



**Jess Dannhauser**  
**Commissioner**  
**Testimony to the New York City Council**  
**Committee on Children and Youth**  
**December 12, 2024**

**Oversight: Examining ACS's Prevention Services Programming**  
**Int. 572**  
**Int 9-A**

Good morning, Chair Stevens and members of the Children and Youth Committee. I am Jess Dannhauser, Commissioner of the New York City Administration for Children's Services. I am joined today by Luisa Linares, the Deputy Commissioner for Prevention Services; Elizabeth Wolkomir, the Deputy Commissioner for Child and Family Well-being; and Raymond Toomer, the Associate Commissioner for Community Based Alternatives in the Division of Youth and Family Justice. Together their teams and our non-profit provider partners deliver a continuum of services and supports for children, youth and families. We appreciate the City Council holding today's oversight hearing, examining our prevention services programming.

Providing families and youth with support as upstream as possible is the best way to keep children safe and families thriving. Because families across the city have unique and individualized needs, we provide a continuum of services of varying types and intensities, which I will talk more about today. All of these services are free, available regardless of immigration status, and voluntary, except when participation is court-ordered. Families seeking help do not have to have any involvement with child protection or an investigation. Given the wide range of services we offer, families, service providers and community members can contact our Support Line at (212) 676-7667 or [connect@acs.nyc.gov](mailto:connect@acs.nyc.gov) to learn more about the options and what service would be most appropriate for a family's needs. We would love to partner with the Council to help spread the word about our Support Line so that all families know how to access help when they need it.

leaders. We expect to announce the award for the 30<sup>th</sup> and final site in the next few months.

The FECs promote family strengthening “protective factors” like social connections, parental resilience and access to concrete supports, that help families pursue their dreams and weather hard times. Everything about each FEC – including the name, physical layout, and offerings provided are co-designed with families and community members. Providers with deep ties to their communities were selected to operate the FECs. Notably, FECs do not require families to disclose any identifying information, including any information about child welfare involvement.

We also want to make sure that families and child-serving professionals know how to keep children safe by preventing unintentional injuries. Our Office of Child Safety and Injury Prevention connects with families, communities and professionals to make them aware of the leading causes of preventable childhood injuries and the best way to keep children safe. We provide education, training, and supplies, including through participation in community-based events and public awareness campaigns, to promote safe sleep practices as well as safe storage of cannabis-infused edibles, medication, and other household items to mitigate unintentional poisoning of children.

### **Supporting Families Through Our Continuum of Prevention Services**

ACS oversees a nationally recognized continuum of child welfare prevention services, aimed at keeping children safe, supporting parents with the resources and services they need, and preventing, where possible, involvement with child protection. ACS contracts with 43 providers for 124 programs, reaching over 15,000 families and

Attachment Based Intervention (GABI) is available in 6 sites in all five boroughs and helps caregivers of children under age 4 build strong bonds with their young children.

We contract with 5 agencies to provide Homemaking services, which is a support in-home service to help parents and caretakers develop skills to support child well-being and to successfully manage daily household tasks. These services can be available for up to 24 hours per day, 7 days a week, and we provide over 1 million service hours annually. We also offer family support programs, which provide case management and in-home, tailored services to address needs such as service referrals, support with concrete goods, and regular assessments of child safety and well-being.

Our newest model is School-Based Early Support (SBES), which launched in July 2024, and builds on the legacy of the ACS Beacon prevention model and support our efforts to link families to support and resources without the need for a child welfare investigation. As part of our contracts with the 16 SBES programs, each has identified at least three partner elementary and/or middle schools in their district where they will maintain a presence to serve families. Providers are required to collaboratively co-design at least four school-based offerings per year based on the needs of the school community, all with the goal of being an easily accessible support for families.

As required by Local Law 17 of 2018, ACS conducts an annual family experience survey to gather feedback from families who have participated in prevention programs. The 2023 family experience survey found that approximately 94% of survey participants said they were happy with the prevention services they received, 90% said they would recommend the services to a friend/family member, and 93% said that the services are helping them achieve their goals. ACS has used family feedback to inform our work

and Mentoring and Advocacy (MAAP), where youth are connected to Fair Futures coaches.

### **Int-652 (Sanchez)**

Int. 652 would require the Department of Health and Mental Hygiene (DOHMH) to establish and operate a pilot program to provide free mental health services for up to one year to children who have been returned home from foster care.

ACS agrees that children and youth who are reunified from foster care, and who are in need of mental health services, should have immediate access to these services without charge. Currently, when a youth is discharged from foster care, there are provisions to ensure continuity of care for services initiated while the child was in foster care. Specifically, they would be able to access all Medicaid services they were receiving while in care for up to a year, so long as the foster care agency notifies the managed care plan of the discharge. Young adults aged 18 and older at discharge are eligible for Medicaid up to age 26. And also, older youth exiting foster care have Fair Futures coaches who connect them to support services up to age 26. Of course, families in need can access ACS-funded prevention services. ACS looks forward to discussing this bill with the Council.

### **Int. 9**

ACS appreciates the City Council's interest in making sure that parents and caretakers know how to find an attorney when ACS is conducting a child protection investigation. Since 2020, ACS has been providing families with the contact information for the legal services organization in their borough at the start of an investigation. This



**NEW YORK CITY DEPARTMENT OF  
HEALTH AND MENTAL HYGIENE**  
Michelle Morse, MD, MPH  
*Acting Health Commissioner*

**Testimony**

of

**New York City Department of Health and Mental Hygiene**

before the

**New York City Council  
Committee on Children and Youth**

on

**Introduction 652 of 2024**

December 12, 2024  
New York, NY

Thank you, Chair Stevens and members of the Committee on Children and Youth, for the opportunity to testify today on Introduction 652 of 2024. This proposed legislation refers to a pilot program providing mental health services to children reunified with their families following removal by the Administration for Children's Services (ACS).

This legislation is redundant of existing services provided and facilitated by ACS. The Department of Health and Mental Hygiene defers to ACS on the specifics of such services. Additionally, all children this bill refers to would be eligible for Medicaid or the Children's Health Insurance Program (CHIP) coverage. The Health Department defers to ACS on all aspects of New York City's foster care system. We are happy to work with our colleagues at ACS where appropriate to support their critical work connecting youth to much needed mental health care after leaving the foster care system.

We thank the Council for the opportunity to provide written testimony on Introduction 652 of 2024.

**The Bronx  
Defenders**

**Redefining  
public  
defense**

**New York City Council  
Committee on Children & Youth**

**December 12, 2024**

**Oversight - Examination of ACS's Preventative Services Programming**

**Oral Testimony of The Bronx Defenders**

**By Jesse McGleughlin, Policy Counsel of The Family Defense Practice**

Chair Stevens and Committee members, thank you for the opportunity to testify today. My name is Jesse McGleughlin and I am policy counsel in The Bronx Defenders' Family Defense Practice. The Bronx Defenders fights to prevent family separation by the foster system.

I came to parent defense work after representing teenagers in the foster system and those ensnared in the juvenile and criminal legal systems. It is my deep love of young people that first brought me to parent defense work because I came quickly to understand that to support youth, we must support their families. I am committed to shrinking the family policing system precisely *because* I care about the safety and wellbeing of children and young people. The best way to prevent harm - including tragic child fatalities —is to ensure that ALL families have what they need to survive and thrive: a living wage, safe housing, food, access to high quality education and health care, and reason to hope for a better future. As this Committee examines preventative services in this highly charged time of publicized tragedy, I urge you and the City Council to stand firm in your commitment to keeping families together. Not just by refusing to roll back preventative services, but also by challenging the practices by which poor, Black and Latine families are weakened by surveillance, investigation, and separation.

Data makes inescapably clear that the main reason children end up in the family policing system is because of racism, poverty, and the structural disinvestment in poor



Black and Latine communities. I am not going to quote statistics here today, but as we are all aware, Black and Latine children are grossly overrepresented in the family regulation system.<sup>1</sup> And Black children fare worse than white children at each and every stage of the family policing process.<sup>2</sup> It is no surprise that the Bronx, which has a child poverty rate of 38.3%, has the highest number of emergency removals of children during ACS investigations, the highest number of Article 10 filings, and the highest number of children in foster care. Poverty is routinely prosecuted as neglect, with poor Black and Latine families policed, regulated, and torn apart at the hands of the family policing system.

Preventative services are often held out as a solution to this problem. The theory of change in Bronx Family Court—and in Courts across this City—is that preventative services—whether in the form of intensive in-home services such as functional family therapy, or in skills training like parenting classes, can solve “risk” in families. I do not sit before you arguing that therapy cannot be helpful. But requiring a parent to engage in services by an agency contracting with ACS—in other words, the prosecutor—does not build trust between parents and service providers.

In our experience, families cannot fully benefit from services—even if they want to—when their service provider is contracted by and reporting to ACS. Our clients are regularly placed in a double bind: on the one hand they may want and or need evidence-based, therapeutic services offered by specialized preventative services, but on the other hand recognize that everything they say or do while participating is being recorded and reported back to ACS. Unlike parents with privilege who can access therapeutic services wholly separate from ACS, our clients must always balance the possibility that their full participation and honesty will threaten their familial integrity. In essence, preventative services being a *de facto* extension of ACS—the agency with the

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<sup>1</sup> In New York City, Black children account for roughly 22% of the children under the age of eighteen in the city, but are a staggering 50.6% of the children separated from their families in the foster system. *Watching The Numbers: Covid-19's Continued Effects on The Child Welfare System*, Annual Data Report, Center for New York City (Mar. 2023). *Racial Disparities*, Family Policy Project, <https://familypolicynyc.org/data-brief/racial-disparities/> (last accessed July 24, 2023).

<sup>2</sup> *Watching the Numbers: Covid-19's Continued Effects on The Child Welfare System*, Annual Data Report *supra* note 1.

power to regulate, control and dissolve families--making it all but impossible for families to meaningfully obtain the services they may need and benefit from. That is why I am calling on the City Council to invest directly in families and community-based services and resources that operate outside of the family policing system.

I also want to make clear that Collaborative Assessment, Response Engagement and Support (CARES) is not preventative services. ACS claims that CARES is a voluntary "non-investigative child protection response" "where there is no immediate or impending danger to children and where there are no allegations of serious child abuse." However, our clients tell us that CARES does not function as a voluntary and supportive program but instead as another mechanism of surveillance and control. It is our position that if there is no immediate or impending danger to children, then ACS should not be in the business of engaging with families "to identify needs and connect families with appropriate services." This is the role of community and community-based service providers. We implore City Council to fund them directly.

Finally, I want to note that preventative services, which are in essence behavior modification programs, place blame at the feet of parents for structural conditions beyond their control. Pouring resources into services - preventive or otherwise - assumes that risk to children is due to parents with individual flaws. But we know that it is circumstances of poverty, racism, and lack of concrete material resources that poses the greatest risk to children. Even in cases where individual services might benefit a family, a parent cannot meaningfully engage in therapy when she is hungry, or unhoused, or fighting just to survive. We cannot address risk to children without addressing what causes risk: poverty and racism.

One of my clients' experiences with preventative services makes this point immensely clear. Ms. B was ordered to engage with preventative services as a condition of her children remaining in her care. During the time in which preventative services have been in place, she has had very tangible material needs that have gone unmet. When Ms. B was--after many years living in a family shelter--finally able to secure an apartment, she needed beds for her children to sleep in. She reached out to preventative

services. She reached out to her caseworker. Yet for weeks, her children did not receive beds. Ms. B's teenage daughter—who had refused to attend school because she couldn't see the board—needed glasses. Ms. B again reached out to her caseworker and preventative worker to request funds to get her daughter glasses. Yet this request took many weeks and many follow-up conversations. And when Ms. B needed food—because her food stamps had run out—she again reached out for help. She was told she had to wait until her food stamps came in. Ms. B's experience—of being unable to meet her most basic needs—is far too common. And it exposes the real problem facing many families—poverty. Therefore, I urge the City Council and the Committee to invest in initiatives to provide no-strings cash assistance to parents. And I ask that you urge Governor Hochul and New York state legislators to pass a slate of legislation aimed at expanding guaranteed income.

I want to be clear that we are not advocating to expand ACS's budget. A parent should not need to be investigated and or prosecuted for abuse or neglect to be able to access material resources. But we are asking for transparency and clarity about when preventative services *can* provide material resources to parents facing investigations or Article 10 cases. As importantly, we are asking for your advocacy to support direct cash assistance to poor New Yorkers because this is the ultimate prevention measure against child maltreatment and family separation. We need—and New Yorkers deserve—a broad vision of prevention that provides direct resources to communities outside of systems of surveillance, coercion, and control.

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**Oversight - Examination of ACS's Preventative Services Programming**

**Written Testimony of The Bronx Defenders**

**By, Miriam Mack, Policy Director of The Family Defense Practice**

Chair Stevens and Committee members, on behalf of The Bronx Defenders, we thank the New York City Council's Committee on Children and Youth for holding this oversight hearing on ACS's Preventative Services Programming, and for exploring the critical issue of how New York City can best support families.

BxD is a public defender non-profit that is radically transforming how low-income people in the Bronx are represented in the legal system. Our staff of over 450 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement. Through this integrated team-based structure, we have developed a groundbreaking, nationally recognized model of representation called holistic defense that achieves better outcomes for the people we represent. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, family regulation, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic change at the local, state, and national levels. We take what we learn from the people we represent and communities we work with and launch innovative initiatives designed to bring about real and lasting change.

### **INTRODUCTION**

As public defenders, we care deeply about the wellbeing of families. Our commitment to families is a driving force in our work and leads us to constantly question how we can better support our clients and their families. Supporting families becomes even more important, most especially for our City's leadership, in moments of tragedy, where understandable outrage and deep sadness often push us to lean into punitive measures and policies; policies that history, experience, and data show actually harm children and families and destabilize communities.

While it may be tempting to return to punitive family policing measures such as removing children from their homes fast and first and asking questions later, we must resist this approach because it is an approach proven by history not to keep more children safe and diverts public resources from the real solutions that make all families safer. Instead, we must urgently ask what families need to thrive, what parents need to raise their children with dignity, and how we can create the conditions for that future.

There is no question that to thrive, all families must have their basic needs met. These include, but are not limited to: safe, stable, permanent housing, meaningful employment, quality child care and schools, and safe, resourced neighborhoods. While these critical resources are often taken for granted in race and class privileged communities, the same cannot be said for Black, Latine, and poor NYC families who live at the intersection of race and class disadvantage—the families most most often ensnared in the family policing system.

Instead of meeting the basic human needs of families, infusing communities with resources, and addressing structural inequality, too often, interventions focus on changing parents' individual *behavior*. Our firm belief is that the most effective way to prevent child maltreatment in New York City is to address the structural drivers of the family policing system<sup>1</sup> head on by directly investing in families and communities most impacted by the family policing system. We reject any call to cut preventative services and return to the days of family separation as the primary tool of family policing. Instead, we ask that the City Council commit to prevention efforts that address poverty and racism and ensure that much needed therapeutic services are available to families without connection to the Administration for Children's Services (ACS).

### **I. Racism, Poverty, and Other Structural Inequalities Drive Families Into the Family Policing System.**

Data and our experience make clear that New York City's family policing system is rooted in and driven by racism, poverty, and other related structural inequities. The family policing system uses its powers of family surveillance, separation, and dissolution almost exclusively against predominantly Black and Latine, and poor families. In New York City, Black children account for roughly 22% of the children under the age of eighteen in the city,<sup>2</sup> but a

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<sup>1</sup> Following the leadership of directly-impacted people and we use the phrase “family policing system” to describe what has traditionally been called the “child welfare system” or the “child protection system,” to reflect the system’s prioritization of and roots in exploitation, surveillance, punishment, and control rather than genuine assistance to and support of families living in poverty. See *Dorothy Roberts, Abolishing Policing Also Means Abolishing Family Regulation, The Imprint (June 16, 2020)*, <https://imprintnews.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/44480>.

<sup>2</sup> Child Population, Citizens Committee for Children, <https://data.cccnewyork.org/data/table/98/child-population#11/18/62/a/a> (last accessed May 31, 2023).

staggering 50.6% of the children separated from their families in the foster system.<sup>3</sup> Black and Latine children taken together—representing roughly 60% of New York City’s child population—are roughly 90% of New York City’s foster population.<sup>4</sup> In contrast, roughly 26% of the children in New York City are white,<sup>5</sup> but white children comprise less than 6% of the foster population.<sup>6</sup> While across New York City, nearly 45% of Black and Latine children will experience a family policing system investigation before they turn 10, only 19% of white children will experience an investigation.<sup>7</sup> Finally, Black children fare worse than white children at each and every stage of the family policing process.<sup>8</sup>

To understand and address these disparities, we must recognize and contend with the family policing system’s drivers: racism, poverty, and other forms of structural inequality. Racist narratives about Black and Latine motherhood pervade the family policing system and permeate social service systems. These assumptions, tropes, and false narratives, compounded by policies and practices based on outdated junk science, contribute to the overrepresentation of Black and Latine families in the family policing system. Even ACS’s own staff identify racism as a pervasive issue.<sup>9</sup> Among the feedback that ACS staff provided in response to a racial equity audit that ACS commissioned in 2020 was: describing ACS as a “a system that actively destabilizes Black and [Latine] families and makes them feel unsafe;”<sup>10</sup> observing that ACS is “a predatory system that specifically targets Black and [Latine] parents and applies a different level of scrutiny to them throughout their engagement with ACS;” and creating a system in which “safety is a privilege of race” and indeed, race is used as an “indicator of risk.”<sup>11</sup>

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<sup>3</sup> *Watching The Numbers: Covid-19’s Continued Effects on The Child Welfare System*, Annual Data Report, Center for New York City (Mar. 2023), <http://www.centrernyc.org/reports-briefs/2021/2/4/watching-the-numbers-2022-monitoring-new-york-citys-child-welfare-system-hx4nf-jgzwt>.

