have also worked with the State Office of Children and Family Services and the National Resource Center for Child Protective Services to evaluate and strengthen the existing safety and risk model.

Since January 2006, the Satterwhite Academy has trained over 50 classes of new protective investigators and 7 classes for new supervisors. Over the last year, ACS has made changes to the child protective training curriculum to expedite the classroom training process and strengthen our on-the-job training. We have integrated child protective examples into the curriculum, and we have an ongoing process in place to strengthen the current training around practice issues that are identified through ChildStat and case reviews. As we have taken a closer look at practice over the past 18 months we have found that the current training – which focuses on social work skills first and then on the specifics of conducting child protective investigations – has resulted in unclear messages about the investigatory responsibilities of our child protective specialists. We are currently working with the

State to revise the curriculum so that skills and competencies are taught within the context of child protective practice. We believe this will strengthen workers' abilities to conduct thorough investigations and makes sound decisions.

Improved Outcomes for Children

The responsibility of keeping children involved with our system safe is not limited to Children's Services' child protective staff. We rely on our contracted foster care and preventive providers to partner with us in this work. We announced Improved Outcomes for Children in March 2007. This initiative will strengthen the work of agencies providing foster care and preventive services to families to keep the children in their care safe and produce better outcomes for children and families. To support our partners, Children's Services has developed monitoring and technical assistance teams to troubleshoot specific cases and provide training and consultation to provider agencies. Improved Outcomes will result in more children being successfully served in family foster home settings, children experiencing fewer moves while in care, and more children experiencing shorter lengths of stay. Five Brooklyn preventive agencies and nine foster care agencies were selected to participate in Phase One.

II. Frontline Practice

The important question that we must ask ourselves is, "Are our efforts improving outcomes?" or more plainly, "Are children safer?" As the leader of the child welfare system in New York City, it is my responsibility to constantly look at our work and identify areas where we need to make a stronger impact to protect

children. I say often that as much as we have accomplished, we must continue working to do better.

I strongly believe that the child welfare system continues to be in a much better place than it was before ACS was established as a freestanding agency in 1996. Under the leadership of my predecessors, Nicholas Scoppeta and William Bell, New York City built a system with a strong infrastructure and put standards and resources in place that did not exist prior to the creation of ACS. It is because of this infrastructure and the committed professionals working as part of this system, that Children's Services has been able to manage through the past 18 months. More importantly, the strength of this system enables us to continue working to enhance our ability to protect children. However, as I have previously reported to Council, we need to improve the level of child protective practice at ACS. The need for these changes was critical. It is quite serious now. And, it will never go away.

Protective Staff

As we have worked over the past 18 months to strengthen our system and support our existing staff, we have hired and trained over 1,200 new Child Protective Specialists while experiencing an attrition rate over 20%. Continuing to bring on new staff has enabled us to maintain our protective workforce and bring caseloads down to under 10 in August, it also means that we are functioning with a system continually staffed by new frontline workers. This fact makes our work to strengthen the training, management and supervision in the field an even greater challenge. We have brought in a national expert on staffing and recruitment to work

with us to refine our system for outreach and identify candidates who will be best suited to do this work and will be more likely to continue with this work in the long term.

ChildStat

ChildStat has been one of our most effective Safety Plan initiatives in helping us monitor child protective practice, identify any weaknesses or resource needs and then make any necessary changes in practice, procedure, training and staffing. These weekly meetings bring together field office management and leaders from throughout the agency, including myself and Deputy Commissioner Jan Flory, to learn from one another about the work that is underway in the field offices, identify issues and develop strategies to address challenges. Field office leaders are held accountable for making changes in their offices.

Since ChildStat began in July 2006, more than 100 cases involving approximately 300 children have been reviewed. These children have ranged in age from infants to teenagers. The families involved have varied from single mothers, to homes where a parent is incarcerated, to an immigrant couple with little support. The challenges faced by these families have included substance abuse, lack of education, sexual abuse, lack of medical care, homelessness, and inadequate food and clothing. Some cases have involved physical abuse, others have involved forms of neglect, and, in some cases, we have seen families experiencing difficulties providing for the needs of their children despite their best efforts.

Each week we focus on two child protective zones. For each zone, an open child protective case and management data are evaluated and discussed in detail.

The management data discussed in ChildStat sessions include caseload averages, caseload dispersion, pending rate averages, new cases with prior reports, instant response team coordination, and percent of investigations opened beyond the state mandated sixty days. The discussion encompasses what did and did not happen, as well as what should happen.

When an issue is identified in ChildStat, we track and monitor the issue to make sure that the actions are taken and addressed. Over the past year we have identified several systemic issues that influence practice and have been successful in putting resources in place to address them. For example, we know that in order to conduct a thorough investigation and accurately assess the safety of children, we need to understand as much as we can about the family's history. We learned through ChildStat that the process for retrieving hard copies of our records from our warehouse in some cases could take months. We have since computerized and streamlined the system for requesting and retrieving these documents so that child protective staff are able to find out the historical information that the agency has on a particular family.