<sup>4</sup> *Racial Disparities*, Family Policy Project, <https://familypolicynyc.org/data-brief/racial-disparities/> (last accessed July 24, 2023).

<sup>5</sup> *Child Population*, *supra* note 13.

<sup>6</sup> *Watching the Numbers: Covid-19’s Continued Effects on The Child Welfare System*, Annual Data Report *supra* note 14.

<sup>7</sup> *Racial Disparities*, Family Policy Project, <https://familypolicynyc.org/data-brief/racial-disparities/> (last accessed July 24, 2023).

<sup>8</sup> NYC ACS Commissioner Jess Dannhauser Talking Points, NY Advisory Committee Meeting May 19, 2023, Committee Detail No. CD-2129685, [https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/3d000001GNZ4/bZWSVvhmsEkX8XL\\_OehqKh3O3c5XgEJgHtbysv\\_yoew](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/3d000001GNZ4/bZWSVvhmsEkX8XL_OehqKh3O3c5XgEJgHtbysv_yoew).

<sup>9</sup> *New York City Administration for Children’s Services Racial Equity Participatory Action Research & System Audit: Findings and Opportunities (Draft)* (Dec. 2020), <https://drive.google.com/file/d/1cdgv8maKgGesji79FRJasnSF08fE6Mo8/view?usp=sharing>.

<sup>10</sup> *Id.* at 14.

<sup>11</sup> *Id.* at 14-15.

Data also make abundantly clear that poverty is another driver of the family policing system.<sup>12</sup> Among New York City’s children, Black and Latine children have the highest rates of poverty and often live in communities with the highest rates of material disadvantage.<sup>13</sup> One hundred percent of the families we serve live in poverty, which is often characterized as neglect by the family policing system. Not only are families living in poverty disproportionately reported for child maltreatment, but reports are more likely to be substantiated by the family regulation system.<sup>14</sup> Focusing for a moment on the Bronx: of NYC’s boroughs, the Bronx has with highest rate of hotline calls to the State Central Registry, the highest number of emergency removals of children during ACS investigation before a court case is filed, the highest number of Article 10 case filings, and the highest number of children in the foster system. At the same time, the material disadvantage faced by families is profound. The Bronx has a child poverty rate of 38.3% and the community districts surrounding BxD have some of the highest rates of eviction, unemployment, and public benefits enrollment. Community District 1, encompassing Mott Haven and Melrose, for example, has a median income of just \$16,800 per year, with 60% of residents receiving some form of public assistance. According to Citizens Committee for Children in New York, seven of the eight community districts in New York City with conditions that pose the highest risk to child well-being are in the Bronx. Finally, Bronx families also experience a disproportionate lack of access to childcare – childcare is out of reach for 80% of Bronx residents.

That racism and poverty are drivers of the family policing system suggests that the key to supporting families and preventing child maltreatment lies in providing families resources and material support. Yet, despite numerous studies showing that providing families with direct and material resources reduces child maltreatment, many of NYC’s prevention interventions are designed primarily to investigate parents and change their behavior through coercion and prosecution.

## **II. Preventative Services: an Attendant Service of the Family Policing System Rooted in Surveillance, Control, and Punishment.**

As noted above, at its core, preventative services focus primarily on addressing and modifying parental behavior and or familial relationships. They presume that what poses the greatest risk to children are individual parents, rather than the lack of basic resources and structural inequality that disadvantages families vulnerable to family policing. As a general matter, preventive services fall into two buckets: General and enhanced (or specialized). General,

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<sup>12</sup> Aislinn Conrad-Hiebner & Elizabeth Byram, *The Temporal Impact of Economic Insecurity on Child Maltreatment: A Systematic Review*, Trauma, Violence & Abuse (2020) (most reliable economic predictors of child welfare involvement: income loss, cumulative material hardship and housing hardship.)

<sup>13</sup> *Narrowing The Front Door to NYC’s Child Welfare System, Report and Community Recommendations*, New York City Narrowing the Front Door Work Group (Dec. 2022), [https://www.narrowingthefrontdoor.org/files/ugd/9c5953\\_86404362d37449fc9d93c19ba2300f7f.pdf](https://www.narrowingthefrontdoor.org/files/ugd/9c5953_86404362d37449fc9d93c19ba2300f7f.pdf).

<sup>14</sup> Butel, *Data Brief*, at 1, 5, <http://www.centernyc.org/s/DataBrief.pdf>.

or “Family Support” preventative services is largely used for families deemed “low risk,” and, at least in theory, provide skills training to families (e.g. parenting skills), connect families to referrals and benefits, among other things. Enhanced preventive services, on the other hand, offer more specialized, intensive in-home services, such as MST-CAN, FFT, and CPP. Whether general or enhanced, the theory of change, by and large, is not prevention by way of addressing racism and poverty. Preventative services do not have as their core mandate to provide families with the material resources that they need. Rather, preventive services, most especially general preventive services, serve as another pathway of oversight on Black, Latine, and low-income families.

#### **a. Preventative Services are Rarely Truly Voluntary**

While there are several pathways through which families engage with preventive services, the most common is through a referral from ACS either following a family policing investigation or by an order of family court as a condition of family unification (*i.e.* the child either remaining in the home) or family reunification (*i.e.* the child returning to the home from a foster system placement). Though ACS often describes preventative services as “voluntary”<sup>15</sup> or optional, this is untrue. For families that receive preventive services as a result of an ACS investigation or court intervention—the vast majority of families enrolled in preventative services—failure to accept and cooperate with preventative services can lead to serious consequences, including but not limited to the ACS intervention escalating to family court intervention, and even family separation. When parents are asked to cooperate with preventative services or risk possible protracted ACS involvement, family court involvement, or worse yet family separation, the choice cannot be understood as voluntary.

#### **b. Preventative Services in Practice Often Operate as a Tool of Surveillance and Control for Families Ensnared in the Family Policing System**

Regardless of the model, ACS holds funding and oversight responsibility for preventative services. ACS, and more broadly, the Office of Children and Families, establish the policies, procedures, and standards by which preventative services are governed and judged.<sup>16</sup> Particularly for families connected to preventative services as a result of an ACS investigation or family court intervention, preventative services are coordinated by ACS, and the preventative providers share information with and answer to ACS, the very same entity that investigates, prosecutes, and in many cases separates the family. For many of the parents and caretakers that we represent,

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<sup>15</sup>*Prevention Services*, NYC Children - Admin. For Children’s Servs., <https://www.nyc.gov/site/acs/for-families/prevention-services.page>

<sup>16</sup> *Preventive Services Quality Assurance Standards and Indicators*, NYC Children - Admin. For Children’s Servs. (2011), ([https://www.nyc.gov/assets/dycd/downloads/pdf/ACS\\_Preventive\\_Services\\_Quality\\_Assurance\\_Standards\\_and\\_Indicators-Sep-2011.pdf](https://www.nyc.gov/assets/dycd/downloads/pdf/ACS_Preventive_Services_Quality_Assurance_Standards_and_Indicators-Sep-2011.pdf))



preventative services function as another set of “eyes on the home” for both ACS and the family court.

This is especially true for families connected with general preventative services. Though ostensibly put in place to provide “additional support” (e.g. connecting the family to referrals for programs like parenting skills classes, anger management classes, mental health providers, and advising parents benefits available to them), they do not function as such. So often, our clients receive service referrals tailored to what ACS and the courts want to see rather than to the needs of their family. Again, more often than not, providers primarily serve to track, document, and report to ACS and the family courts on parents’ compliance with their service plan and the status of the family home.

Enhanced preventative services, on the other hand, can provide needed, evidence based, specialized in-home services for families and children. In our experience, the provision of these services in-home can make meaningful differences for families. However, the enhanced preventive services are very limited and often getting connected to the service is difficult. Beyond that, enhanced preventative services are marked by the same fundamental problem as general preventative services: they are connected to ACS. As researcher Kelly Fong points out, “coupling care with coercive authority generates substantial apprehension for families, even when reporting professionals and investigators fully expect the case will close after investigation.”<sup>17</sup>

In our experience, families are placed in a double bind: on the one hand they may want and or need the evidence-based, therapeutic services offered by enhanced preventative services, but on the other hand recognize that everything they say, reveal, or do while participating will be recorded and reported back to ACS. Too often, a parent’s or caretaker’s perceived failure to “progress” or “benefit from” the service is used as a basis to prolong ACS and or family court surveillance and control, and in some cases, even separate children from their parents. Unlike parents and caretakers with privilege who can access therapeutic services wholly separate from ACS, our clients must always balance the possibility that their full participation and honesty will imperil their and their family’s well being. In essence, preventative services being a *de facto* extension of ACS—the agency with the power to regulate, control and dissolve families—makes it all but impossible for families to meaningfully obtain and benefit from the services they truly need. In-home, evidence-based services, including mental health services, absolutely should be readily available to all families in their communities, and must operate outside of the family policing system.

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<sup>17</sup> Kelley Fong, Getting Eyes in the Home: Child protective Services Investigations and State Surveillance of Family Life, 85(4) Am. Sociological Rev. 610, 626 (2020).

Likewise, while we applaud this Committee’s efforts to make therapeutic services more readily available to children returning to their families from the foster system, we are concerned about Int. 0652, which seeks to establish a pilot program to provide mental health services at no cost to children who have been returned to their home following a removal by ACS. Though well-intentioned, we are concerned that this legislation requires consultation with ACS. While we recognize the importance of making evidence-based, high level, therapeutic treatment accessible without financial barriers, most especially for families that have experienced trauma, we believe that these services must be wholly separate from ACS influence, control, and or oversight. Requiring ACS’s consultation on culturally appropriate outreach undermines this goal. We are also concerned that this program, if implemented, will become yet another mandated “service” with which families are coerced to comply as a condition of their children returning home from the foster system. True support cannot be premised on coercion, and thus we urge that the City Council invest in mental health programs that are truly voluntary and separate from ACS.

**c. Preventative Services Do Not Address the Fundamental Issues Facing Families Enmeshed in the Family Policing System**

Time and again, our clients share with us what they need most are material resources that address acute material hardship. When asked directly what would help your family in this moment, our clients do not name preventative services, most often they name material resources including, but not limited to: cash, rental assistance and affordable housing, groceries, reliable, affordable transportation, child care; furniture, and clothing for their children. Yet, by and large, preventative services do not and cannot fulfill these needs. To the extent that preventative services have some limited capacity to address some of these material needs (e.g. furniture support, grocery support, clothing support), the path to securing these items is opaque, and the wait time to receive crucial assistance can outlast the family’s immediate material needs.

Consistent with the calls from communities most impacted by the family policing system to provide families with material resources and community-based support, disconnected from ACS’s coercive power, studies show that providing families with direct resources is a powerful preventative intervention. Specifically, several recent studies have confirmed that increasing income and benefits to families leads to a decrease in child maltreatment and abuse reports. For example, a 2016 study found that increases in the minimum wage corresponded with a reduction in family policing system involvement, particularly of reports involving young children (aged 0-5) and school aged children (aged 6-12).<sup>18</sup> The researchers suggest that “[i]mmediate access to increases in disposable income may affect family and child well-being by directly affecting a caregiver’s ability to provide a child with basic needs . . . .”<sup>19</sup> A 2021 study examined the relationship between states’ earned income tax credits with rates of child maltreatment reports.

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<sup>18</sup> See Kerri M. Raissian & Lindsey Rose Bullinger, *Money Matters: Does The Minimum Wage Affect Child Maltreatment Rates?*, 72 CHILD. & YOUTH SERVS. REV. 60, 63–66 (2016).

<sup>19</sup> *Id.*

The study found that availability of the EITC benefit corresponded with lower rates of reported child neglect.<sup>20</sup>

Research also shows that providing families with material resources can also help prevent child fatalities due to alleged child maltreatment. One study found that spending an additional \$1,000 on benefit programs per person living in poverty reduced family regulation reporting by 4.3%, substantiations of reports by 4%, placements in the foster system by 2.1%, and fatalities by 7.7%.<sup>21</sup>

Effective primary prevention also requires the provision of safe and affordable housing to all New York families. In New York City, the current housing subsidy of \$300 per month offered by ACS as a preventive service offers far too little to be effective in securing housing in New York City.<sup>22</sup> What is more, on top of the housing subsidy being far too small, our experience is that parents find it incredibly challenging to access the housing subsidy. New York City must focus on increasing availability of affordable housing, increase current housing subsidies, and address the related issues that undermine families' ability to find and maintain stable housing.

### **III. CARES is not the Answer; it is Neither Preventative Services nor a Novel, More Supportive Approach to Family Policing**

In a stated effort to narrow the pathways that thrust families into the family policing system and offer an alleged non-investigatory track for families that come into contact with ACS, ACS has increasingly marketed its Collaborative Assessment, Response, Engagement and Support (CARES) program. CARES is neither a benign, novel approach to family policing, nor is it preventative services. ACS claims CARES is a voluntary, “non-investigative child protection response” where caseworkers “assess the safety of the children and then partner with the family to identify needs, empower the family to make decisions that address the needs of their children, and connect families to appropriate services.”<sup>23</sup> Contrary to ACS’s claims, CARES is no less coercive than traditional investigations, and, like a traditional investigation, is incredibly intrusive in the lives of families.

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<sup>20</sup> Nicole L. Kovski et al., *Association of State-Level Earned Income Tax Credits With Rates of Reported Child Maltreatment, 2004–2017*, 20 J. CHILD MALTREATMENT 1, 1 (2021).

<sup>21</sup> Henry T. Puls, Matthew Hall, PhD, James D. Anderst, MD, MSCI, et. al., *State Spending on Public Benefit Programs and Child Maltreatment*, *Pediatrics* (2021) 148 (5) (November 1, 2021), <https://publications.aap.org/pediatrics/article/148/5/e2021050685/181348/State-Spending-on-Public-Benefit-Programs-and?autologincheck=redirected?nfToken=00000000-0000-0000-0000-000000000000>.

<sup>22</sup> The ACS housing subsidy offers \$300 per month for up to 3 years. <https://www1.nyc.gov/site/acs/child-welfare/housing-support.page>

<sup>23</sup> See *supra* note 33 at 3.

ACS utilizes CARES in cases “where there is no immediate or impending danger to children and where there are no allegations of serious child abuse.”<sup>24</sup> In our experience, these are typically low-risk reports that would be “unfounded” following an investigation. Second, through our representation of parents during ACS investigations, as well as discussions with parent advocates and other impacted parents, we know that, just like “traditional” ACS investigations, CARES also relies on invasive surveillance and coercion to compel compliance. In fact, our experience shows that CARES can be even more invasive than traditional investigations, collecting detailed and extensive information about the family, providing parents with “homework,” requiring 100% compliance, and repeatedly visiting the home for what may be longer than a typical 60-day ACS investigation. While ACS has indicated that CARES investigations can be closed in as soon as seven days, we have never seen this nor have our clients reported being informed that such expeditious closures are possible. Moreover, all of ACS’ interactions with a family are recorded as part of standard case practice, and the notes can and often are used against a family if an Article 10 is eventually filed in family court. Third, though ACS describes CARES as voluntary, our clients tell us that they are often informed that refusing CARES will result in their case being put on the formal investigation track. Finally, CARES functions as a shadow system without due process protections or judicial oversight, and where parents have no access to legal counsel.

#### **IV. Recommendations: Investing in NYC Families Means New York City Must Commit to Providing NYC’s Most Disadvantaged Families and Communities with Material Resources and Community-Based Support**

New York City’s prevention interventions must, first and foremost, address poverty and racism. New York City can address structural inequality by increasing the amount of material resources provided directly to families and increasing the financial support for community-based organizations.

We urge the City Council to:

##### *Directly Invest in New York City Black, Latine, and Poor Families and Communities*

- Invest in programs that will alleviate poverty and provide supportive, evidence-based and mental health services directly to families through community-based organizations outside of the family policing system.
- Deliver prevention programs and services directly to families through community based organizations, not through foster agencies and the agencies responsible for investigations and prosecutions

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<sup>24</sup>NYC Children: Administration for Children’s Services, *The Collaborative Assessment, Response, Engagement & Support () Approach*, available at <https://www.nyc.gov/site/acs/child-welfare/.page>.

- Prioritize measures that will truly “narrow the front door” to the family policing system and family court. As laid out by the NYC Narrowing the Front Door Work Group, in *Narrowing The Front Door to NYC’s Child Welfare System*,<sup>25</sup> to reduce child poverty and the risk of maltreatment, New York City should pursue universal basic income, a universal child allowance, and expansions to Public Assistance and SNAP benefits.

There are steps that the City Council can take to make this a reality now. The City Council should urge the New York State legislature to pass and Governor Hochul to sign the New York State Cash Alliance slate of bills, which seeks to expand guaranteed income projects, increase Cash Assistance grant levels while reducing conditions on assistance, and expand tax credits. Specifically, calling on New York State to pass:

- **MILC Bill (S4578A/A6197)**: provides direct cash assistance to income-eligible parents, for the last three months of pregnancy and first 18 months of a child's life.
- **Gate Money Bill (S.6643A/A.9115)**: increases the amount of money some receive coming home from incarceration.
- **Transition Age Youth Bill (S.3102)**: establishes an unconditional cash assistance program for youth leaving foster care as young adults.
- **Child and Family Wellbeing Act Bill (A.10274)**: establishes a fund for communities to use to support the needs of children and families, including cash assistance.
- **The Working Families Tax Credit (S.277A/A.4022)**: improves and expands tax credits provided to families quarterly on a sliding scale based on income.
- **Cash Assistance Reform Package**: a package of bills relating to reforming current cash assistance programs, including increasing the benefit amount (**A.5500/S.5270**), establishing parity for homeless recipients (**A.5507/S.8655**) and helping working recipients to save more (**S.8374**).

*Pass Legislation Requiring ACS to Provide Families Their Rights at the First Point of Contact During an Investigation.*

- We applaud this Committee’s efforts to ensure parents and caretakers have access to information for legal services providers during the course of an ACS investigation. We strongly believe that access to legal counsel through the course of an investigation provides parents with the information and transparency they need to protect their families from unlawful abuse of authority, and to limit the traumatic and confusing nature of an investigation. However, Intro. 9A does not provide the comprehensive intervention most

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<sup>25</sup> See generally, *Narrowing The Front Door to NYC’s Child Welfare System, Report and Community Recommendations*, New York City Narrowing the Front Door Work Group (Dec. 2022), [https://www.narrowingthefrontdoor.org/\\_files/ugd/9c5953\\_86404362d37449fc9d93c19ba2300f7f.pdf](https://www.narrowingthefrontdoor.org/_files/ugd/9c5953_86404362d37449fc9d93c19ba2300f7f.pdf).

needed to curb ACS' coercive investigations and to empower parents with full knowledge of their rights. By requiring that ACS provide families information for legal services providers only *after* an investigation is completed and indicated against a parent, Intro. 9A leaves families without support during the most invasive and crucial portion of a family's interaction with ACS. Moreover, providing this information falls short of providing families with the full breadth of their rights during the course of investigation, including that they have a right to consult an attorney, and to decline to allow ACS into their home or to speak to their child. Without the provision of these rights at the first point of contact, families are left uninformed and unprotected. Instead, we recommend that the City Council introduce and pass legislation mirroring proposed legislation before the New York State legislature that would require ACS to provide families their rights at the first point of contact, orally and in writing.

*Urge the New York State Legislature to Pass and Governor Hochul to sign Critical Legislation that will Narrow the Front Door to the Family Policing System.*

- **The Family Miranda Rights bill (S.901A/A.1980A):** requires family policing officials to notify parents of their rights, including their right to consult with an attorney, during an investigation.
- **The Informed Consent bill (S.320B/A.109B):** requires medical providers to obtain written and verbal specific informed consent before drug testing or drug screening pregnant people, perinatal people, and or their newborns.
- **The Anti-Harassment in Reporting bill (S.902B/A.2479A):** removes the option to make harassing anonymous reports to the SCR, and would require every caller to provide their name and contact information when making a report to the hotline and keep that information confidential. This will allow investigations to proceed while protecting the privacy of the individual who reported, both from the general public and from the person accused of abuse or neglect.

**TESTIMONY OF:**

**Nila Natarajan, Associate Director of Policy & Family Defense**

**BROOKLYN DEFENDER SERVICES**

**Presented Before**

**The New York City Council**

**Committee on Children & Youth**

**Oversight Hearing on the Examination of ACS's Preventative Services Programming**

**December 12, 2024**

My name is Nila Natarajan, and I am the Associate Director of Policy & Family Defense at Brooklyn Defender Services. We thank the New York City Council Committee on Children & Youth for the opportunity to submit testimony about the Administration of Children Services (ACS), its provision of preventive services and investigation of families, and other opportunities for this Committee to truly support families.

Brooklyn Defender Services is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. For over 25 years, BDS has worked in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. BDS represents approximately 23,000 people each year who are accused of a crime, facing loss of liberty, their home, their children, or deportation. Our staff consists of specialized attorneys, social workers, investigators, paralegals, and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with educational needs of our clients or their children, housing, and benefits advocacy, as well as immigration advice and representation.

BDS' Family Defense Practice is the primary provider of representation to parents charged with abuse or neglect in Brooklyn's family court. We use a multidisciplinary approach that offers our clients access to social workers, advocates and civil and immigration attorneys who work to minimize any collateral impact of our clients' court cases. Our Family Defense Practice represents about 2,500 parents and caretakers each year. We have represented about 16,000 parents and caretakers in Brooklyn's family court and have helped more than 30,000 children remain safely at home or leave the foster system and reunite with their families.

BDS follows the leadership of directly-impacted people and has chosen to use the term “family policing system” to describe what has traditionally been called the “child welfare system” or the “child protection system,” to reflect the system’s prioritization of and roots in surveillance, punishment, and control rather than genuine assistance to and support of families living in poverty. The primary goals of our representation are to provide high quality legal representation to parents in high stakes family policing investigations and family court cases and to ameliorate the underlying issues that drive families into this system, such as lack of access to quality health and mental health treatment, basic necessities, and appropriate education and services for children with disabilities. We also aim to reduce the harm of the consequences of system involvement, such as criminal charges, housing and income loss, education issues and inability to adjust immigration status.

With support from the Council, BDS is able to provide support, guidance, and legal counsel – or “early defense” – to parents during an investigation by the Administration for Children’s Services (ACS), with the primary goal of preventing family separation and family court filings. Additionally, we provide legal representation in administrative proceedings to help parents clear or modify their SCR records that result from reports made to the SCR and investigated by ACS, thereby preserving and expanding their employment opportunities.

BDS works with hundreds of parents each year whose lives have been upended by the family policing system – investigations, prosecution, and family separation by ACS. The families we work with are traumatized by this intervention and are more often than not left worse off even when a case was closed without family court involvement or family separation. We must instead work to ensure all families are well-resourced and supported, and that families can access needed supports without family policing intervention. Tens of thousands of families experience the harm and destruction of so-called “child protective” investigations each year. We cannot continue relying on a system that harms children and their families.

## **I. The City Must Meet the Fundamental Needs of Families Without Reliance on the Family Policing System**

Successful prevention of harm to children must be rooted in an investment in creating thriving and safe communities, which requires a real investment in families. We must look “upstream” and ensure that every family’s fundamental needs are met without requiring contact with the family policing system. Poverty is a driving force behind what is often reported as child maltreatment or neglect,<sup>1</sup> but a lack of resources or access to affordable services should not subject any child to

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<sup>1</sup> A study of the hotline calls that lead to family policing investigations in New York City found that the rate of hotline calls in the 25 zip codes with the highest rates of child poverty was four times higher than the rate of hotline calls in zip codes with the lowest child poverty rates. There was also a high correlation between child poverty and hotline



traumatic investigation and family separation. As of September 2024, the most recent date for which data is available, ACS has received nearly 45,000 intake calls, on track for the approximately 60,000 received annually in 2022 and 2023.<sup>2</sup> Less than 30% of those calls were substantiated by investigators, also similar to annual indication rates in 2022 and 2023.<sup>3</sup> The vast majority of these allegations conflate poverty with neglect.<sup>4</sup>

New York State should invest in approaches that will lead families out of poverty and reduce the need for any family policing involvement. All of the families we serve live in poverty, which is often characterized as neglect by agents of the family policing system. Not only are families living in poverty disproportionately reported for child maltreatment, but reports are more likely to be substantiated by the family policing system.<sup>5</sup> Any effort to eliminate harm to children and to support families must include measures that address poverty head on. New York State should pursue universal basic income, a universal child allowance, and expansions to public benefits to effectively reduce child poverty and the risk of maltreatment.<sup>6</sup>

Several recent studies have confirmed that increasing income and benefits to families leads to a decrease in child maltreatment and abuse reports. One study found that a 5% increase in the number of families receiving SNAP led to a reduction between 7.6% and 14.3% of family policing system caseloads.<sup>7</sup> Another study found that spending an additional \$1,000 on benefit programs per person living in poverty reduced family policing reporting by 4.3%, substantiations of reports by 4%, placements in the foster system by 2.1%, and fatalities by 7.7%.<sup>8</sup>

BDS has joined the newly-launched New York State Cash Alliance, a coalition of advocates, service providers, researchers, and community members, which is championing expanded support for families, scaling-up local pilots, and building a state-wide guaranteed income with public dollars, shaped by local knowledge and leadership. Investing in universal basic income, a universal

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calls and investigations. NYC Family Policy Project, “Hotline Calls,” <https://familypolicynyc.org/data-brief/hotline-calls/> (last visited Dec. 11, 2024).

<sup>2</sup> NYC Children Flash Report Monthly Indicators, October 2024, <https://www.nyc.gov/assets/acs/pdf/data-analysis/flashReports/2024/10.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> Children’s Bureau, *Child Maltreatment 2022*, ACF, US DHHS (January 29, 2024), <https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2022.pdf>.

<sup>5</sup> Butel, *Data Brief*, at 1, 5, <http://www.centernyc.org/s/DataBrief.pdf>.

<sup>6</sup> National Academies of Sciences, Engineering, and Medicine concluded that a \$3,000 per child per year child allowance would produce the greatest reduction in child poverty, including a 50% reduction in deep poverty. National Academies of Sciences, Engineering, and Medicine, *A Roadmap to Reducing Child Poverty*, Washington, DC: The National Academies Press (2019), <https://nap.nationalacademies.org/child-poverty/highlights.html>.

<sup>7</sup> Jeff Grabmeier, *Food Assistance program may help prevent child maltreatment*, Ohio State News (July 13, 2022), <https://news.osu.edu/food-assistance-program-may-help-prevent-child-maltreatment/>.

<sup>8</sup> Henry T. Puls, Matthew Hall, PhD, James D. Anderst, MD, MSCI, et. al., *State Spending on Public Benefit Programs and Child Maltreatment, Pediatrics* (2021) 148 (5) (November 1, 2021), <https://publications.aap.org/pediatrics/article/148/5/e2021050685/181348/State-Spending-on-Public-Benefit-Programs-and?autologincheck=redirected?nfToken=00000000-0000-0000-0000-000000000000>.

child allowance, and/or expansions to public benefits help families, and it saves the city money as it is far less costly than family policing involvement and the foster system. Expanding on income and benefits would allow parents to better meet their families' basic needs without interference and surveillance, and the lasting trauma of system involvement.

## **II. Provision of Preventive Services via the Family Policing System Undermines Access and Impact of Services and Must be Administered Outside ACS**

Families accessing preventive services may access them at three main points in the family policing structure. First, a family may be referred to and accept a referral to preventive services during the course of an ACS investigation. This engagement may be deemed “voluntary” as there will not have been any court intervention requiring a family’s acceptance of the service referral. However, families report that this experience is often coercive as a family may feel it must engage with ACS’ recommendations in order for an investigation to be closed, to avoid prosecution, and to keep their family together. Second, a family may access preventive services during the course of an Article 10 proceeding in family court when a child remains home. In these instances, the court may or may not have ordered the family to engage in preventive services as a condition of keeping the family together. Lastly, families may access preventive services when a child has been removed and placed in the foster system, and is returning home.

Based on our experience working with families who are attempting to access services themselves, without ACS intervention, preventive agencies may suggest that services are available to families directly. However, the process of accessing these services in the community is entirely opaque. Instead, families are often told that they must have an open ACS case in order to access preventive services. Practically, this requires that a family to be reported to the State Central Registry (SCR), investigated by ACS, and then referred by ACS to a preventive service, in order for a family to receive supportive services. In 2022, approximately 91% of referrals to preventive service programs derive from ACS itself.<sup>9</sup> By acting as a gatekeeper to these services, supports are inextricably linked to ACS and the family policing system at large. This problematic relationship between preventive services and ACS is only amplified as ACS is the oversight agency for all preventive services, and as many contracted preventive service providers also house foster agencies – agencies that have deep associations with family policing and harmful family separation.

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<sup>9</sup>New York City Independent Budget Office, *Working to Keep New York City Kids Safe & Out of Foster Care: An Examination of Changes to the Child Welfare System’s Prevention Programs* (February 2022), [https://ibo.nyc.ny.us/iboreports/working-to-keep-new-york-city-kids-safe-and-out-of-foster-care-an-examination-of-changes-to-the-child-welfare-systems-prevention-programs-fb-february-2022.pdf?utm\\_source=First+Read+Newsletters&utm\\_campaign=b9baf38320-NYN+First+Read\\_020822&utm\\_medium=email&utm\\_term=0\\_252d27c7d1-b9baf38320-34747848&mc\\_cid=b9baf38320&mc\\_eid=bb6f8f84ea](https://ibo.nyc.ny.us/iboreports/working-to-keep-new-york-city-kids-safe-and-out-of-foster-care-an-examination-of-changes-to-the-child-welfare-systems-prevention-programs-fb-february-2022.pdf?utm_source=First+Read+Newsletters&utm_campaign=b9baf38320-NYN+First+Read_020822&utm_medium=email&utm_term=0_252d27c7d1-b9baf38320-34747848&mc_cid=b9baf38320&mc_eid=bb6f8f84ea)

ACS continues to invest in Family Enrichment Centers (FEC) as a method to provide resources and services to families in physical spaces that are embedded in neighborhoods and communities. What ACS fails to address is the massive investment in these FECs is an investment in precisely the organizations that also run foster agencies, and that all are staffed by mandated reporters under ACS' purview.

Given the well-founded mistrust of ACS, the provision of these resources must be separate from the family policing system to be accessible and effective at supporting impacted communities, who are largely Black and Brown. In New York City, 90% of families investigated for maltreatment were Black and Brown, even though they comprised only 60% of the child population. Communities that are disproportionately represented are all too familiar with the threat of family policing involvement and do not feel safe accessing services through the family policing system. Parents reported being traumatized entering ACS buildings in order to request services, including child care. The stress of engaging with the family policing structure, a system that investigates, polices, and prosecutes parents, prevents some parents from seeking the help and support that is necessary to stabilize their families. Providing supports in community-based organizations completely independent of the family policing system is the most effective way to meet the needs of New York families and prevent entrenchment the family policing system.

### **III. Preventive Services Operate as Surveillance Rather Than Support**

Preventive services fall into two categories, general services and specialized services. Many of the families we work with during the course of an ACS investigation and family court proceeding are referred to general preventive services. Even when our clients are working with our office's well-trained and well-informed social workers and advocates, who interface directly with ACS and a preventive service agency, it is often unclear what if any actual service or resource that the agency is providing. Instead, the assigned preventive service caseworker often functions as yet another caseworker who is intruding into and surveilling a family's home, without providing any concrete assistance. Functionally, the preventive service being offered is surveillance and the threat of another call to the SCR. In these instances, when a family asks for specific assistance – from therapeutic supports and diapers, to advocacy with a child's school to subway fare – the preventive service caseworker is either unable or unwilling to assist, or must refer the family to yet another agency. Our advocates are often left explaining to a parent that the preventive service is just another "home visit" that the family must endure.

For example, one of the families we work with had a preventive service organization assigned and the primary need identified for the family and their three-year-old with special needs was an application to the Office for People with Developmental Disabilities (OPWDD) for supportive services. The family waited for months for the preventive agency caseworker to submit the application for these much-needed in-home services. There were several court appearances during this time at which the assigned ACS caseworker attended and the preventive service caseworker

was nowhere to be found; there was no information as to what if anything was being done to assist this family to access OPWDD services, and no concerns regarding the child's safety were reported. Rather than receiving these vital OPWDD services, this family continued to be monitored by both ACS and the preventive services caseworker, while being given no additional services. This family's experience reveals how ACS may pass-off its responsibilities to a preventive service agency, where the preventive service agency does not effectively provide any additional assistance, and instead acts as another form of unsupportive surveillance.

If a family has been court-ordered to engage with preventive services, that legal obligation is terminated when the court case is closed. Troublingly, families are often asked to sign contract-like agreements with preventive agencies, and agencies will coerce families to engage with their services beyond the course of the court case. We have witnessed many preventive agencies place demands on a family before closing a case, such as requiring additional meetings or medical paperwork for children. Agencies have even made threats of calling in new reports to the SCR if a family does not comply with a closing out procedure, forcibly extending surveillance beyond the court case. This experience is exemplar of the coercive and punishment-oriented nature of our current model of preventive services.

#### **IV. Families Must Have Greater Access to Community-Based Specialized Support Services**

Some of the families we work with request intense specialized preventive services to address mental health, medical or development conditions. Evidence-based services, including mental health services, can offer critical support to families and prevent family separation or allow for speedy family reunification. These services should be fully funded, readily available to all families in their communities, and must operate outside of the family policing system.

While the families we work with report that evidence-based services such as Multisystemic Therapy (MST-CAN), Functional Family Therapy (FFT), and Child Parent Psychology (CPP) are more impactful than general preventive services, lack of availability is a major issue. Our clients appreciate the home-based services that are focused on the specific needs of a family and the material support provided, such as access to food and extra-curricular activities for children. Mental health services, particularly for children, are similarly unavailable. Waitlists are months long at community-based mental health providers and many quality long-term mental health programs do not accept Medicaid. This lack of availability and significant delay can prolong a child's stay in the foster system by months or lead to family separation – creating long-lasting harm to a child and their family bonds.