One important piece of data that we have been tracking since the beginning of ChildStat is the number of cases in an area that are indicated and closed without services. This is an important issue because we know that if we investigate and confirm allegations of abuse or neglect in a family, the family is likely to be in need of oversight and help in order for the child to remain safely in the home. Through ChildStat, case reviews and targeted discussions with staff we have identified a number of reasons that a case would be indicated but no services put in place. In some cases, a non-relative has moved out of the house and there is an order of

protection, so further child welfare services are not needed. In other cases, the family has moved to another jurisdiction, and we notified the child welfare officials in that community. Through ChildStat and our supervisory structure in the field offices, we have enforced the policy that cases with confirmed allegations in most circumstances must not be closed without oversight services in place.

III. Looking forward

I would like to take this opportunity to thank the Council and the General Welfare Committee for your interest and support in our work, including funding preventive provider caseload reductions by \$12 million. I invite the councilmembers here today to attend one of our weekly ChildStat sessions if you are interested in learning more about how we monitor and influence practice.

Council has asked on several occasions what you can do to help strengthen child welfare in New York City. I would like to make a few very specific suggestions to you today toward that end:

- I would ask the General Welfare Committee and all Council members to take part in a planned city-wide recruitment effort for foster and adoptive families.
- There continue to be three items in the Assembly that have stalled:
 - Access to criminal records
 - Access to domestic violence records
 - Making it a felony to assault a caseworker
 - In each case, it has been the Assembly that has failed to pass the necessary legislation.

- I also request your support to gain the necessary state legislation or regulation to allow ACS to both gather evidence that adoptive parents who receive subsidies are continuing to support their children and to suspend subsidy payments until such evidence is produced.

Over the next year, Children's Services will continue to scrutinize the progress that we are making in all of our Safety Plan initiatives. We will continue to push ourselves as we dig into the practice issues in ChildStat. We are committed to becoming the child welfare agency that the City expects and that every child and family deserves.

Council of Family and Child Caring Agencies



TESTIMONY OF JAMES F. PURCELL

CHIEF EXECUTIVE OFFICER

FOR THE RECORD

COUNCIL OF FAMILY AND CHILD CARING AGENCIES

BEFORE THE

NEW YORK CITY COUNCIL GENERAL WELFARE

SEPTEMBER 20, 2007

Good afternoon, I am James F. Purcell, the Chief Executive Officer of the Council of Family and Child Caring Agencies (COFCCA). COFCCA is the primary statewide membership organization for child welfare services providers, representing 110 not-for-profit agencies that contract with the New York City Administration for Children's Services and the county departments of social services to provide foster care, preventive services, adoption, and aftercare services as well as education for children on our facility campuses. Our member agencies provide foster care to almost all of the City's children in foster care and to well over 85% of the families receiving preventive services in New York City.

On behalf of the vulnerable children and families served by these agencies, I gratefully thank Chairman de Blasio for your leadership on all issues affecting the safety and well-being of the children of this city, and especially for your championship of Preventive Services and the need to reduce caseloads so that children at risk at home can remain

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safely with their families. Your initial proposal of the Child Safety Initiative in 2006 that reduced caseloads in Preventive Services programs to 1 to 12, and which was re-enacted last year by the City Council, has made a great difference in the lives of children deemed at risk, who depend on the City to protect them from harm in their own homes.

It is clear that the City is relying on Preventive Services more than ever as it continues to reduce its reliance on foster care. From February through May of 2007, the number of children placed under Court Ordered Supervision into preventive programs increased nearly 25% compared to the same period in 2006. While at the same time there was a decrease of 10% in the number of children placed in foster care.

By June of last year, general Preventive Programs were operating at 99.8% capacity, and Family Rehabilitation Programs were over 100% filled. In the spring of last year, the New York City Administration for Children's Services (ACS) recognized that the system was bursting at the seams and announced that 1000 slots would be added. We are grateful that relief is on the way, but we urge Chairman de Blasio and the City Council to ensure that the safety factor of reduced caseloads is not lost in the rush to keep more at-risk children at home.

As of today, the caseloads have not been reduced in the Family Rehabilitation Programs, which deal with the highest risk substance abusing families. Nor has the ratio of Supervisors to casework staff been adjusted to the standard of 1:5 to ensure that the risks are being properly assessed and the right decisions being made to protect the children

from harm at home. ACS has an opportunity to institutionalize these caseload size safety standards by incorporating them into the design of its forthcoming RFP for child welfare services. Shouldn't this safeguard be available to New York City's most vulnerable children?

Chairman de Blasio, we know of your deep concern for the children at risk in this city. We understand that the two tragic deaths during the summer of children known to ACS prompt you to question the effectiveness of the reforms that have been implemented since the death of Nizxmary Brown. And speaking on behalf of the part of the child welfare system that protects children and works with families after ACS has conducted its investigations, we are grateful for your vigilance in protecting New York City's children at risk and making sure that sufficient resources are available to support the programs that monitor the safety of children and work with their families to remedy the problems that resulted in the risk to the children.

The child welfare system continues to experience changes as we speak—with Improved Outcomes for Children (IOC) being operationalized in nine foster care agencies and five Preventive Services Programs in Brooklyn. While we all expect and hope that these changes will benefit the children who rely on the programs for their health, safety, and in some cases their very lives, we greatly appreciate the concern and involvement that you and your Committee have shown. We look forward to your continued oversight during the challenging times ahead.

Testimony

**Karen J. Freedman
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Presented to

**Bill de Blasio,
Chairperson,
New York City Council Committee on General Welfare**

**Public Hearing: "Oversight – The Current State of the Administration for
Children's Services' Case Practice: the Status and Success of ACS Reforms
Over the Last 18 Months"**

September 20, 2007

Good morning, my name is Karen Freedman. I am the executive director of Lawyers for Children, Inc. And I am Tamara Steckler, Attorney in Charge of the Legal Aid Society's Juvenile Rights Practice.

We thank Chairperson de Blasio, and the members of the General Welfare Committee, for providing us with the opportunity to testify, and for your continued interest in the welfare of our City's most vulnerable children. As you may know, Lawyers For Children is a not-for-profit organization dedicated to protecting the rights of individual children in foster care and to compelling system-wide foster care reform in the City of New York. Every child we represent receives free legal and social work services in cases involving foster care, abuse, neglect, termination of parental rights, adoption, guardianship,

custody and visitation. Our caseload exceeds 4000 such cases each year.

The Legal Aid Society is the nation's largest and oldest provider of legal services to poor families and individuals. Legal Aid's Juvenile Rights Practice provides comprehensive representation as lawyers for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented some 29,000 children, almost 90% in the context of child protective proceedings. Our perspective comes from our daily contacts with children and their families, and also from our frequent interactions with the courts, social service providers, and State and City agencies. In addition to representing many thousands of children each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients.

While we understand that ACS has made efforts during the last 18 months to improve case practice, our experience tells us that the reforms implemented by ACS have not been entirely effective. As children's lawyers, our main areas of concern continue to be: inadequate resources for the lawyers and judges in New York City's family courts, insufficient and inadequate preventive services that are badly needed to support and keep together families in the community,

ACS' failure in many cases to take steps to protect children, failure to supervise when courts order ACS to do so, poor oversight by ACS of the casework done by the foster care agencies that contract with ACS, the failure to ensure that legally-required services are provided for children in foster care – particularly teenagers, ACS' unwillingness to notify children's lawyers when children in care are being moved from one foster care placement to another, and the widespread failure to make sure that children visit regularly with their family members. We will say a few words about each of these topics, and are available to answer any questions the Committee may have.

Inadequate Family Court Resources

The need remains for more judges, attorneys and court personnel due to the significantly increased workload in Family Court as the result of the passage of New York's Permanency Law and the increase in child protective filings since January 2006. Despite efforts by the Office of Court Administration to remedy the ongoing judicial deficit by assigning judges temporarily to Family Court, temporary judicial assignments add to the confusion of the courthouse, increase attorney court time and result in the bifurcation of matters, ignoring the one judge, one family model. Unless and until Family Court is adequately resourced, the current workload crisis will continue and children and families will suffer the consequences.

Insufficient Preventive Services

The City needs to commit more resources and to focus on how to support children and families so that they do not end up in crisis. That focus, and funding, must be in schools, outpatient mental health services, housing, and other supports in the communities where families live. Early identification of problems, and the availability of resources to address them, could prevent some of the neglect cases that are flooding our Family Court system.

Failure to Take Steps to Protect Children

Once ACS has investigated a case and obtained information indicating that a child has either been abused or neglected or is in imminent danger of being abused or neglected, the Agency is often too slow to take appropriate steps to ensure the safety of the child. Three recent examples best highlight this failure:

- LFC was recently asked to assist a 16 year old child whose mother threw him out of her house and refused to allow him to return, without making any arrangements for his care. At a conference with the family last July, the child's mother agreed to sign a voluntary placement agreement, and a family friend has agreed to become a foster parent for the child. Although two months have passed since that conference, ACS has failed to follow through – either by taking the voluntary placement agreement or by certifying the family friend as a foster parent for the child. For more than two months, under ACS's watch, the child has been in complete limbo, living with a family who has no legal authority to care for him or to provide for his medical or educational needs.

- In another case, a one-year-old baby was removed from her 16 year old mother at birth because of the mother's cognitive limitations and because the mother was living with a man who had an open ACS case. That man, who was more than 40 years old, was the father of another child in foster care and was the respondent on a pending petition to terminate his parental rights. Although he admitted that he met the 16 year old mother when she was 6 months pregnant, he signed an acknowledgment of paternity, placing his name on the baby's birth certificate, presented himself as the baby's father, and stated that he wished to have the baby placed in his custody. Despite knowing that this 41 year old man was engaged in a sexual relationship with a 16 year old mentally retarded child, and despite knowing that this man had an active ACS case, and despite knowing that this man had filed a petition to obtain custody of the baby, ACS has refused to name him as a respondent in the neglect proceeding – leaving open the very real possibility that he could obtain custody of the child.
- Last year, ACS took custody of two children pursuant to a voluntary placement agreement, advising the Family Court that the parents were unable to care for the children due to housing problems. The attorney for the children, however, informed the Court that the children reported having been beaten with sticks and belts, and having been sexually abused at home, claims that are supported by the children's diagnosis of severe post-traumatic stress disorder. Although the Family Court has repeatedly directed ACS to "take appropriate steps" to protect the children – i.e. file a neglect or abuse petition – during the last year, ACS has not filed the appropriate petition and the children live with the constant risk and fear that their parents will - pursuant to the terms of the voluntary placement agreement - ask for them to be returned home.