## V. CARES is an ACS Investigation by Another Name, Not a Preventive Service

ACS has publicly cited a drop in overall investigations, suggesting that the program creates less harm and more equity in ACS' investigative practices. Yet at the same time, its Collaborative Assessment, Response, Engagement and Support (CARES) program has grown dramatically since it began in 2021, increasing from 4,000 cases in that year to nearly 12,000 cases in 2024.<sup>10</sup>

Differential response programs have been lauded by ACS as a prevention mechanism to provide a "child protective response" without subjecting a family to an investigation. However, in our experience, families experience a CARES assessment as similar to, if not more invasive, terrifying, and harmful, as an ACS investigation. ACS conducts a CARES investigation when ACS has deemed that the reported allegations of maltreatment present no immediate or serious child safety concern. Yet the families we work with experience it as a traditional investigation with the same level of repeated home visits, phone calls, and invasive questioning of family members, children, neighbors and school staff, as a traditional investigation. Based on our work with families during the course of ACS investigations, should a family decline to participate in a CARES investigation, families report simply being sent back to an investigation track. As such, families rightfully experience CARES tracked investigations as coercive and involuntary. This coercion is highlighted when ACS uses practices such as bringing the police to a family's home, and pulling children out of class to speak to them at school without a parent's knowledge or consent. At the same time, when a family does accept the CARES investigation, families report the ACS case remaining open for weeks and months with no sense of when or how the invasion will end.

While CARES may not result in an indicated case with the SCR, the coercion, fear, and uncertainty that families experience when navigating CARES and other contact with ACS. The only way to achieve less harm is to end unnecessary contact with family policing agencies, not to claim that contact is benign and call it another name, and to connect families to needed community-based resources.

## VI. The City Council Must Pass Legislation Requiring ACS to Provide Families Their Rights at the First Point of Contact During an ACS Investigation

We applaud this Committee's efforts to ensure parents and caretakers have access to information for legal services providers during an ACS investigation. We strongly believe that access to legal counsel through the course of an investigation provides parents with the information and transparency they need to protect their families from unlawful abuse of authority, and to limit the

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<sup>10</sup> Administration for Children's Services, *NYC Children Flash Report Monthly Indicators August 2024* at <https://www.nyc.gov/assets/acs/pdf/data-analysis/flashReports/2024/08.pdf>.

traumatic and confusing nature of an investigation. However, Introduction 9A does not provide the comprehensive intervention most needed to curb ACS' coercive investigations and to empower parents with full knowledge of their rights. By requiring that ACS provide families information for legal services providers only *after* an investigation is completed and indicated against a parent, Introduction 9A leaves families without support during the most invasive and crucial portion of a family's interaction with ACS. Moreover, providing this information falls short of providing families with the full breadth of their rights during investigation – when this information is needed the most – including that they have a right to consult an attorney, and to decline to allow ACS into their home or to speak to their child. Without the provision of these rights at the first point of contact, families are left uninformed and unprotected. Instead, we recommend that the City Council introduce and pass legislation mirroring proposed legislation before the New York State legislature that would require ACS to provide families their rights at the first point of contact, orally and in writing.

BDS is grateful to the Committee on Children and Youth for hosting this hearing and for its consideration of our comments. We look forward to further discussing this issue with you. If you have any additional questions, please contact Nila Natarajan at [nnatarajan@bds.org](mailto:nnatarajan@bds.org).

**Center for Family Representation (CFR)  
Testimony for Committee on XXX**

**New York City Council  
Committee on Children & Youth**

**December 12, 2024**

**Oversight - Examination of ACS's Preventative Services Programming**

**Written Testimony of the Center for Family Representation  
By Hannah Mercuris, Senior Policy Counsel**

Center for Family Representation (CFR) is grateful for the opportunity to submit testimony to the Committee Children and Youth Committee. We thank Chair Stevens and the Committee for providing the opportunity to focus on ACS's Preventative Services Programming, Int. 0009-2024, and Int. 0652-2024, and how New York City can best support families.

**Overview of CFR**

CFR is the county-wide assigned indigent defense provider for parents who are facing ACS prosecutions in Family Court Act Article 10 proceedings in Queens, New York, Bronx, and Richmond counties. Since our founding in 2002, we have represented more than 13,500 parents with more than 27,500 children. CFR represents parents on their original neglect or abuse case and on any related cases like custody, guardianship, visitation and termination of parental rights cases. Our goals are always to prevent a foster placement, or when one is unavoidable, to shorten the time that families are separated and help families stabilize when reunited. and to prevent re-entry into placement after reunification.

CFR employs an interdisciplinary model of representation, marrying in court litigation to out of court advocacy: every parent is assigned an attorney and a social work staff member and these teams are supported by paralegals, supervisors, and parent advocates, who are parents who have direct experience being prosecuted by the family policing system,<sup>1</sup> losing their children to the foster system and safely reunifying their families. In 2015, the New York State Bar Association gave CFR its Award for Promoting Standards of Excellence in Mandated Representation, noting that CFR "exemplifies and defines the highest professional practice standards, is a recognized

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<sup>1</sup> CFR follows the leadership of directly-impacted people and has chosen to use the term "family policing system" to describe what has traditionally been called the "child welfare system" or the "child protection system," to reflect the system's prioritization of and roots in surveillance, punishment, and control rather than genuine assistance to and support of families living in poverty. [The family policing system] "is designed to regulate and punish Black and other marginalized people." Dorothy Roberts, Abolishing Policing also Means Abolishing Family Regulation, IMPRINT (June 16, 2020, 5:26 AM) [hereinafter Roberts, Abolishing], <https://imprintnews.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/44480> [<https://perma.cc/3VAJ-H8WP>].

innovator in parent representation and is a tireless advocate for legislative and policy reform.” The federal Administration for Children, Youth and Families specifically cited CFR in the addendum to its January 2017 Memorandum on High Quality Legal Representation, issued to all fifty states.

To better support family stability, CFR launched our Home for Good program in 2015 to help families with collateral challenges that are the result of or contribute to family policing investigations and prosecutions. With the support of New York City Council, Home for Good serves clients in the areas of housing, immigration, public benefits, and concurrent criminal matters. DoVE funding from the City Council is also critical in helping us maintain our model and allows us to provide social work support to survivors of domestic violence. In 2019, CFR further expanded its work, creating a Community Advocacy Project to help families navigate family policing investigations and avoid family separation while at the same time ensuring the parents are not barred from employment by representing parents in efforts to amend and seal their records with the Statewide Central Register. CFR also launched its Youth Defense Practice and now represents young people in Manhattan, Queens, and Bronx criminal and family courts with its interdisciplinary model with the goal of avoiding family separation and incarceration.

### **New York City Must Support Families Outside of the Family Policing System**

CFR supports New York City’s commitment to and investment in support for families that ensures that families can thrive and also prevents harmful family policing investigations and family separation. Preventive services, a catchall term used to describe many different ACS-contracted service providers, is one way that New York City has sought to address the challenges that families in New York City face. As a legal service and social work provider, CFR works with families who have experienced preventive services in all of its possible forms, before and during ACS investigations, as part of court-ordered services to keep a family together, and as part of transitional reunification services after children who have been removed have returned home to their families. For the vast majority of families we work with, preventive services fall short of providing the kind of meaningful support that families tell us they need and more as an extension of ACS surveillance than as an independent service provider.

The family policing system is historically and currently rooted in racism and classism, leading to interventions that seek to address individual failures of parents and compel compliance rather than address the systemic societal failures that lead to poverty.<sup>2</sup> In New York City, Black, Latine, and poor families experience surveillance, prosecution, separation, and punishment because of a

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<sup>2</sup> New York Advisory Committee to the U.S. Commission on Civil Rights, Examining the New York Child Welfare System and Its Impact on Black Children and Families, 33, available at, <https://www.usccr.gov/files/2024-05/ny-child-welfare-system-sac-report.pdf>.



systemic failure to resource *all* families with the things that they need to thrive. In New York City, Black children account for roughly 22% of the children under the age of eighteen in the city,<sup>3</sup> but a staggering 50.6% of the children separated from their families in the foster system.<sup>4</sup> Black and Latine children taken together—representing roughly 60% of New York City’s child population—are roughly 90% of New York City’s foster population.<sup>5</sup> In contrast, roughly 26% of the children in New York City are white,<sup>6</sup> but white children comprise less than 6% of the foster population.<sup>7</sup> Across New York City, nearly 45% of Black and Latine children will experience a family policing system investigation before they turn 10, while only 19% of white children will experience an investigation.<sup>8</sup> Black children fare worse than white children at each and every stage of the family policing process.<sup>9</sup> This context is critically important for any discussion of service provision to New York City’s families and it illuminates CFR’s understanding of preventive services as intrinsically linked with family policing, rather than as a voluntary community-based support that families of all races, ethnicities, and incomes should be clamoring to receive.

We hope that this testimony will demonstrate that in order to meaningfully support New York City’s families, City Council should transform preventive services to be responsive to the needs of families and unlink family support from ACS and family policing altogether.

#### I. Preventive Services is Inextricably Linked with Family Policing and Surveillance

The current landscape of preventive services in New York City offers different models of service, outlined in more detail on ACS’s website.<sup>10</sup> The data is clear that the vast majority of families engaged in preventive services have already had contact with ACS.<sup>11</sup> While ACS claims that

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<sup>3</sup> Child Population, Citizens Committee for Children,

<https://data.cccnewyork.org/data/table/98/child-population#11/18/62/a/a> (last accessed May 31, 2023).

<sup>4</sup> *Watching The Numbers: Covid-19’s Continued Effects on The Child Welfare System*, Annual Data Report, Center for New York City (Mar. 2023),

<http://www.centrernyc.org/reports-briefs/2021/2/4/watching-the-numbers-2022-monitoring-new-york-citys-child-welfare-system-hx4nf-jgzwt>.

<sup>5</sup> *Racial Disparities*, Family Policy Project, <https://familypolicynyc.org/data-brief/racial-disparities/> (last accessed July 24, 2023).

<sup>6</sup> *Child Population*, *supra* note 13.

<sup>7</sup> *Watching the Numbers: Covid-19’s Continued Effects on The Child Welfare System*, Annual Data Report *supra* note 14.

<sup>8</sup> *Racial Disparities*, Family Policy Project, <https://familypolicynyc.org/data-brief/racial-disparities/> (last accessed July 24, 2023).

<sup>9</sup> NYC ACS Commissioner Jess Dannhauser Talking Points, NY Advisory Committee Meeting May 19, 2023, Committee Detail No. CD-2129685,

[https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/3d000001GNZ4/bZWSVvhmsEkX8XL\\_OehqKh3O3c5XgEJgHtbysv\\_voew](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/3d000001GNZ4/bZWSVvhmsEkX8XL_OehqKh3O3c5XgEJgHtbysv_voew).

<sup>10</sup> ACS Prevention Services website, last accessed Dec. 12, 2024, available at, <https://www.nyc.gov/site/acs/for-families/prevention-services.page>

more and more families are choosing to engage with preventive services independently of ACS and voluntarily, it is unclear how those families are coming to be connected with preventive services. If those families have not had contact with ACS, they most certainly have had contact with a mandated reporter, the primary conduit through which families become known to ACS.<sup>12</sup> Mandated reporting contributes to the coercive nature of service participation. Families know that if they refuse to agree to the form of “help” that their family’s doctor, teacher, or therapist suggests, they may risk a call to the SCR.

The majority of the families that CFR works with are receiving what is colloquially known as “general preventive” also called “family support”.<sup>13</sup> Of the 5,100 new preventive services “cases” in New York City in 2024, around half of those were “general preventive.”<sup>14</sup> “General preventive” programs in particular offer little beyond “casework,” where workers conduct twice monthly home inspections and interviews and require parents to sign release forms so that preventive service workers can check up on children’s school attendance or a parent’s health appointments. These programs are experienced by CFR clients as extensions of ACS and family policing. For some families, particularly those who are already being prosecuted in family court, this form of preventive services is almost indistinguishable from ACS court-ordered supervision. Staff at CFR often ask ACS why they have determined that a preventive service referral was appropriate for a particular family. Oftentimes, ACS or their legal counsel have struggled to articulate a reason other than “supervision” or even more alarmingly, ACS’s desire to have “eyes in the home.”

## II. Evidence-Based In-Home Therapeutic Support for Families Should Exist Outside of Family Policing

ACS also contracts with agencies to provide “specialized” or “enhanced” models of preventive services which are evidence-based and generally more responsive to the specific needs of a family. Through a specialized preventive service, a family with a young child who has experienced a traumatic event may receive in-home Child-Parent Psychotherapy, or a family experiencing conflict around teenagers’ behaviors may be able to access Multisystemic Family Therapy.<sup>15</sup> Though these services may be more convenient for families as they generally happen in-home, even when families believe they would be helpful, they are very difficult to access. Long wait times to begin services increase the risk of family separation as ACS scrutiny can exacerbate stressors families may be experiencing. Furthermore, even more specialized preventive services are often still clearly connected to the surveillance apparatus of family

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<sup>12</sup> ACS Flash Indicator Report, Oct. 2024, 31, available at <https://www.nyc.gov/assets/acs/pdf/data-analysis/flashReports/2024/10.pdf>

<sup>13</sup> ACS Prevention Public Directory, accessed Dec. 11, 2024, available at <https://airtable.com/appqI0hkyqxwsE1CN/shrzCHXHzOCGEFABO/tbl0CUtLajUMUN9VC>.

<sup>14</sup> ACS Flash Indicator Report, Oct. 2024, 15, available at <https://www.nyc.gov/assets/acs/pdf/data-analysis/flashReports/2024/10.pdf>

<sup>15</sup> ACS Prevention Public Directory, accessed Dec. 11, 2024, available at <https://airtable.com/appqI0hkyqxwsE1CN/shrzCHXHzOCGEFABO/tbl0CUtLajUMUN9VC>.

policing, because they are often provided by foster agencies and a family's participation and progress is recorded in the ACS database, CONNECTIONS.

### I. For Most New York City Families, Preventive Services Are Not Voluntary

While preventive services are considered by ACS and by the providers as voluntary<sup>16</sup>, the families that CFR works with are connected with preventive services because of their contact with ACS and their agreement to engage in preventive services is inherently coerced because declining to participate is punished.<sup>17</sup> Additionally, families who initially agree to engage in preventive services “voluntarily” and then later choose to end their participation routinely face obstacles to doing so, being asked to participate in multiple mandatory “closing” meetings, or being required to obtain letters from other services providers to “prove” that preventive services are no longer necessary. Families that CFR works with have been told that ending their participation with preventive services will result in a call to ACS or a call to the Statewide Central Register of Child Abuse and Maltreatment, prompting a new family policing investigation. It is incorrect and misleading to call most preventive services “voluntary.” A service cannot be voluntary if declining to participate risks family separation or prosecution.

### II. ACS Has Continued to Embed Itself Within Support for New York City's Families Undermining Community Trust in Supports

While ACS often claims to support “community-based” services, they have continued to increase their presence in communities overseeing more and more service provision contracts in New York City. As an example, ACS developed Family Enrichment Centers (FEC) as a way to provide resources and services to families through physically located “resource hubs” in neighborhoods and communities. However, many of the services available through FECs are run through foster agencies that contract with ACS and staffed by mandated reporters. It is incredibly uncomfortable for families to know that the same agency that is supposed to support them, ostensibly to prevent their family from being separated is now embedded in their community and could be the same one overseeing any child's future foster placement. The result is that families deeply fear those who are tasked to help them.

When families know that preventive services agencies are contracted through ACS, or perhaps more alarmingly, foster agencies, families often feel wary of accepting any support or being honest about what they need for fear of losing their children. When we work with families who were originally unaware that preventive services were connected to ACS, the realization can often result in a sense of deep betrayal when they learn their honesty and vulnerability will be used to prosecute them.

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<sup>16</sup>Casey Family Programs, Strong Families Report, available at, <https://www.casey.org/media/20.07-QFF-SF-NYC-Voluntary-Services.pdf>

<sup>17</sup> Kelley Fong, Getting Eyes in the Home: Child protective Services Investigations and State Surveillance of Family Life, 85(4) *Am. Sociological Rev.* 610, 626 (2020).

Our concern about further increasing ACS's connection to and control of necessary community services extends to mental health treatment for young people. CFR asks that City Council support the mental health of young people in New York City universally, rather than through a piecemeal approach that relies on consultation with ACS. Int. 0652-2024 seeks to establish and operate a pilot program to provide mental health services at no cost to children who have been returned to their home following a removal by ACS. Though well-intentioned, it is concerning that this legislation would require the DOHMH to consult with ACS about the provision of these services. While we recognize importance for evidence-based, high level, therapeutic treatment to be accessible, available, and without cost for all families, most especially families that have experienced trauma, we believe that these services must be wholly separate from ACS influence, control, and or oversight. Requiring ACS's consultation on culturally appropriate services fundamentally misunderstands how ACS is viewed by families in New York City who have experienced its harms. Additionally, we are concerned that this program, if implemented, will become yet another mandated "service" with which families are coerced to comply as a condition of their children returning from the foster system. True support cannot be premised on coercion.

### III. Directly Resourcing Families Can Address Families Needs Unconnected From Family Policing

All New York City families deserve access to the resources that they need for their families to thrive. The families that CFR works with live in poverty, which is often conflated with neglect by family policing systems.<sup>18</sup> Not only are families living in poverty disproportionately reported for child maltreatment, but reports are more likely to be substantiated by the family policing system.<sup>19</sup> When CFR staff speak with families about what would be most helpful for their families, they ask for financial security, through direct cash support and/or availability of employment opportunities, free overnight, in-home, and emergency childcare, reliable transportation to and from a strong public education system, and low-cost or no-cost permanent housing. Families also need readily available and affordable mental health and medical treatment and accessing that support cannot require risking family integrity.