Court Ordered Supervision

Our organizations represent many children for whom the family court has approved parole to family members "under ACS supervision." Unfortunately, in many of those cases, ACS never visits the home and never obtains information from the family's service

providers, rendering the supervision completely ineffective as a tool to ensuring our clients' safety.

- In one recent case, a young child was returned to her mother's home "under ACS supervision" following her mother's enrollment in a drug treatment program. The child's mother reports that during the many months that the child has been at home, no ACS worker has been there to see her or the child. Furthermore, the ACS worker has failed to appear or provide a report at each of the last five court dates.

- In another ongoing case, a child has been residing with his stepfather under ACS supervision for the last three years, while neglect charges against the biological father are pending. During this time, ACS has **never** visited the home. That fact has not gone unnoticed by the stepfather, who told the child's lawyer, "I could have my son tied up and wrapped in a rug and they would never know."

Poor Oversight of Contract Agencies

ACS must provide stricter oversight of the voluntary agencies, particularly at residential treatment centers and other group settings, where children have suffered from excessive use of force by staff, being placed in locked cottages as punishment, and being denied the right to contact their attorneys.

Failure to Ensure Services for Children in Care

We must highlight the continued problems faced by young people aging out of foster care. These are the youth who have been raised by ACS and are now being asked to enter the community without adequate housing, medical coverage, educational preparation or jobs. ACS must be willing to take responsibility for launching these youth on a secure path to success rather than blame the youth for

their failings and push them out the door. As is often the case, front line practice is the point of failure. ACS must continue to provide services to youth, even past age 21, whenever agencies have failed to provide the services legally required for these young people to live safely in the community. While it is understandable that ACS does not want to reward agencies for their failure to prepare youth to successfully age out of care by extending foster care services through what ACS calls an "exception to policy," ACS can ill afford the alternative, which is to punish the young person for the failure of the agency.

Young people are regularly leaving care without stable housing, educational plans, day care, jobs, public assistance where necessary, and health care. For example, ACS has been on notice for more than two years that youth are leaving foster care without the Medicaid coverage to which they are legally entitled. While ACS agrees that this should not be happening, day after day the same scenario is repeated, in which ACS has not trained workers or ensured that the correct information is put into the computer systems so that young people receive continuing coverage along with notice that they have a new Medicaid number.

Notification of Change in Placement

It is common practice for ACS and the voluntary agencies to move children from one foster care placement to another without notifying the court, the parent/s, or the attorney for the child. Often, the child is removed from a home in which he or she has resided for a substantial period of time, and often the caretaker is a relative. The attorney for the child, who cannot be expected to monitor the child's location on a day-to-day or even week-to-week basis, may not learn that the child has been moved until the next court appearance. By that time, an improper decision may already have caused emotional harm to the child.

Inadequate Visiting

Regular visits between children placed in foster care and their parents and siblings, including siblings who are not in foster care, should be provided and arranged for when such visiting is in the child's best interests. Unless visits would be contrary to the child's health, safety, or welfare, ACS and the contract agencies should ensure that regular visiting takes place. Tragically, this often does not occur. Sometimes the best time for a parent to visit with his or her children is in the evening or on the weekend, but many agencies will not accommodate parents who cannot visit during the week during the day. Additionally, ACS and the contract agencies do not ensure regular visiting among siblings in foster care who are in different foster

care placements or who are placed in different systems. Despite directives from the Commissioner requiring that weekly, flexible visiting schedules be put in place, front line agency workers continue to impede this policy. Visiting is all too often viewed as an inconvenient task, rather than the cornerstone of putting children and families back together where possible and continuing crucial relationships among family members.

Conclusions and Recommendations

Because ACS too often fails to appropriately investigate, to protect and to supervise the care of children who rely on ACS for their safety and well-being, children are being short-changed, and our staff is called upon to provide the court with missing information and often to do the work that ACS is legally required to do to keep children safe. This must change.

ACS workers and their supervisors must be held to account for their failures. Greater oversight is needed to ensure that workers are making required home visits, that collateral sources are consulted for information, and that appropriate legal action is taken to protect all children in New York City. Unfortunately, this is not a novel complaint. For years, the advocacy community has called for the overhaul of the child welfare system to allow for the thoughtfulness and expertise at the highest levels to make its way to front line practice.

By giving agencies more autonomy for decision making in ACS's new "Improved Outcomes for Children" plan, ACS must be careful to insure that there is an ongoing and open avenue for advocates to reach the highest levels of ACS when problems arise. Similarly, when contract agencies fail the children in their care, ACS must be willing to step in quickly and forcefully to correct these failures. Although the courts should not be asked to manage ACS case practice, unless avenues of appeal within ACS are transparent and accessible to all participants, the conferencing process that is at the heart of IOC risks placing agencies and front line caseworkers even further than they are now from the nuanced supervision and oversight that only ACS should offer, and leaves the Courts and law guardians in the untenable position of supervising and carrying out the casework that ACS is mandated to provide.

New York City is immensely fortunate to have John Mattingly as our Commissioner of ACS. He is one of the most dedicated, hands-on Commissioners in our history. He knows what the problems are. We must work together to insist that front line practice comes into closer focus and is under continued scrutiny, in order to insure that the lives touched by ACS will benefit from that contact.

Thank you. We will now answer any questions the Council members would like to ask.

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Testimony of

Stephanie Gendell
Senior Policy Associate for Child Welfare and Child Care Services
Citizens' Committee for Children

Before the
New York City Council
General Welfare Committee

September 20, 2007

Good afternoon. I am Stephanie Gendell, the Senior Policy Associate for Child Welfare and Child Care Services at Citizens' Committee for Children of New York, Inc. (CCC), a 64-year old independent child advocacy organization dedicated to ensuring that every New York City child is healthy, housed, educated and safe.

I would like to thank Council Member de Blasio and the members of the General Welfare Committee for holding today's oversight hearing on the status of the child protective reforms the Administration for Children's Services (ACS) has already put into place over the past 18 months, the ongoing work ACS is undertaking to further refine its ability to keep children safe, as well as what additional enhancements need to be made in the future to ensure New York City's child welfare system is the most effective that it can be.

CCC feels strongly that the Council, child advocates and the citizens of New York City need to know whether the reforms have made the children who come into contact with ACS safer now than they were 18 months ago and that the ongoing work of the agency will make children even safer in the future.

The fatalities in the fall of 2005 and the winter of 2006 brought to our attention some serious concerns about case practice, caseload sizes, and supervision and management at ACS. But most important, those tragedies left New Yorkers concerned about whether the city's child welfare agency was in fact able to keep children safe. The DOI report released this summer reminded us of those concerns by providing in-depth reviews of the fatalities from that time period, many of which had already been reported in great detail in various media outlets.

In March 2006, ACS released “*Safeguarding Our Children*”, its child safety action plan and then in November 2006, ACS released an update to this plan. It is clear from the plan, the update and other publicly available ACS data that significant and comprehensive changes have been implemented. Examples include hiring over 600 additional child protective specialists to conduct investigations, leadership changes within ACS to strengthen the management structure in the Division of Child Protection, and enhanced collaboration and revised procedures for ACS and the Department of Education developed through the Mayor’s interagency task force. In addition, ACS developed ChildStat-- their new, internal accountability and monitoring system, which they use to assess and then strengthen case practice and safety decision-making through weekly reviews of both data and individual cases. Notably the Council has also contributed to the child safety reforms by funding and then restoring the Child Safety Initiative, which lowered preventive service caseloads from 15 to 12.

CCC’s ongoing reviews of available ACS data have revealed some positive trends. SCR reports of alleged abuse or neglect, all of which require an ACS investigation, remained significantly higher throughout calendar year 2006 when there were 68,198 reports as compared to calendar year 2005 when there were 52,301 reports—an almost 25% increase. Even with this tremendous increase in reports, ACS was able to hire enough child protective workers to bring their average caseload down from a high of 21 in the early months of 2006 to 13.4 in June 2007. While there is still work to be done to

achieve and maintain the recommended average caseload of 12 families per worker, ACS has clearly made significant headway in this area.

In addition, CCC has been pleased to see in the ACS data that the percent of cases indicated for child abuse and neglect yet closed without services has significantly declined from 30% in the 3rd quarter of 2006 to 16% in the most recently reported quarter of 2007, which culminated in June 2007. When CCC looks at ACS's preventive services data, it is clear that more of the families identified as having abused or neglected their children are now receiving preventive services to support and strengthen their families. In June 2007, 30,053 children were receiving preventive services as compared to 28,662 in June 2006, which is a 6% increase. In fact, throughout FY07, utilization rates at preventive service programs were hovering at or above 100%. The administration has begun to address this capacity problem by expanding ACS's contracted preventive services program by 1000 families-- it is unclear at this time whether or not this is a sufficient number of slots but it is clearly a large step in the right direction.

Despite these moves in the right direction, CCC is aware that efforts to improve case practice and safety decision-making at ACS are still in progress. Unfortunately, the systemic change underway at ACS cannot happen immediately or even in 18 months. Changing policies, procedures and practices requires changing training curricula, training thousands of staff, and ensuring supervisors and managers can coach their workers properly on the changes. In addition, while the hiring of over 600 new child protective workers was critical to stabilizing caseloads, it means that ACS now has a very new and

therefore inexperienced core of child protective workers. In June 2007, 613 of the 1346 child protective specialists, or 46%, had less than a year of experience.

Child welfare is also extremely complicated. ACS comes into contact with thousands of high-risk families each year who are struggling with poverty, lack of child care, housing instability, domestic violence and substance abuse. Most of these families can be stabilized with preventive services, but some will require foster care. Determining when a child can remain safely at home and when a child needs to come into foster care is never black and white and the varying shades of gray can change over time because family circumstances are not static. While there can probably be no perfect child welfare system, the children of New York City deserve a child welfare system that is as close to perfect as possible.