Existing preventive services do not provide the kind of sustained material support that families ask for. Nor do preventive services provide the kinds of everyday practical support that leave families vulnerable to family policing. A preventive service worker won't watch a sleeping child while a parent runs to the store. A preventive services worker won't take children to school if their parent is too sick to leave their home. A preventive services worker may provide a parent

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<sup>18</sup> A study of the hotline calls that lead to family policing investigations in New York City found that the rate of hotline calls in the 25 zip codes with the highest rates of child poverty was four times higher than the rate of hotline calls in zip codes with the lowest child poverty rates. There was also a high correlation between child poverty and hotline calls and investigations. NYC Family Policy Project, "Hotline Calls," <https://familypolicynyc.org/data-brief/hotline-calls/> (last visited Dec. 12, 2024).

<sup>19</sup> Butel, Data Brief, at 1, 5, <http://www.centrernyc.org/s/DataBrief.pdf>.

with the information for where to receive therapy to manage the stress of parenting but that parent will still likely be placed on a waiting list and be required to attend two intake appointments (and find childcare during those appointments!) before therapy can begin.

Instead of relying on ACS to control the provision of services to families, New York State must invest strategies that address poverty and prevent rather than react to or replace family policing involvement. New York State should pursue universal basic income, a universal child allowance, and expansions to public benefits to effectively reduce child poverty and the risk of maltreatment.<sup>20</sup> Studies show that providing families with direct resources is a powerful preventative intervention. Specifically, several recent studies have confirmed that increasing income and benefits to families leads to a decrease in child maltreatment and abuse reports. For example, a 2022 study found that “multiple more generous SNAP policies was associated with larger reductions in child welfare involvement; and estimated reductions in CPS reports and substantiations were particularly large among states offering transitional SNAP benefits to families leaving TANF.”<sup>21</sup> Research also shows that providing families with material resources can also help prevent child fatalities due to alleged child maltreatment. One study found that spending an additional \$1,000 on benefit programs per person living in poverty reduced family regulation reporting by 4.3%, substantiations of reports by 4%, placements in the foster system by 2.1%, and fatalities by 7.7%.<sup>22</sup> Focusing New York City’s resources on concrete support for families will prevent harm to families and decrease our city’s reliance on family policing.

#### IV. CARES Surveillance is More Family Policing and It Is Not a Preventive Service

ACS has increasingly cited its Collaborative Assessment, Response, Engagement and Support (CARES) program as a way to reduce unnecessary family policing investigations. Described as a “voluntary” and non-investigatory approach for families who are the subject of a report to the SCR, CARES surveillance is in fact a coercive tool that embeds ACS within families lives without due process protections nor an increase in tangible support.

CARES surveillance is not a service. *See Appendix A (CARES vs. Preventive Services Chart)*. While families experiencing ACS in their communities are routinely told that CARES surveillance is voluntary, it is in fact a “non-investigative child protection response” and the only

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<sup>20</sup> National Academies of Sciences, Engineering, and Medicine concluded that a \$3,000 per child per year child allowance would produce the greatest reduction in child poverty, including a 50% reduction in deep poverty. National Academies of Sciences, Engineering, and Medicine, *A Roadmap to Reducing Child Poverty*, Washington, DC: The National Academies Press (2019), <https://nap.nationalacademies.org/child-poverty/highlights.html>.

<sup>21</sup> Aditi Shrivastava and Urvi Patel, *Research Reinforces: Providing Cash to Families in Poverty Reduces Risk of Family Involvement in Child Welfare*, Mat 1, 2023, [https://www.cbpp.org/research/income-security/research-reinforces-providing-cash-to-families-in-poverty-reduces-risk-of#:~:text=\(2022\)%20found%20that%20from%202004,reductions%20in%20child%20welfare%20involvement%3B](https://www.cbpp.org/research/income-security/research-reinforces-providing-cash-to-families-in-poverty-reduces-risk-of#:~:text=(2022)%20found%20that%20from%202004,reductions%20in%20child%20welfare%20involvement%3B).

<sup>22</sup> Henry T. Puls, Matthew Hall, PhD, James D. Anderst, MD, MSCI, et. al., *State Spending on Public Benefit Programs and Child Maltreatment*, *Pediatrics* (2021) 148 (5) (November 1, 2021), <https://publications.aap.org/pediatrics/article/148/5/e2021050685/181348/State-Spending-on-Public-Benefit-Programs-and?autologincheck=redirected?nfToken=00000000-0000-0000-0000-000000000000>.

available “choice” for families is between CARES surveillance and a traditional ACS investigation. If at the start of every case, parents are presented with a difficult choice – cooperate with CARES or face a “traditional” family policing investigation that could result in the removal of their children, family court involvement, and an indicated case that could impact current or future employment – then CARES cannot be called “voluntary.” While ACS describes the CARES surveillance process as collaborative with families, where caseworkers “assess the safety of the children and then partner with the family to identify needs, empower the family to make decisions that address the needs of their children, and connect families to appropriate services,”<sup>23</sup> CARES surveillance is no less coercive than traditional investigations, and, like a traditional investigation, is incredibly intrusive in the lives of families.

ACS utilizes CARES surveillance in cases “where there is no immediate or impending danger to children and where there are no allegations of serious child abuse.”<sup>24</sup> In our experience, these are typically low-risk reports that would be “unfounded” following an investigation and a family’s contact with ACS would end. Through CFR’s representation of parents during ACS investigations, as well as discussions with parent advocates and other impacted parents, we know that, just like “traditional” ACS investigations, CARES also relies on invasive surveillance and coercion to compel compliance. In fact, our experience shows that CARES can be even more invasive than traditional investigations, collecting detailed and extensive information about the family, providing parents with “homework,” requiring 100% compliance, and repeatedly visiting the home for what may be longer than a typical 60-day ACS investigation. Moreover, all of ACS’ interactions with a family are recorded as part of standard case practice, and the notes can and often are used against a family if an Article 10 prosecution is eventually filed in family court. CARES surveillance functions as a shadow system without due process protections or judicial oversight, and where parents have no access to legal counsel.

#### V. City Council Must Pass Family Miranda to Ensure that Families Know Their Rights During Family Policing Investigations

We are thankful to City Council and the Committee on Children and Youth for their commitment to ensuring that families have legal support during investigations. Supporting and resourcing families - rather than separating them, should be our city's primary goal. As written, Int. 9A provides only part of the necessary information that families need during terrifying ACS investigations and it also only requires that ACS provide contact information for legal services providers *after* an investigation is completed and indicated against a parent. CFR’s early defense practice works with families all across New York City navigating these investigations. What we know from our work is that immediate and comprehensive support and a family understanding their rights at the first point of contact with family policing agents is critical. Moreover, providing only the information for legal service providers information falls short informing

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<sup>23</sup> See *supra* note 33 at 3.

<sup>24</sup> NYC Children: Administration for Children’s Services, *The Collaborative Assessment, Response, Engagement & Support () Approach*, available at <https://www.nyc.gov/site/acs/child-welfare/.page>.

families that they have a right to consult an attorney and to decline to allow ACS into their home or to speak to their child. Navigating these investigations is terrifying, and with incomplete information, families will not be empowered to make informed choices to decrease the fear and harm that these investigations can cause. Instead, we recommend that the City Council introduce and pass legislation mirroring proposed legislation before the New York State legislature that would require ACS to provide families their rights at the first point of contact, orally and in writing.

### Recommendations

*Pass Critical Legislation that will Narrow the Front Door to the Family Policing System and Provide Families Enmeshed in the Family Policing System with Needed Legal Support.*

- Family Miranda Rights: Pass Council Member Ung' and Council Member Rivera's Family Miranda Rights bills, which, with our proposed amendments, will ensure that all parents, regardless of their income, are advised of their rights at the first point of contact during a family policing investigation.

*Urge the NYS Legislature to Pass Critical Legislation that will Narrow the Front Door to the Family Policing System.*

- Urge the New York state legislature to pass the **Family Miranda Rights bill (S.901A/A.1980A)** which would require family policing officials to notify parents of their rights, including their right to consult with an attorney, during an investigation.
- Urge the New York state legislature to pass the **Informed Consent bill (S.320B/A.109B)**, which prohibits medical providers from drug testing or drug screening pregnant people, perinatal people, and or their newborns without first obtaining written and oral specific informed consent.
- Urge the New York state legislature to pass the **Anti-Harassment in Reporting bill (S.902B/A.2479A)**, which would remove the option to make harassing anonymous reports to the SCR, and would require every caller to provide their name and contact information when making a report to the hotline and keep that information confidential. This will allow investigations to proceed while protecting the privacy of the individual who reported, both from the general public and from the person accused of abuse or neglect.

*Transform preventive services to become responsive to the actual needs of families and resource families to address structural inequity independent from ACS and family policing systems.*

The City Council should urge the NYS legislature to support the New York State Cash Alliance slate of bills, which seeks to expand guaranteed income projects, increase Cash Assistance grant levels while reducing conditions on assistance, and expand tax credits.

- Urge the New York state legislature to pass the **MILC Bill (S4578A/A6197)**: provides direct cash assistance to income-eligible parents, for the last three months of pregnancy and first 18 months of a child's life.
- Urge the New York state legislature to pass the **Gate Money Bill (S.6643A/A.9115)**: increases the amount of money some receive coming home from incarceration.
- Urge the New York state legislature to pass the **Transition Age Youth Bill (S.3102)**: establishes an unconditional cash assistance program for youth leaving foster care as young adults.
- Urge the New York state legislature to pass the **Child and Family Wellbeing Act Bill (A.10274)**: establishes a fund for communities to use to support the needs of children and families, including cash assistance.
- Urge the New York state legislature to pass the **The Working Families Tax Credit (S.277A/A.4022)**: improves and expands tax credits provided to families quarterly on a sliding scale based on income.
- Urge the New York state legislature to pass the **Cash Assistance Reform Package**: a package of bills relating to reforming current cash assistance programs, including increasing the benefit amount (**A.5500/S.5270**), establishing parity for homeless recipients (**A.5507/S.8655**) and helping working recipients to save more (**S.8374**).

We thank the City Council for the opportunity to share our testimony with you. Please reach out to Hannah Mercuris, Senior Policy Counsel, Center for Family Representation, at [hmercuris@cfny.org](mailto:hmercuris@cfny.org) with any questions.



**Testimony of Caitlyn Passaretti  
Citizens' Committee for Children of New York**

**Committee on Children and Youth  
Oversight Hearing on ACS Preventative Services  
December 12<sup>th</sup>, 2024**

Since 1944, Citizens' Committee for Children of New York has served as an independent, multi-issue child advocacy organization dedicated to ensuring every New York child is healthy, housed, educated, and safe. CCC does not accept or receive public resources, provide direct services, or represent a sector or workforce; our priority is improving outcomes for children and families through civic engagement, research, and advocacy. We document the facts, engage and mobilize New Yorkers, and advocate for solutions to ensure the wellbeing of New York's children, families, and communities.

We thank Chair Stevens and the members of the Committee on Children and Youth for hosting this oversight hearing on ACS prevention services. Prevention services offered through ACS can provide an essential lifeline for families and support stabilization. In New York City, there are just over 6,300 children involved in the foster care system, a steep decline from the 1990s when over 50,000 children were in the system.<sup>i</sup> This decline reflects a concerted effort to expand and sustain access to prevention programs, substance use and mental health counseling, in tandem with efforts by the Administration for Children's Services to reform child protection. This testimony will outline the importance of prevention programming through ACS, as well as the benefits of investing in supports outside the system.

### **Importance of Prevention Services**

Prevention programs play a critical role in the child welfare system and refer to a range of supports and services intended to strengthen families and prevent entrance into foster care, or facilitate reunification and permanency when placement does occur. There are different types of prevention, ranging from services and supports outside of the child welfare system, such as SNAP benefits, child care, and housing vouchers, to these and other services provided through the Administration for Children's Services due to an open child welfare case. The latter services have the goal of either keeping the family together, or reunifying children with their families when placement has occurred.

Preventive services provided by the city through contracts with community-based organizations are an essential source of support for many families involved in New York's child welfare system. Sustained investments in prevention resulted in years of rising participation in these programs, with over 45,000 children served annually pre-pandemic. In more recent years there has been a decrease in preventive service enrollment, with nearly 30,000 children (13,700 families) receiving preventive services in 2023.<sup>ii</sup>

### **Prevention through Upstream Investment**

Despite the decreases seen in child welfare involvement in recent years, thousands of New York City families continue to come into contact with the child welfare system annually, with close to 55,000

children being part of one or more child welfare investigations. Extensive research, including the New York State Office of Children and Family Services Family First Prevention Plan, highlights the effectiveness of investing in services that stabilize families outside of the child welfare system.<sup>iii</sup> By addressing the root causes of neglect, such as food insecurity and housing instability, we can decrease child welfare involvement and create a more stable and nurturing environment for our city's children.

The pandemic elevated the importance of these “primary prevention” services, as COVID-19 had health and socio-economic repercussions that devastated families and exacerbated previously existing inequities. Prior to the pandemic, countless New York City families struggled to put food on the table, pay rent, and access the child care or the behavioral health care they desperately needed. Too often, these challenges resulted in families coming in to contact with the child welfare system, with a disproportionate impact on children and families of color. The pandemic heightened these needs and heightened the risk of child welfare involvement.

Research literature finds a strong connection between economic conditions and contact with child protection, drawing attention to issues beyond incomes and including differences in wealth, cost of living, family size, and other factors.<sup>iv</sup> Additionally, barriers that communities experience because of economic hardship are compounded with the housing crisis, unemployment, household structure and other factors of social disadvantage, as elevated in a recent study commissioned by New York City’s Administration for Children’s Services.<sup>v</sup> Also well-documented is the historical and structural racism underlying the child welfare system, and the deep racial disparities primarily affecting Black and Latine communities, as underscored in recent research by the Family Policy Project.<sup>vi</sup>

Unfortunately, far too many families in New York continue to face overwhelming barriers to supporting their wellbeing. CCC’s Keeping Track of New York City’s Children revealed one million households were enrolled in SNAP, 30% of NYC renters pay at least half of their income towards rent and 46,600 children lived in shelter. The child poverty rate in NYC stands at 25%, and 11.3% households in New York State experienced food insecurity between 2020 and 2022. More than 80% of families with a child under 12 cannot afford child care or afterschool costs.<sup>vii</sup>

When families’ basic needs are met, children experience greater stability and experience less involvement in systems like the child welfare system. We therefore urge the City administration and City Council to continue to champion both primary and general preventive service approaches such as investments in child care vouchers and ECE reforms; housing vouchers; benefits access; immigration legal defense; anti-hunger; and countless other services that increase security for families.

## **Recommendations**

To better serve families, we must prioritize flexibility in preventative services, economic and housing stability, education equity, and access to behavioral health resources. There are numerous proposals in circulation that would move the City closer to these goals.

### **Greater Flexibility within Prevention and Legislative Processes to Support Families**

- Examine opportunities for greater funding and contract flexibility among child welfare preventive service providers to support the presence of benefit access specialists essential to facilitating access to a wide range of public benefits – cash assistance, food stamps, child care, housing supports, tax relief etc.
- Increase utilization of expanded IV-E funding for investments in the preventive service workforce, to facilitate greater connection to critical services that support families.
- Pass Family Miranda (Int 0096-2024) to require ACS to provide a multilingual disclosure form to parents or guardians during a child protective investigation
- Pass Reporting Reform (Int 0008-2024) to require ACS to report the main allegations that led to its receipt of a report or the opening of a case for investigation of child abuse or neglect.

### **Economic and Housing Stability**

- Increase staffing levels across ACS, HRA, DSS, HPD to ensure expedited access to and timely reapplication for essential benefits such as child care vouchers, cash assistance, food stamps, Medicaid, and housing supports.
- Fund and implement CityFHEPS eligibility expansion, which would remove shelter stay and housing court history requirements, prevent entrance into and expedite exits from shelter.

### **Early Education and Education Equity**

- Ensure the City's stands up community rooted, consumer-centered approach to ECE application and enrollment processes, in tandem with shoring up fiscal stability through on-time payments, and workforce support<sup>10</sup>
- Support year-round funding and access to youth services (afterschool, summer programming) prioritizing inclusive programming that ensures participation of children with disabilities, engaged in prevention, foster care, and/or living in temporary housing among other student peers
- Prioritize addressing the transportation needs of special populations of students (youth with disabilities, in prevention, foster care, and living in temporary housing).
- Prioritize protecting and expanding investments in community schools and college and career readiness supports.
- Expand opportunities for year-round and summer employment through SYEP and Work Learn Grow, with emphasis on inclusive programming reaching children and youth often left out of these opportunities
- Expand opportunities for parents through employment, literacy, and training programs to sustain economic security for families

### **Protect and Expand Access to Third Spaces**

- Strengthen resources available to libraries and parks to ensure they remain safe and creative third spaces for youth.
- Ensure investments in community programming expands the capacity of essential service providers to remain open with expanded hours evenings, weekends, and holidays.

### **Improve Access to Wellness and Healthcare Support**

- Baseline funding for the Mental Health Continuum<sup>11</sup>
- Provide wraparound funding for school-based mental health clinics and prioritize expansion of clinics at the elementary school level
- Maintain and expand funding for the City Council's Mental Health Initiatives, many of which provide flexible, targeted funding for children's services.

### **Legislation**

We appreciate the Council's concern and care for families experiencing and investigation and see these bills as steps in the right direction.