While the ambitious reforms in the 2006 Safety Plan will take time to be fully implemented, the City Council, the child advocacy community and the citizens of our city need to know whether the reform that has taken place over the past 18 months has led to better outcomes for children and families touched by the city's child welfare system. Furthermore, we also need to know what additional resources ACS might need to be able to better protect children so that we at CCC can work with the administration and the City Council to ensure that ACS has whatever resources may be needed.

Specifically, CCC, the Council, and all New Yorkers need to know whether ACS's reforms have started to produce better and safer outcomes for children and that there is

continued progress in the future. We need to know that the ACS caseworkers receive the training, the tools, and the supervision they need to make decisions that will keep children safe and keep families together whenever possible. We need to know that if we looked at current open case records, the gaps in policy and practice revealed in last year's fatalities are being filled. We also need to know what old gaps need further refinement, what new gaps exist, and that ACS is taking steps to address any of the case practice issues that they identify through ChildStat and their Accountability Review Panel reviews of fatalities. We need to know that even though there is a tremendous increase in the number of court ordered supervision cases, that these families are all receiving the necessary home visits each month, the preventive services they need and timely attention by the Family Court. We need to know that the City is investing its resources in a way that ensures that every child and every family that needs preventive or aftercare services is able to receive them. And finally, we need to know that the preventive and foster care agencies ACS contracts with provide quality preventive, aftercare and permanency services to children and families.

CCC will continue to communicate and collaborate with ACS so that we can be kept abreast of this type of information without overburdening them or interfering with their ongoing monitoring and accountability tools. ACS has graciously invited CCC to attend a ChildStat session and to continue an ongoing dialogue with us about what kinds of additional information or data would be helpful for CCC, the advocacy community and other stakeholders. In turn, CCC will continue to advocate for any necessary practice,

policy or resource change that could enhance ACS's ability to keep children safe and support families.

CCC commends the administration and ACS for all they have done over the past 18 months, particularly the front line caseworkers who have worked tirelessly to ensure the children on their caseloads were safe and that their families were supported and strengthened. CCC is also grateful to the General Welfare Committee and the City Council for its continued interest and commitment to child welfare, for being a partner in the City's work to ensure the safety of New York City's children, and for holding this hearing today.



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**Testimony of Susan Jacobs, Esq.
Before the General Welfare Committee of
The New York City Council
September 20th, 2007**

My name is Susan Jacobs; I am the President and Executive Director of the Center for Family Representation. I would like to thank Chairman de Blasio and the Committee for asking me to testify this afternoon.

CFR is a law and policy organization whose mission is to guarantee that every family that can live safely together has the chance to do so. We assist families when the combination of poverty and a crisis – one borne of anything from addiction to inadequate day care – may lead to a child being placed in foster care. We provide free legal services to parents, train professionals in the child welfare and court systems on best practices to strengthen families and provide leadership at the city, state and national level on policies to support families.

CFR has pioneered a unique model of legal representation. We offer families a team approach: an attorney to assist with legal issues, a social worker to find the best services and a parent advocate, someone who's had personal experience with the system.

This year, CFR was selected by the City's Criminal Justice Coordinator's Office to be the first ever provider of multi-disciplinary legal services to parents in Manhattan family court.

We expect to serve close to 800 families in FY 2007/8 and another 150 families in pre-court intervention services.

Much of the direction discussed by ACS and information from other reports and data strongly suggests the continued need for partnerships between ACS and community based organizations. We know that families don't exist in isolation. We also know that government agencies such as ACS, DOE, and DHS can know only so much about families and neighborhoods. More and better communication also has to occur between the "front line" organizations and government. That communication needs to be based on the trust that in seeking help, families will be strengthened and children will, as a result, be safer. Thus, I'd like to illustrate some of the ways in which programs like CFR can help to strengthen families:

First, I want to focus on the importance of continuing the reform efforts of ACS including continued support of preventative services to reach families at the earliest stages of potential crises. Preventive services, which cost less than foster care, form the foundation of ACS's ability to protect children and serve families in crisis while keeping the family intact. Our Community Advocacy Teams (CAT) for instance works by assisting families as early as possible in their contact with ACS:

- *CAT* served families in all parts of the city in 2006, many headed by teenagers and young adults who lived most of their lives in foster care or are still in care;

- Of the families *CAT* assisted during a child protective investigation, the interventions avoided foster care in 95% of the cases;
- *CAT* also assisted referred just after a family court filing and achieved the safe reunification of families in 49% of the cases, with an average length of stay in foster care of slightly less than 4 months

We are supportive of and have helped to implement initiatives regarding child safety such as Team Decision Meetings (TDMs) which are convened on the cusp of removal and/or a court filing. This kind of child safety conferencing is making a difference in the ability of decision makers to both have more resources for the family come to the table and for all parties to have more information they bring to the court process should a case be filed. Even if a case is filed, the safety conference can sometimes avert the placement of a child in foster care because other safe resources are developed. In a recent case of a child born with a positive toxicology, ACS convened a safety conference with mother and baby's father. They were willing and able to go into a drug treatment program and to engage other services if necessary. ACS original plan was to file a court case. However, the advocate at the conference referred the mother to us and we immediately assigned a social worker who found a program in the mother's neighborhood and who also worked with mother to plan for the bay's return from the hospital. The family continues to be engaged in services, ACS has them on their radar screen, but a court case did not have to be filed to achieve this.