- We support Int. 0009-2024 by Councilmember Ayala, which would require ACS to provide information about where to access legal services for parents or guardians after an indicated report during an ACS investigation, specifically immediately after ACS makes contact for the first time with such parents or guardians. However, we also urge the Council to pass the Family Miranda bill (Int 0096-2024/Ung), which would guarantee that ACS caseworkers inform parents of their rights in writing at the onset of an investigation. Understanding their rights is essential for parents during this process.
- CCC also supports the intent of Int. 0652-2024, sponsored by Councilmember Sanchez, which would require the Commissioner of Health and Mental Hygiene to establish and operate a pilot program to provide mental health services at no cost to children who have been returned to their home following a removal by the Administration for Children's Services (ACS). This bill would also require the Commissioner to consult with the Commissioner of ACS to provide culturally appropriate outreach on the availability of services provided through such program and to post on City webpages information on how to access such services.

However, it is important to acknowledge that New York City currently struggles to provide child-welfare involved children with the mental health services they are already entitled to, including those services available due to an open ACS case and through Medicaid. Far too many families sit on waitlists to access behavioral health services, including outpatient services. In fact, [a new study](#) from the Healthy Minds, Healthy Kids campaign indicates that more than 4 in 5 children who need Medicaid outpatient services are not receiving them in NYC. We therefore urge City Council to ensure that any behavioral health proposal include adequate funding to support necessary services, and more broadly, we urge City leaders to identify strategies and funding to enhance capacity, workforce supports, and access to behavioral health care for child welfare involved children.

Thank you for the opportunity to provide testimony.

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<sup>1</sup> CCC Keeping Track of New York City Children. Foster Care Population. Accessed: <https://data.cccnewyork.org/data/map/1399/foster-care-population#1399/a/3/1661/131/a/a>

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- <sup>ii</sup> New York State Office of Children and Family Services (2022). New York State Family First Prevention Services Act Prevention Plan. Accessed: <https://ocfs.ny.gov/main/sppd/docs/FFPSA-Prevention-Plan-2022Feb23.pdf>
- <sup>iii</sup> New York State Office of Children and Family Services (2022). New York State Family First Prevention Services Act Prevention Plan. Accessed: <https://ocfs.ny.gov/main/sppd/docs/FFPSA-Prevention-Plan-2022Feb23.pdf>
- <sup>iv</sup> United States Commission on Civil Rights. Examining the New York Child Welfare System and Its Impact on Black Children and Families. Accessed: <https://www.usccr.gov/files/2024-05/ny-child-welfare-system-sac-report.pdf>
- <sup>v</sup> Urban Institute and ACS. (2024). Accessed: [https://www.urban.org/sites/default/files/2024-05/Hardship\\_and\\_Child\\_Welfare\\_Involvement.pdf](https://www.urban.org/sites/default/files/2024-05/Hardship_and_Child_Welfare_Involvement.pdf)
- <sup>vi</sup> NYC Family Policy Project. Racial Disparities. Retrieved from: <https://familypolicynyc.org/data-brief/racial-disparities/>
- <sup>vii</sup> Citizens' Committee for Children of New York. (2024). Keeping Track of New York City's Children: 2024. [cccnewyork.org/keeping-track-2024](http://cccnewyork.org/keeping-track-2024).



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**Testimony**  
**NYC Council Hearing:**  
**Mental Health Services Pilot Program for Children Returning Home Post-ACS Removal**  
**December 12, 2024**

Good morning, members of the Council. My name is Lorraine Gonzalez-Camastra, and I am the Assistant Executive Director of Policy and Practice at Forestdale Inc. Forestdale is a nonprofit organization dedicated to providing foster care, preventive services, and family support to vulnerable populations in New York City. I am here to express Forestdale’s ardent support for the proposed legislation mandating the creation of a pilot program that will provide free mental health services to children reintegrating into their homes following foster care placement by the Administration for Children’s Services (ACS). This initiative addresses a significant gap in New York City’s mental health service delivery system and aligns our collective goal of promoting stability, resilience, and well-being for the most vulnerable youths.

Each year, ACS oversees the removal and reunification of thousands of children. Data indicates that children who experience such upheavals are at a heightened risk for anxiety, depression, and post-traumatic stress disorder (PTSD). A 2021 report from the NYC Department of Health noted that 15% of children aged 3-13 in the city have a mental health diagnosis, with anxiety being the most prevalent at 8%, followed by depression at 3%. These rates are disproportionately higher among Black and Latino children, who are overrepresented in the child welfare system. These statistics underscore the urgent need for targeted mental health interventions for children who experience the profound stress of family separation and reintegration.<sup>i ii iii</sup>

One of the most significant barriers to accessing mental health care in New York City is the extended wait times, especially for families relying on Medicaid. Community clinics, which are primary providers for Medicaid clients, often face overwhelming demand. Reports indicate that Medicaid-insured individuals in New York City can experience wait times of several weeks to even months to secure an appointment with a mental health professional. For children in crisis or those navigating the complex dynamics of family reunification, these delays can exacerbate trauma and hinder their ability to recover and stabilize. By providing a specialized and accessible program, this legislation targets the critical need to reduce these barriers and provide timely care for affected families.<sup>iv v vi</sup>

The impact of trauma on young people extends beyond their immediate emotional and psychological state. Research has shown that untreated trauma contributes to academic struggles, difficulty forming relationships, and an increased likelihood of involvement in the juvenile justice system. By offering no-cost services, this pilot program removes one of the most momentous barriers—financial accessibility—and ensures these children receive the care they need to heal and thrive. As legislation requires, culturally-

responsive outreach is vital in building trust and ensuring equitable access to services for marginalized families. It's crucial to understand the profound and lasting effects of trauma on these children and the importance of providing timely support to help them overcome these challenges.

Moreover, the need for accessible mental health care has been exacerbated by the lingering effects of the COVID-19 pandemic. A 2023 survey highlighted that nearly half of NYC teens reported experiencing depressive symptoms, with many citing uncertainties about the future and familial challenges as contributing factors. The post-pandemic landscape has significantly increased awareness of mental health needs citywide, making this pilot program not just timely but essential.

As the program progresses, its expansion or permanence feasibility evaluation will be critical. Tracking service utilization rates, family satisfaction, and improved outcomes for participating children will provide valuable insights and inform broader systemic reforms, ensuring every child in New York City can thrive in a stable, supportive environment.

In conclusion, this initiative is an investment in mental health and a commitment to equity and justice for New York City's children. On behalf of Forestdale's families, we urge the Council to approve this measure and to continue prioritizing the mental health needs of our youth. Thank you for the opportunity to provide this testimony.

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<sup>i</sup> NYC Department of Health and Mental Hygiene. (2021). *Youth Mental Health in New York City: A Public Health Report*. Retrieved from <https://www.nyc.gov>

<sup>ii</sup> NYC Vital Signs. (2018). *Depression Among New York City Adults: Public Health and Chronic Disease Connections*. NYC Community Health Survey, 2016. Retrieved from <https://www.nyc.gov/assets/doh>

<sup>iii</sup> NYC Mayor's Office of Community Mental Health. (2021). *NYC Mental Health for all Initiative: Youth mental Health Data and Resources*. Retrieved from <https://mentalhealthforall.nyc.gov>

<sup>iv</sup> NYC Department of Health and Mental Hygiene. (2021). *Access to Mental Health Services for Medicaid Clients in New York City: Barriers and Recommendations*. Retrieved from <https://www.nyc.gov>

<sup>v</sup> Ghandour, R. M., Kogan, M. D., Blumberg, S. J., Perry, D. F., & Jones, J. R. (2019). Mental Health Service Use Among Medicaid-Insured Youth and Associated Disparities. *American Journal of Public Health*, 109(5), 665–671. Retrieved from <https://ajph.aphapublications.org>.

<sup>vi</sup> NYC Mayor's Office of Community Mental Health. (2022). *Challenges in Providing Equitable Mental Health Care for Medicaid Populations*. Retrieved from <https://mentalhealthforall.nyc.gov>

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Testimony of Good Shepherd Services  
Before the New York City Council Committee on Children and Youth

Submitted by  
**Nickesha Francis Policy and Advocacy Manager**  
Good Shepherd Services

December 12, 2024

Thank you, Chair Stevens and the Members of the Committee on Children and Youth for the opportunity to testify at the examination of the New York City Administration for Children Services (ACS) Prevention Services Programing hearing which also covers Intro bill 0652-2024 and Int-0009-2024.

Guided by social and racial justice, Good Shepherd Services (GSS) partners and grows with communities so that all NYC children, youth, and families succeed and thrive. We provide quality, effective services that deepen connections between family members, within schools, and among neighbors. We work closely with community leaders to advocate, both locally and nationally, on behalf of our participants to make New York City a better place to live and work.

Good Shepherd Services currently has seven Prevention programs that support children and families across the Bronx and Brooklyn. We provide caregivers with support and guidance to build positive and nurturing relationships with the goal of preventing removals and keeping families together. We offer services that include counseling, advocacy and emergency assistance and identify referral services and referrals both within and outside of the community related to childcare, housing, financial planning, day camps or special camps, health care and education.

We continue to support ACS in its quest to meet the needs of all NYC families and to attract and connect them to non-stigmatized, freely available family support assistance and counseling through the prevention provider continuum to address any concern that may be disrupting their lives, and not wait until they may be the subject of an anonymous abuse or maltreatment report and under scrutiny through an ACS investigation (Family Enrichment Centers, CARES, Prevention Pathways, HHC partnership, etc.).

To that end, we want to support any ways ACS and the New York State Office of Children and Family Services (OCFS) find to lower the bar of eligibility and reduce bureaucratic obstacles to welcoming families to prevention services. Some of these obstacles are born out of a culture of fear and include a required high number of contacts each week, involving all family members in counseling when only specific members seek help, and subjecting providers to very detailed, intrusive, overly rigorous, and sometimes punitive performance monitoring audits and reviews.



**Re: Int 0652-2024 - *Bill would require the Commissioner of Health and Mental Hygiene (Commissioner) to establish and operate a pilot program to provide mental health services at no cost to children who have been returned to their home following a removal by the Administration for Children's Services (ACS).***

Good Shepherd will continue to engage the New York City Council as part of the Council of Family and Child Caring Agencies (COFCCA) on how this pilot will support families after removal and as part of the emergency (trial or temporary) removal treatment plan through the wrap around services offered by the Foster Care agencies as mandated by Family Court.

Removal of the child or children by ACS impacts the whole family, so we need a whole family approach to mental health services without it being mandated or another unfunded mandate.

Furthermore, it would be ideal for any pilot to consider offering families continuity of mental health support through a hired culturally relevant therapist as they navigate post removal services that can work with the family and gain their trust.

We would also like to highlight that workforce recruitment and retention continues to be an issue. There are referred families who continue to be waitlisted for mental health services. There must be a cross-agency coordination plan between DOHMH and ACS to support the infrastructure of the pilot as well as to provide funding to enhance the availability of clinicians to provide free mental health services to the families that request and need them.

**Re: Int 0009-2024.**

Good Shepherd supports ACS providing information about where to access legal services for parents or guardians after an indicated report during an ACS investigation. This bill is in line with ACS's 2023-2024 strategic plan to focus on Reducing Unwarranted Involvement with Families, and the Over Representation of Black, Latinx and LGBTQAI+ families in our systems, particularly working to safely end ACS involvement, and combating the weaponization of the State Central Registry (SCR) to trigger an investigation most of which are unfounded.

As part of our Anti – Racism and Equity journey, Good Shepherd has been working alongside the New York Foundling and Graham Windham on The Reckoning: Transforming the Child Welfare System which seeks to address the impact of harmful and racist practices within the child welfare system – and other systems of care- on communities of color.

Finally, I urge the City Council and the administration to continue to invest in the human services workforce and specifically, in the Prevention services workforce and provide salary parity so Prevention workers can continue to provide quality services to children, youth and families across New York City.

**Thank you for the opportunity to testify.**

Testimony of Narrowing the Front Door to New York City's Child Welfare System  
Workgroup  
Submitted to  
The New York City Council on Children and Youth, Hearing on Oversight of  
Administration for Children's Services Preventive Services, Proposed Int. 9-A, and  
Proposed Int. 652

December 12, 2024

**Subject:** Proposed Int. 9-A, *A Local Law to amend the administrative code of the city of New York, in relation to providing information about obtaining counsel at the first point of contact during an ACS investigation*

The Narrowing the Front Door to New York City's Child Welfare System Workgroup (<https://www.narrowingthefrontdoor.org/>) is comprised of youth, parents, and family members directly impacted by New York City's child welfare system; community activists; lawyers for children and parents; academics; state and local government employees; and leaders in philanthropic and non-profit organizations who are committed to eliminating the destructive impacts of the child welfare system. We submit this testimony to point out **fatal shortcomings of Proposed Int. 9-A**, and to swift passage of the "Family Miranda" bills to be re-introduced by CM Rivera and Ung this session.

**ACS is currently being sued in a class action lawsuit, Gould v. City of New York, filed on February 20, 2024, United States District Court, Eastern District of New York. Every day, hundreds of Black and Latinx children in New York City experience a version of the terrifying and invasive violation of their homes, their bodies, and their lives by child protective services ("CPS") agents deployed by the Administrative for Children's Services ("ACS") as graphically described in that lawsuit:**

*One night, without warning, a mother in New York City hears a knock on the door. Her children are home with her. The family is cooking, or playing, or sleeping. When the mother opens the door, two government investigators are standing outside, loudly demanding to be let inside. She is surprised and confused. She asks what this is about. The investigators command the mother. *You have to let us in. We need to look in your home. We don't need a warrant. We're going to get the police here if you refuse. We're not leaving until we come inside. If you don't let us in, we're going to take your children.**

The mother has no choice, it seems. Terrified, she reluctantly opens the door and steps aside, and the investigators walk into her home. It is clear that there is no present danger to anyone in the home, but still the investigators search the home top to bottom. They look inside medicine cabinets, under beds, in closets and

dresser drawers, in the refrigerator, and in cupboards. The mother does not know why this is happening. The children are scared by these strangers combing through their home.

The investigators demand to see the children's bodies under their clothes. They tell the mother to leave them alone in a room with her children. The investigators command the children. ***Lift up your shirt. Pull down your pants. I need to see your chest, your legs, your back.*** The children are afraid, but they comply. Their mother cannot protect them from these strangers. The mother fears that if she does not acquiesce to the investigators' demands, they will take her children at any moment. Her fear is reasonable; the investigators are telling her that might happen.

The investigators leave as abruptly as they arrived. They have threatened to return, even though they found no evidence that the children are in danger. ***There seem to be no rules and no laws to protect the mother and her children from this intrusion.*** *Preliminary Statement, Gould v. City of New York, <https://www.classaction.org/media/gould-et-al-v-the-city-of-new-york.pdf>.*

**In 2022, in New York City, almost 80% of calls to the CPS hotline were unfounded or false, meaning that the over 35,000 children were subjected to unnecessarily humiliating, stressful, and traumatic invasions of their homes and bodies, disrupting their lives and rupturing the parent-child relationship and family dynamic, tarnishing families' reputation, and negatively impact their mental, physical, and emotional health. Families of color are disproportionately targeted for these disruptive and humiliating encounters - Black and Latinx families make up 88% of investigated families in New York City.** Statistics detail the devastating impact of the "child protective services ("CPS") system on Black children in New York City:

- Black children account for roughly 22% of the city's children under the age of eighteen, but a staggering 50.6% of the children separated from their families and detained in the foster system. In contrast, roughly 26% of the children in New York City are white, but white children comprise less than 6% of the foster population.
- Black children in New York City are worse off at every stage of the family policing process:
  - Black children are 6.66 times more likely than a white child to be the subject of a family policing system investigation;
  - Black children are 1.24 times more likely than a white child to be in an indicated family policing investigation;
  - Black families are 1.49 times more likely than white families to be subject to court-ordered surveillance by the family policing system;
  - Black families are more likely to be separated rather than be mandated to engage in services than non-Black families;

- Black children are 1.21 times more likely to be placed in the foster system; and
- Black children experience longer stays in the foster system. (See NYC Article 10 Providers Testimony to New York State Civil Rights Advisory Committee Hearing – *The New York Family Policing System and Its Impact on Black Children and Families*, August 2023, <https://cfrny.org/wp-content/uploads/2023/08/Joint-Defender-Civil-Rights-Commission-Testimony-FINAL.pdf>).

**Given these high stakes for children, families need to understand the full panoply of rights in order to safely navigate interactions with CPS agents, who wield broad coercive government police power, including the power to temporarily or permanently separate children from their families and throw them into the chaos of the foster system.**

**Even when children are not taken, the investigation itself can inflict immediate and lifelong trauma and damage to children.** In May of 2023, the New York Advisory Committee to the United States Commission on Civil Rights issued a report entitled *Examining the Impact of Child Welfare on Black Children and Their Families* (<https://www.usccr.gov/files/2024-05/ny-child-welfare-system-sac-report.pdf>). Based on testimony and its own research, the Committee found that in the absence of legal representation during CPS investigations, New York children, parents, and families are daily subjected to ***abusive and unlawful CPS investigation practices that affect “due process, privacy, dignity and trauma,”*** including:

- Separating children and parents and asking intrusive questions unrelated to the allegations, such as inquiring about prescribed medications, and asking children to rate the quality of the parent-child relationship and their parents’ parenting skills;
- Causing stress, humiliation, and embarrassment by publicly announcing child abuse and neglect investigations, questioning everyone with whom the family associates, including gaining access to children’s doctors and schools;
- Children pulled out of class at school and interrogated by CPS investigators and/or police, without their parents knowledge or consent;
- Demanding that parents sign blank Health Insurance Portability and Accountability Act (HIPAA) “authorization for release of private health information” waiver forms;
- Demanding parents submit to drug tests and psychological evaluations;

- Subjecting the family to multiple, warrantless, unannounced home searches, at any hour of the day or night throughout the 60-day investigation period regardless of the specific allegations against the family; and
- Threatening police and court involvement if the parents don't comply with demands.

**Proposed Int. 9-A would not effectively protect the inevitable assaults on due process rights of children and parents at risk of unnecessary family separation and government supervision, and the well-documented overreach and abuse of government police deployed against Black children, their parents, and families by CPS agents.**

**First**, the bill does not require that the CPS investigator tell parents that they are entitled to legal representation during the investigation; it only requires the investigator to tell the accused parent “where to receive legal services.” **Moreover**, information about where to receive legal services would be provided only “following an indicated report”, not at first point of contact during an ACS investigation. The posted description states that the bill “*would require the Administration for Children’s Services (ACS) to provide information about where to access legal services for parents or guardians after an indicated report during an ACS investigation, specifically immediately after ACS makes contact for the first time with such parents or guardians.*” The bill defines the term “covered proceeding” as “ACS child protective investigation following an indicated report in such investigation pursuant to section 424 of the New York state social services law.”

**The determination that a report or accusation is “indicated” occurs AFTER a full investigation has taken place, which can take up to 2 months (60 days) of receipt of the report to the SCR.** Providing information about where to get legal representation “following an indicated report” is far too late in the investigative process to address the numerous due process violations, indignities and trauma inflicted on children and families over the course of up to 2 months of government intervention into their lives.

**Narrowing the Front Door urges New York City Council to enact soon to be reintroduced bills (“Notice of Rights During CPS investigation” or “Family Miranda”).** In addition to contact information for designated legal services organizations, these bills would require CPS agents, at first point of contact, to share verbally and in writing, and in the accused person’s language of choice, the full panoply of constitutionally and statutorily protected rights and constraints on government intrusion, including:

- absent a court order, the parent doesn’t have to allow the CPS investigator into their home;

- the CPS investigator must tell the person what the allegations are against them;
- absent a court order, the person is not required to speak with the CPS investigator;
- absent a court order, the person is not required to allow their child to be questioned or strip searched;
- absent a court order, the person does not have to agree to any requests made by the CPS investigator; and
- the person is entitled to seek the advice of an attorney and to have an

As the New York Advisory Committee to the United States Commission on Civil Rights report makes clear, ***CPS investigation practices are far from innocuous, and often cause actual harm to the children they are charged with protecting.*** Harmful practices such as strip searches of children and extrajudicial “hidden/shadow foster care” family separations via coerced “safety plans,” are disturbingly common.

- ***Strip searches of children:*** Unless exigent circumstances exist, CPS agents are not legally permitted to strip search a child without a court order or search warrant. **But warrantless strip searches are routine in New York during CPS investigations, with CPS agents often examining children’s bodies without advance notice, out of their parents’ presence, and without the child’s or parents’ consent.** In New York City, CPS agents routinely strip search children “down to their underwear” during “nearly every initial home visit by the agency,” even though the vast majority of investigations do not involve any allegation of physical mistreatment. Agents may physically and/or visually inspect the child’s breasts, buttocks, genitalia, scalp, ears, hands, feet, mouth, and nose. (*Police Need Warrants to Search Homes. Child Welfare Agents Almost Never Get One.* ProPublica, Oct. 13, 2022, <https://www.propublica.org/article/child-welfare-search-seizure-without-warrants>). The negative effects on children of strip searches are well documented, and include bedwetting, difficulty sleeping and concentrating, diminished academic achievement, posttraumatic stress disorder (PTSD) symptoms, recurrent and intrusive recollections of the event, anxiety, depression, phobic reactions (for example, hiding in closets and diving under beds when there is a loud knock at the door); and attempted suicide.

Strip searches “are perceived as particularly intrusive by children and teenagers,” and “can be so traumatizing to youth that they feel it is unsafe to return to the setting where the strip search occurred.” The American Bar Association supports a ban on strip searching of children during CPS investigations except in extremely limited “exceptional circumstances,” stating that “any strip search, no matter the underlying justification, has a debilitating impact that clearly does not

account for the child’s best interests.” American Bar Association Resolution 111B, August 2020,  
[https://www.americanbar.org/content/dam/aba/publications/litigation\\_committees/childrights/111b-annual-2020-final.pdf](https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/111b-annual-2020-final.pdf).

- **“Hidden or shadow foster care”** is a widespread, unlawful practice in which CPS agents take children from their parents – with no judicial notice or oversight, either before or after the child is removed. (See, e.g., Sharon McDaniel, Increase kinship care, but not through diversion, *The Imprint*, 10/21/2024, <https://imprintnews.org/opinion/increase-kinship-care-not-through-diversion/255613>). CPS agents often effectuate family separation under the guise of “voluntary” parental consent, using what’s sometimes called a “safety plan agreement.” However, as the New York Kinship Navigator has explained: “When a child welfare worker informs a parent of their intent to do a judicial removal of their child, “unless you can find someone else to take the child”, it amounts to a pseudo-removal being paraded as “family choice”, all while bypassing court oversight, parental assignment of counsel, and due process for both the children and parents.” [NYS Kinship Navigator, *Hidden Foster Care in New York: Proposing Solutions to Fix a Broken System*, report, p. 2, November 2021, <https://www.grandfamilies.org/Portals/0/Documents/Kinship%20Diversion/Hidden%20Foster%20Care%20Proposing%20solutions%20to%20fix%20a%20broken%20system.pdf> ]. Because CPS files no petition in court, these child removals are hidden from judges, and because CPS agencies generally do not report these removals in regular data reports, they are hidden from policy makers.

By circumventing the formal process, agencies avoid their legal obligation to make reasonable efforts to prevent family separation or to reunify the family if a child is removed into state custody, facilitating kinship foster care “on the cheap.” In 2019 New York spent “well over \$1.3 billion on foster care services and supports to sustain 16,686 children in out-of-home state custody. . . . Conversely, estimates show there are roughly 195,000 children being raised by kinship caregivers, the majority of whom are not in foster care. New York spends \$2.5 million on supportive services for those children and families who are not in foster care.” (Kinship Navigator report, p. 3). Meanwhile, crucial concrete, material resources, like affordable housing and childcare are conspicuously unavailable or underfunded, despite CPS agency’s legal obligation to provide resources necessary to keep children safely in their own homes rather than separating children from their parents.

***The detrimental impact on families of the lack of legal advice and counsel during CPS investigations is significant.*** Testimony by a family defense provider before the Office of Court Administration’s Commission on Parental Legal Representation emphasizes this point:

Attorneys often meet their clients after they have already been in contact with [CPS] agencies for weeks, even months, or sometimes years. They have already been interviewed by caseworkers and detectives . . . They have been asked to make their children available for inspection, interviews, and medical evaluations, and asked to submit to evaluations by mental health professionals. They have been asked to attend services, have their children attend services, and to accede to the supervision of their homes. They have been given numerous directives to show up at conferences, meetings, drug tests or other events, with little understanding of the context or potential consequences. *Interim Report to Chief Judge DiFiore*, p. 19, <https://www.nycourts.gov/ip/Parental-Legal-Rep/PDFs/InterimReport-FINAL.pdf>.

**CONCLUSION: The American Bar Association calls child protective services one of the most complex and far-reaching legal areas in the nation.”** (American Bar Association Resolution 606 on Anti-Black Racism in the United States Child Welfare System, <https://www.ncjfcj.org/wp-content/uploads/2024/07/NCJFCJ-Resolution-in-Support-of-ABA-606.pdf> ) The core functions of ACS, as the City’s child protective services agency is to investigate, prosecute, and supervise families. CPS agents wield massive coercive police power, including the power, in conjunction with the courts, to separate children from their parents and their families temporarily or forever. As detailed in the **Gould** lawsuit, the gross, egregious, unchecked deployment of the police power of government by CPS investigators in New York City is traumatizing and harmful to New York City’s children, particularly Black children.

We all have an interest in keeping children safe from harm. We also have the duty to respect fundamental constitutional rights of children and parents to be free from harm inflicted by unwarranted, unchecked government overreach in carrying out their duties of investigation. Our laws impose specific constraints on how far government can go in exercising that duty.

Fundamental rights implicated by CPS investigation include constitutionally protected rights of privacy, parental decision-making, and family integrity/unity. The right of *family integrity* - that is, the right of children and parents to live together as a family unit, is one of our most precious freedoms. Family integrity encompasses the right of parents to raise their children, and the reciprocal right of children to be raised by their parents. We also cherish the right of *privacy* - the right to be free from government invasion of our homes and searches and seizures of our bodies. The right to *family autonomy* invokes the right of parents to make decisions about their children without government



interference. *These constitutional principles, along with federal and state law delineate limits on CPS power to intervene in a family as well as affirmative obligations of CPS agencies to make “reasonable or diligent efforts” to preserve family integrity and to safely reunify the family if a child is removed.*

**Notice of the right to legal representation as well as how to obtain legal representation at the start of and throughout the duration of the CPS investigation process is an essential check on government overreach.** Access to legal advice and counsel and individualized social services support where beneficial helps to ensure government compliance with their obligations to respect family rights, including reasonable efforts to assist the family rather than removing a child.

***Government’s mandate to respect family integrity and avoid unnecessary family separation is best served when parents are represented from the earliest stages of a CPS investigation.*** When families have the information and resources they need to thrive and the ability to receive natural support within their community, children are the ultimate beneficiaries, as they’re able to remain safely with their families and communities. CPS investigation representation can: protect families’ legal rights; prevent unnecessary harm and trauma to children; educate and empower parents; and hold CPS agents and judges accountable to comply with their legal obligations to protect children and maintain family integrity by providing needed resources to support child and family safety and wellbeing.

***Narrowing the Front Door therefore urges expeditious enactment by the New York City Council of the Family Miranda/Notice of Rights bills this session. CPS investigation bills ethe mandate for timely access to counsel into law.*** Lawyers are needed to safeguard against the inevitable errors of the CPS system, which wields immense, coercive, government police power, including the power to permanently destroy a child’s family. Due process, equal protection, and basic common sense dictate that parents must have timely access to counsel before potentially losing their child forever. Providing representation to parents when they need it - before a court filing is initiated not only comports with equal protection and due process requirements, it protects children and supports their wellbeing by helping them stay safely with their family, and saves the government money. As emphasized in testimony before the judiciary’s Commission on Parental Legal Representation ((Interim Report to the Chief Judge DiFiore, 2018, p. 16-17), [https://ww2.nycourts.gov/sites/default/files/document/files/2019-02/PLR\\_Commission-Report.pdf](https://ww2.nycourts.gov/sites/default/files/document/files/2019-02/PLR_Commission-Report.pdf)): **Giving parents representation when it matters - before they appear in court - is consistent with principles of equal protection and due process; can prevent unnecessary and prolonged separation of children from their parents; can mitigate the disruption and trauma that accompanies State intervention into the family. Timely access to counsel may also help reduce the disproportionate percentage of children of color in New York’s foster care system. . . . and enhance productive outcomes at the first court appearance, including identification of family resources and formulation of appropriate visiting arrangements if a child is removed.”**

**Written Statement of Richard Wexler, Executive Director,  
National Coalition for Child Protection Reform,  
to the New York City Council Committee on Children and Youth,  
Meeting of December 12, 2024**

Chairperson Stephens, members of the committee. My name is Richard Wexler, and I am executive director of the National Coalition for Child Protection Reform. Normally, I would put the material about who we are at the end, in order to get straight to the point. (And if you prefer to do that, you can skip the next three paragraphs.) But this time, I should probably explain at the outset why you are receiving written testimony from a national organization based 235 miles away from New York City.

The National Coalition for Child Protection Reform is a small, all-volunteer nonprofit child advocacy organization dedicated to trying to make the “child welfare” system better serve America’s most vulnerable children. Our President, NYU Professor-emeritus Martin Guggenheim, won the landmark case of *Santosky v. Kramer* before the United States Supreme Court, founded the nation’s first law school clinic devoted exclusively to family defense, and pioneered the [successful model of interdisciplinary family defense](#) now seen throughout New York City. Our Vice President, Carolyn Kubitschek, won the landmark lawsuit *Nicholson vs. Scoppetta* which bars ACS from taking children from parents, almost always mothers, whose only crime was to have themselves been victims of domestic violence. Other members of our board include [Prof. Dorothy Roberts](#), America’s foremost authority on family policing and race, and the recipient of a 2024 MacArthur fellowship, commonly known as a “genius grant.”

You can read more about our distinguished Board of Directors here <https://nccpr.org/nccpr-board-and-staff/> and about what others in the field say about us here: <https://nccpr.org/what-others-say-about-nccpr/> My own background is in journalism: 19 years as a practitioner, three as a professor. I spent much of my time covering child welfare, work that culminated in publication of a well-received book, *Wounded Innocents* (Prometheus Books, 1990, 1995).

But also, on a personal note, though I now live in Virginia, I am, to borrow the words of the late novelist Seymore Epstein, “a New Yorker by birth and conviction.” My first “child welfare” story was about the New York system, a radio documentary produced when I was a journalism student at Columbia in 1976. I’ve followed the system closely ever since. [Our report](#) on New York City child welfare includes data on key outcome measures going back decades, in some cases all the way back to 1993.

And finally, even at a distance, one can see that Chairperson Stephens is determined to get answers and hold ACS accountable, and I would like to thank her for that.

## **Don't turn back**

New York City has the finest network of family advocacy and family defense in the nation. Those who live with and defend against the failings of ACS can speak to the specific items on the December 12 agenda far better than I. Instead, I submit this testimony to add context to some recent events – events that have prompted the predictable calls from right-wing extremist circles to retreat from the very reforms that have made all of New York's vulnerable children safer. I submit it in the hope that this committee will refuse any such retreat and insist that ACS not retreat. The title of our New York City report, first published in 2006 and regularly updated since, still applies: Don't Turn Back.

In the wake of the horrific deaths of Jahmeik Modlin and Joseph Heben Jr, the usual suspects will come out of the woodwork – some already have -- scapegoating efforts to keep families together. They'll call for exposing far more overwhelmingly poor, nonwhite families to surveillance and investigation and throwing far more children into foster care. After all, in most recent years entries into foster care decreased so that must be why these children died, right?

### **The data tell a different story.**

- In City Fiscal Year 2024, ACS took 3,075 children from their homes. But a few months later Jahmeik Modlin and Joseph Heben Jr still died.

- In City Fiscal Year 2016, ACS took 3,657 children from their homes. But Zymere Perkins still died.

- In City Fiscal Year 2006, ACS took 6,213 children from their homes. But Nixzmary Brown still died.

- In City Fiscal Year 1996, ACS took 8,912 children from their homes. But Elisa Izquierdo still died.

In at least two of those three prior cases, the next few years saw huge increases in children taken from their homes – reaching a peak of 12,000 in 1998 – nearly four times the number in 2024. But both times deaths of children known-to-the-system *increased* – perhaps because workers, flooded with all those additional cases, had even less time to find children in real danger.

In contrast, as *The New York Times* reported, in recent years, as foster care entries largely declined:

*“Abuse deaths of children remain rare in New York City. From 2013 to 2022 — the last year for which A.C.S. has statistics — the number of homicides of children in families known to the agency averaged nine per year.”*

According to [another Times story](#), since 2022, child abuse deaths may have decreased significantly – though all figures on child abuse fatalities should be viewed with caution.

### **Foster-care panic makes all children less safe**

What we saw in 1995 and 2006 and 2016 is only the start of the harm caused by the usual knee-jerk response. A [foster-care panic](#), a sharp sudden increase in removals of children in the wake of a high-profile tragedy, also will subject thousands more children to the enormous trauma of a needless child abuse investigation – the knock on the door in the middle of the night, the interrogation of small children by big strangers, the strip-searches looking for bruises.

A foster-care panic will subject some of them to the even worse trauma of being torn needlessly from everyone they know and love and consigned to the chaos of foster care – where independent studies find [astoundingly high rates of abuse](#). Indeed, there is so much abuse in New York foster care that the agencies providing it [want a taxpayer bailout](#) just to cover the cost of payments to those suing after being abused on their watch.

### **The Big Lie of American child welfare**

And that brings me to the other bogus argument you'll hear from those pushing to retreat from reform. You will hear over and over about how child safety and family preservation are opposites that need to be “balanced” and the “pendulum has swung too far” toward “parents rights.” And from some on the right, including one commentator beloved by the *New York Post* and the Manhattan Institute (the think tank that did so much to make Rudy Giuliani the man he is today), you'll hear an even uglier version: You'll hear that, in this commentator's own words [“wokeness has come for child protective services.”](#)

But the idea that child safety and family preservation are opposites is the Big Lie of American child welfare. For the overwhelming majority of children, the overwhelming majority of the time family preservation isn't just the more humane option – it is the *safer* option. The current system, our current massive child welfare surveillance state, with its overwhelming reliance on policing families and needless foster care, makes all children less safe.

As I noted at the outset, I have been following this issue for 48 years, first as a reporter and now as an advocate. My views evolved to where they are precisely because I saw how the current system destroys children in order to “save” them. Family preservationists are the true advocates for children's rights and child safety.