One of the lessons learned from the tragic death of children is that when families drop off the radar screen of schools and other service providers, a red flag should go up. ACS cannot be

everywhere in the community, but many CBOs and advocates are often aware of what is going on with a family and/or know when a family has disengaged. Again, it is critical for people close to the ground to read those situations correctly and to have the resources to go out to the families and try to bring them into services: We have found that since crises in families do happen on a nine to five schedule, having people with cell phones and the ability to travel into neighborhoods in the evenings and on weekends is vital to knowing what is happening and can be the difference in managing a crisis versus seeing a situation spiral out of control.

Domestic violence continues to be one of the most difficult problems families and service providers confront. We need to work differently with women, particularly young, vulnerable women who may allow inappropriate partners access to their children because they are their sole means of support. All advocates need to do better in training their staff to spot danger signs for women in these situations; especially where there may be a previous history of violent partners. One of the most effective interventions for our clients has been the work of our parent advocates – parents who themselves had previous child welfare cases and successfully reunited with their children. We know that often clients, who may be frightened by partners and unsure of whom to confide in, will often open up with our parent advocates more than with staff who have advanced degrees.

A word about training and its importance: CFR has conducted over 1300 training sessions since 2002 for people working in the child welfare and Family Court systems, including ACS caseworkers and FCLS attorneys. We know that staff has to be retrained frequently and we

know that this is difficult in organizations, such as ACS, which have experienced traditionally high rates of turn-over. However, resources put into training the right way can pay off for years: We believe that programs which train staff to train others can be very effective tools and certainly support the attention paid to this by ACS.

I want to comment briefly on the discussion about ACS' implementation of Child Stat: I believe that it is a powerful and complex tool. One of the difficulties in any large bureaucracy is that although it may promulgate visionary policies and messages from upper management may be well thought out, these policies and messages often seem not to get to middle management and the front line staff. Child Stat has the capacity to change that dynamic at ACS: The process effectively and directly conveys messages from top management to the rest of staff. There is simply nowhere to hide when a commissioner is rolling up sleeves and reviewing cases and case decisions in detail in real time with the staff directly involved. I think strength of this tool is that because its use of data gives managers precise information about trends as soon as they occur: this should result in an ability to address problems much more quickly and hopefully effectively.

Finally, I want to address the Family Court part of the equation as we look at child safety and where we are in strengthening families: The Family Court is simply not a panacea for resolving difficult family situations. Even before the spike in cases resulting from the tragedies in 2005 and 2006, Family Court was experiencing a huge increase in work load because of the demands of new legislation – the permanency law of 2005. The goal of the

law was to help children get out of foster care into permanent homes more quickly. Currently, New York ranks 49th out of 50 states in length of time that children spend in foster care.¹ Significantly, the legislation requires twice as many hearings twice as frequently as before. Notably, no additional funding was provided to support the increase in hearings and cases created by the Permanency Legislation, or the added burden on ACS and the foster care agencies of preparing the permanency reports. Similarly, no additional funding was provided to address the dramatic increase in reports, filings, and foster care placements.

It is important to note that when the law was enacted, the Family Court was already a place of endemic delay²: Routinely in 2005 and continuing to today, a child protective case might come into court in July and a trial not start until December. Unlike criminal court, in Family Court a trial may start on day one and be adjourn several times for a period stretching out over several months. So the child, removed to foster care in July, stays essentially in limbo for months with no judicial action and no decision about his/her permanent home.

As you know, the NYS central registry received a 30 percent increase in calls in 2006: 67,953 reports up from 47,640 reports in 2005. 2007 is not quite as high, as but significantly higher than 2005. The number of abuse/neglect cases filed by ACS in Family Court in New York City also increased dramatically. In New York County where we are based, there were 302 cases filed in 2005, 583 in 2006 and already, 498 in 2007. In the Bronx, there were 380 in 2005, 915 in 2006 and 868 so far in 2007.

¹ See, *A Dangerous Cycle*, A report by the Public Advocate, September 2007, p. 13, citing statistics provided by ACS, the child Welfare League of America and the United States Department of Health and Human Services; New York City's average length of stay is 49.9 months and is the second highest in the nation.

² See, *Justice Denied: Delays in Resolving Child Protection Cases in New York*, by Martin Guggenheim and Christine Gottlieb, the Virginia Journal of Social Policy & the Law Vol. 12, #3, 2005.

Similarly the number of children entering foster care increased significantly. The total numbers haven't risen as high because children are also exiting care, but the initial placement rate is also an indication of strain in the system: 442 children in NYC were placed in foster care in December 2005, while 746 entered foster care in January 2006.³

The increase in cases and placements puts pressure on an already busy court to make accurate and early differential decisions about families and make appropriate and timely supports available.

However, no additional resources were provided by the state to any of the parties charged with implementing the mandates of the legislation: the judges and court system, child welfare agencies, lawyers for children and for parents. The system is in danger of stalling such that the goals of moving children more quickly out of foster care have been stymied. One of the recommendations to get the system moving again is to add family court judges whose dockets far exceed those of their colleagues in other courts: In 2005, 79,500 contested civil cases and 24,500 criminal cases were filed in Supreme Court in New York City. In contrast, 211,000 cases were filed in Family Court in New York City that same year.⁴

Along with Chairman de Blasio, we have joined a group of advocates from around the city calling for an increase in the number of Family Court judges assigned to New York City to handle abuse and neglect cases, Family Court judges who handle child protective cases

³ New York City Administration for Children's Services, Office of Management, Development and research, cited in Preliminary Fiscal 2007, Mayor's Management Report, at 33.

⁴ Data provided by the New York City Family Court, January 2007.

currently carry an averaged of 547 cases per judge in New York County, 950 cases per judge in the Bronx, 725 cases per judge in Kings County, 688 cases per judge in Queens and 835 cases per judge in Staten island (where only two judges sit in Family Court). These numbers do not even include the increased work load from the new permanency hearings. Clearly, judges with such workloads cannot possibly have sufficient time to consider the details and complexity of all of the child safety cases before them.

Add to this that the caseworkers from ACS and foster care agencies are charged with producing much more detailed reports about the status of children: This is a good thing, but only if there is enough time and resources to make those reports available in a timely way and to ensure they are accurate.

We cannot, in 2007, continue to say on the one hand that the well being of our children is our highest priority and yet do nothing to ensure that decision makers assessing their safety and families have timely and accurate information and the capacity to provide services when needed.

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New York City Council General Welfare Committee Testimony September 20, 2007

My name is Sabra Jackson. I am a Parent Organizer with the Child Welfare Organizing Project, CWOP. Thank you for the opportunity to testify on the current state of ACS practice, and the agency's progress over the past 18 months.

CWOP is an organization of parents and professionals dedicated to public child welfare reform in New York City through meaningful parent and community involvement in ACS policy, practice, and evaluation. Most of our staff, and about half of our Board of Directors, are parents who have had direct, personal involvement with ACS. Most of us have had children placed in foster care, and have succeeded in reuniting our families. We now help and advise other parents facing similar challenges, based on our own experience. We also organize collectively as a force for system change. We have offices in East Harlem, Highbridge, and Bedford Stuyvesant. We represent the communities and families most heavily impacted by ACS, and this testimony is offered from the parents' perspective.

We do not see the large increases in calls to State Central Register, protective removals, and Article 10 filings as signs of progress. There is no evidence that any of these trends have made children safer. In fact, there are some indicators of just the opposite. Child fatalities are a poor measure of the success of ACS, since they represent less than 1% of children known to the system. But since there has been so much focus on this measure, it should be noted that fatalities increase when removals increase. It has also recently been reported that abuse of children in foster care has increased by over 50% since the surge in placements following the death of Nixzmary Brown.

If we are really concerned with child safety, then we need to be clear and truthful as to what works. Too many of the measures proposed to or taken by ACS over the past year can be described as a "criminal justice" rather than a "social service" approach to child protection. We do not believe that encouraging more calls to State Central Register, forced entry into families' homes, or criminal background checks enhance child safety, in most cases. The majority of parents known to ACS are not violent criminals but women like us, struggling to raise children under some very difficult circumstances in some very challenging neighborhoods. Treating us mainly as suspects or perpetrators, rather than as individuals who may need some help and support, is not in the best interests of our children. In fact, it endangers our children by making us afraid to ask for help when we need it, and by making us see ACS as our enemy rather than as a possible source of help and support.

A lot of this recent back-sliding into a punitive, "get tough" approach to child protection seems to be in reaction to pressure from the media, some elected officials, and advocacy groups far removed from the realities of life in our communities. We believe ACS was on the right track before it was exposed to this kind of pressure, and that a lot of their recent reform efforts deserve more recognition and support. Specifically, ACS has made tremendous progress in terms of parent and family engagement:

- CWOP parents are part of an active Parent Advisory Work Group to ACS. We meet regularly to plan events such as the annual Family Fun Day, and have also helped ACS create staff roles for Parent Advocates. We meet with Commissioner Mattingly regularly. He listens to us respectfully, and actually follows through on most of our recommendations.
- CWOP Parent Organizers serve as Community Representatives at ACS Child Safety Conferences in East Harlem. We support and advise our neighbors who are at risk of having their children removed, and help identify safe alternatives to foster care when possible.
- Parents who have been clients of Preventive Service programs are helping the ACS Division of Research and Evaluation develop a Family Interview instrument that will become part of ACS's performance evaluation system for Preventive Service contractors.
- Local parents are very actively involved in ACS Community Partnership Initiatives in Highbridge, East Harlem, and Bedford Stuyvesant, where we are working to improve the quality of family case conferencing, parent / child visiting in foster care, linkages between early childhood and Preventive programs, and neighborhood-based foster parent recruitment.

All of these initiatives enhance child safety by helping, strengthening, and empowering families. To us, they represent very significant progress, to an extent that we might not have dreamed possible just a few years ago. We are more than willing to criticize ACS when that seems called for, but we also believe that ACS should be given credit where credit is due. In the final analysis, children can never be effectively protected by a public agency that their parents hate and fear. Children are protected when ACS makes parents its partners in service and policy planning. Thank you again for the opportunity to testify.