No system can prevent every child abuse death. But as this committee well knows most cases are nothing like the horror stories. Far more common are cases in which [poverty is confused with “neglect.”](#) That's why [study after study](#) shows that in these typical cases children left in their own homes typically fare better even than comparably-maltreated children placed in

foster care. Child abuse deaths are needles in a haystack. New York's experience shows you can't find the needles by making the haystack four times bigger.

Instead, we can reduce fatalities by making sure workers are not flooded by false reports and panic-induced removals. You can urge the State Legislature to [curb false reports to the state child abuse hotline](#), curb and ideally abolish [mandatory reporting](#) of alleged child maltreatment, which research shows backfires, and curb needless investigations when poverty is confused with "neglect". That will give workers more opportunity to investigate legitimate cases with all the time and care they need.

### **The need for full transparency**

We also need to talk about the need for transparency at ACS. A lot of people are calling for that – but listen to those calls carefully, because some of the loudest voices aren't demanding enough. They will demand freer access to information about fatalities, but no more. That's because they don't want you or the public to see the whole picture.

Agencies like ACS are arbitrary, capricious, and cruel. They routinely err in *all* directions. They do sometimes leave children in dangerous homes, even as they take many more from homes that are safe or could be made safe with the right kinds of help.

Those who want transparency about fatalities – but nothing else – want to present a distorted picture, one which leaves the false impression that the only errors ACS makes involve leaving children in dangerous homes. They don't want anyone to know about the cases in which children are needlessly torn from everyone they know and love and forced into foster care.

That's why we support urging state lawmakers to create a strong rebuttable presumption that almost all records in *every* case are public. That way, everyone can see the errors in all directions, whether ACS wants to talk about them or not. Yes, there will be times when a child's privacy demands that a given record be closed; that's why we say almost all records and call for a rebuttable presumption.

And yes, ACS *can* comment on individual cases. For decades, over and over, ACS has lied about this. They will claim that confidentiality laws prohibit them from talking about specific cases. That is true in most states - but it is not true in New York. There is no blanket prohibition against ACS commenting in most cases. Here's the statute that gives ACS and its Upstate counterparts that permission: <https://www.nysenate.gov/legislation/laws/SOS/422-A> So I hope someone asks Commissioner Dannhauser why ACS keeps lying about this.

I'll end back where I started, with the fact that NCCPR is a national organization. We can compare and contrast what's going on among the states and see what works and what doesn't. We can see common acts of cowardice and extraordinary acts of courage. So I want to close by highlighting one of those acts of courage.

In February 2011, Joette Katz stepped off the Connecticut Supreme Court to take a far less secure and far more difficult job: running the state Department of Children and Families, Connecticut's equivalent of ACS.

Within months, the death of a child "known to the system" was making headlines. As had happened at least twice previously, there were immediate calls to tear apart more families, and enormous pressure on Katz to tell her workers to do just that. In past years, her predecessors had caved. Katz did not.

"I think in the past that's been exactly the mistake, frankly," [Katz said at the time](#). "A child dies and the next thing you know workers are getting thrown under the bus and 500 children get removed [from their homes] the next day because it's a reaction to a tragedy. I think that's the exact wrong way to behave." That's why, at the time, I called Katz the [gutsiest leader in child welfare](#).

After refusing to cave in to foster-care panic Katz went on to reduce needless foster care, reduce the worst form of care, group homes and institutions, and increase use of the least harmful form of care – kinship foster care, placing children with relatives instead of strangers. [She did so well](#) that the state finally was able to exit from a lawsuit consent decree that had dragged on for decades.

More recently we saw a remarkable show of courage by the State Legislature in Minnesota and Gov. Tim Walz. Twice in a decade, the Minnesota *Star-Tribune* tried to set off a foster-care panic. The first time, in 2014, they succeeded. But the Minnesota Legislature apparently is familiar with the adage "fool me once, shame on you, fool me twice, shame on me." So the second time, this year, instead of buying the snake oil the *Star-Tribune* was selling, Minnesota [passed, and Gov. Walz signed, bold new legislation](#) to curb the excesses of the family police in that state.

Although ACS has a long, long way to go, it has progress similar to that made in Connecticut, in part because of tough-minded oversight from this Council. But now Jess Dannhauser is going to face the same kind of pressure that Joette Katz faced in 2011. Now we wait to see: Will he have the same kind of guts?

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**Testimony of Neighborhood Defender Service of Harlem**

**Presented Before**

**The New York City Council Committee on Children and Youth**

**Hearing Date: December 12, 2024**

**Subject: Oversight - Examination of ACS's Preventative Services Programming**

This testimony is submitted by the Neighborhood Defender Service of Harlem (NDS), a holistic public defense practice. We work with clients to address legal barriers to living lives free of oppression, whether they encounter those barriers in the context of education, immigration, criminal justice or elsewhere. As part of our work, we represent clients in Family Court in Upper Manhattan and the Bronx when they are subject to the family policing system. We are a team of attorneys, social workers, client advocates, team administrators, and litigation assistants that provides interdisciplinary representation to our clients and addresses the underlying issues that brought them into contact with the Family Court. This type of holistic defense model, which provides comprehensive representation to low- and no-income parents, is nationally recognized as the most effective model of representation of its kind.<sup>1</sup>

In recognition of the fact that families can be drawn into the system well before there is a Family Court case, we also provide early defense services to clients, which is made possible by funding provided through City Council. This means working with clients during an ACS investigation and helping mitigate any negative impact on the family unit once ACS decides to file a case in court, as well as providing legal advice and advocacy for clients and community members seeking to clear their records from the State Central Register. As such, we are familiar with the full panoply of interventions and services that ACS employs before, during, and after a case in court.

NDS fights for our clients both by providing direct representation and by advocating for policy changes that provide a measure of justice to their communities. We thank the New York City Council Committee on Children and Youth for the opportunity to share the experiences of our clients and staff in navigating ACS's preventive services programming, and how such programs could function to address our clients' needs and keep families together, instead of imposing arbitrary obstacles for parents that pave the way to more instability and family separation.

Our work is grounded in the truth that the "child welfare system" has been used as a tool to police parents who are already marginalized in society, particularly poor, Black, Latine, and disabled parents. We follow the leadership of directly-impacted people in referring to this system

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<sup>1</sup> Commission on Parental Legal Representation, Interim Report to Chief Judge DiFiore 27-28 (February 2019); Martin Guggenheim & Susan Jacobs, *A New National Movement in Parent Representation*, 47 CLEARINGHOUSE REV. 44, 45 (2013), available at <https://cfmny.org/wp-content/uploads/2021/03/A-New-National-Movement-in-Parent-Representation-Clearinghouse-Review.pdf>.

as the “family policing system” or “family regulation system,” which more accurately describes the experiences of our clients in interacting with ACS.

## **I. Not All Preventive Services Are Created Equal**

For decades, government supports for people living in poverty have dwindled and, as a result, 1.5 million New Yorkers are living below the federal poverty level in deeply financially precarious situations.<sup>2</sup> These individuals need support, and preventive services can be a lifeline, but the reality is that not all preventive services are created equal.

While ACS often touts preventive services as voluntary programs offered in consultation with impacted communities, that does not accurately describe most of the services that fall under that umbrella. There are many routes to involvement with preventive services, few of which are voluntary in practice.

While it is true that some families receive preventive services separate from any Family Court involvement, many families only become connected to preventive services after the commencement of a family policing investigation. For services “recommended” by ACS during an investigation, the price of declining such a recommendation is that ACS will file an Article 10 petition and force parents into services through court orders. In such circumstances, the decision as to whether to accept preventive services can feel far from voluntary, with the threat of the removal of a child or filing of a case in court hanging over a family’s heads.

Caseworkers, supervisors, managers, and attorneys employed by ACS understand that they hold this power and leverage it against parents. Even worse, ACS leadership is aware of this abuse of power—NDS and other family defense providers spend hours in meetings with ACS raising these issues, including with the Commissioner—and little change is made to improve their practice or hold their staff accountable. In ACS’s own survey of parents engaged in preventive services, 24.8% of them said the program would be improved by making it clear if prevention services are required.<sup>3</sup>

Preventive services can also be ordered by a Family Court judge as a condition of the release of a child to their parents after the commencement of a case in court. These services are mandated, and parents who do not engage in such services run the risk of being held in contempt of court.

Further complicating matters is the complex web of policies governing and limiting delivery of preventive services that often hinders families from accessing the specific services that they need even when they do agree to engage with preventive services. Which specific services are available to a particular family can depend on a variety of factors, including the provider assigned and how the family comes to be referred to preventive services. Not all preventive services are offered for each level of involvement; for instance, housing assistance—which is among the most pressing needs identified by families—is only available for mandated (meaning court-ordered) preventive services.<sup>4</sup> In practice this means that families are unable to access the

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<sup>2</sup> U.S. Census Bureau, Poverty Thresholds by Size of Family and Number of Children, (n.d.), available at: <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html>.

<sup>3</sup> NYC Children, 2023 Family Experience Survey, Prevention Services, 27, available at <https://www.nyc.gov/assets/acs/pdf/data-analysis/2023/PreventionSurveyLL17Report.pdf>.

<sup>4</sup> OCFS, Preventive Services Practice Guide Manual, 2015, available at <https://ocfs.ny.gov/main/publications/preventive%20services%20guide%202015.pdf>; N.Y. Comp. Codes R. & Regs. Tit. 18 § 430.9(c)(1)(i).



services that would actually meet their needs until there is a prosecution in Family Court. Such unnecessary gatekeeping of essential services fails to prevent harm to children or avoid the trauma of court involvement for the entire family. True prevention would seek to avoid such unnecessary prosecutions, not merely the placement of children in foster care.

Importantly, Collaborative Assessment, Response, Engagement & Support (CARES), touted by ACS as a solution that will reduce unnecessary investigations and surveillance, is not a preventive service program. Although ACS claims that CARES is non-investigative and family-led, the reality is that it is a type of open-ended investigation ACS permits their workers to conduct for cases that are screened as lower-risk. CARES begins with a 7-day safety assessment that is almost identical to the standard ACS investigation. The notes that are produced by CARES caseworkers are available to ACS, and often used against families in Family Court proceedings. The experience of families is that CARES involves more intrusive intervention for a longer duration than a 60-day ACS investigation. Although CARES is often referred to as voluntary, families who decline CARES involvement or services are then subject to an investigation and often prosecution. ACS markets CARES to elected officials and community organizations as being akin to preventive services, but ACS hides the reality from families that agreeing to engage in CARES is in effect agreeing to opening an investigation against themselves.

There are certain preventive services that our clients welcome, and material supports can be an especially effective way to ensure that families are safe and provided for. However, the system as it exists now makes it difficult for people to figure out how to get the right services for their family, and whether they succeed is often luck of the draw when it comes to their caseworker. By and large, our clients feel coerced into services that do more to surveil them than assist them.

## **II. How a Family Becomes Involved in Preventive Services Can Tell Us Whether the Purpose of the Services is to Help or Surveil**

Our clients' experiences have demonstrated that when preventive services are implemented in a coercive manner, they serve as an extension of family policing surveillance rather than an actual support. ACS often requests, and Family Court judges often order, preventive services even when there is no actual service need. Even when parents are unable to access supportive services through preventive services, whether because they do not have actual service needs or because there is a mismatch between the services available and the family's needs, preventive caseworkers still conduct invasive searches of their homes, speak with their children alone, and report information to ACS through CONNECTIONS, the electronic case management system used by family policing agencies.

NDS clients have told us stories where they were not able to access the services they requested, but were pressured into services that had no relationship to their struggles. The success of preventive services is often assessed by the level of "compliance" achieved, rather than whether actual support was provided or material needs were met. In issuing court orders for preventive services, Family Court judges are not shy about admitting when they view the primary benefit of such services as having more eyes in the home. None of these experiences are consistent with a model that purports to reduce family policing involvement through provision of actual supports.

In one illustrative example, ACS opened an investigation against two parents based on the allegation that their home was dirty. ACS recommended preventive services, which the parents

accepted: they invited the preventive caseworkers into their home twice a month and complied with their requests. Though there were no allegations of drug use or mental health issues, the father was given a service plan that focused on meetings with a Credentialed Alcohol and Substance Abuse Counselor (CASAC), and the mother was recommended a mental health exam. The parents expressed willingness to participate in these services, but ACS never made the referrals. Even though services were never actually referred, detailed notes of the parents' perceived compliance were entered by the preventive services agency in CONNECTIONS. Over a year later, the parents were arrested in a matter unrelated to their children and ACS filed a petition against them. At an emergency hearing in the Family Court, ACS used the fact that the parents had not participated in services recommended by ACS to seek a continued legal removal of their children. For that family, preventive services offered no substantive benefit, but did serve to enhance the reach of ACS surveillance and family policing involvement by creating a documentary record of their compliance.

One client consented to preventive services after a case was filed against her. Although preventive services usually visit the home every other week, she was informed that they would be coming once a week at the same time. The client didn't decline the services, but did say that this schedule would be hard to accommodate with her work schedule. The preventive service worker told her that wouldn't be a problem and left her apartment. However, this caseworker told the FCLS attorney that our client had "refused help," which negatively impacted her case.

For many of our clients, preventive services are surveillance by another name. We know this because, in these instances, no meaningful support is being provided to the family. However, the observations of the caseworker are used against our clients when they're brought into court. When services that are purported to help families are implemented coercively and serve solely to surveil parents, this should be a red flag that the program is not delivering "preventive services that are child centered and family-focused, community-based, and culturally competent," as they allege.<sup>5</sup>

### **III. Even When Families Have Service Needs, They Get Services That Are a Poor Fit**

All too often, the range of preventive services offered to our clients is not responsive to their needs, or denied altogether. Our clients regularly ask for assistance only to be told that the assistance that they need is not available as a preventive service.

In NYC, nearly 500,000 households (or 25%) are severely rent burdened, meaning that they pay more than half of household income toward rent.<sup>6</sup> Unsurprisingly, many of our clients struggle to find housing they can afford, yet this kind of support is largely not available through preventive services. Preventive services will not help parents find employment either. When we advocate for our clients and request specific services, ACS often tells us: "We don't do that." The list of services provided is arbitrary and the basis for ACS's decisions about what to offer and to whom is not transparent. Preventive services would be much more helpful to families if the menu of available services were expanded to include assistance with things like housing and employment, which are areas of great need.

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<sup>5</sup> Jacqueline Martin, testimony submitted on "Oversight-Preventive Services at the Administration for Children's Services," New York City Council Committee on General Welfare, December 14, 2016.

<sup>6</sup> U.S. Census Bureau, 2023 New York Housing and Vacancy Survey, 2023, available at: <https://www.nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-selected-initial-findings.pdf>.

One tragic irony is that clients are at times refused direct assistance that would prevent the need for removal of their children only to see ACS invest the same resources, or more, for foster caretakers in servicing children in foster care. For example, a client who was recovering from a foot surgery was temporarily unable to drive his son to school or clean the home. The petition filed against him was for neglect based on his son not attending school and for his having a dirty home. The client's son was removed for a month, and put in a placement that was significantly farther from his school. A caseworker would drive the son to school daily, even though this same support without a removal would have been less driving and could have kept the family intact. To add insult to injury, the client was told by the caseworker that they couldn't order a deep cleaning once the child had been removed. Our client was caught in a system that seemed intent on punishing him, rather providing the help that he and his son needed.

On more than one occasion, we have had a client ordered to complete a parenting class that is completely inapplicable to their situation. A mom of teenagers with behavioral challenges was placed in a class that taught infant bonding and how to change a diaper. Her choices were to change programs and not get credit for the work she'd already put in, or to grin and bear it through weeks of a service that did nothing to help her situation.

These examples, which are far from anomalous, illustrate the often poor fit between the services that are available and the assistance that families need, resulting in more rather than less involvement in the family policing system.

#### **IV. Preventive Services is Touted as Family-centered and Equity-focused, but it Replicates the Harmful History of Family Policing**

ACS heralds preventive services as a progressive program that departs from the more painful legacies of the history of family policing. That's a laudable goal, but in practice, preventive services often replicate some of the foundational racist, classist, and misogynist myths underlying the history of family policing. Understanding the origins of the family policing system is essential to understanding the pitfalls of preventive services as they currently exist. While contracting for preventative services is certainly a less invasive intervention than removing children from their families, the manner in which services are offered is an extension of the same system of surveillance with the same historical ancestry.

Paternalism is a cornerstone of the family policing system, as generations of "reformers" implemented some of the most harmful systems in the name of child welfare. Indian boarding schools were started by Christian missionaries to "kill the Indian, save the man." Their logic was that Native children should be "civilized" by tearing them from their communities and punishing them for engaging in their cultural practices. Over 60,000 Native children were forced into these schools, and it is estimated that around 1,000 Native children died in such boarding schools, but mass graves continue to be discovered to this day.<sup>7</sup> This same paternalism can be seen in the reactionary belief that more children should be removed from their parents where there is any suspicion of maltreatment. In misguidedly trying to "protect" children through separation,

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<sup>7</sup> Matthew Brown, *Investigation finds at least 973 Native American children died in US government boarding schools*, AP News, July 30, 2024, available at <https://apnews.com/article/indian-boarding-schools-deaths-investigation-82645234fe9d7ce689e8375a51d7e161>; Bryan Newland, Federal Indian Boarding School Initiative, Investigative Report, U.S. Department of the Interior, May 2022, available at [https://www.bia.gov/sites/default/files/dup/inline-files/bsi\\_investigative\\_report\\_may\\_2022\\_508.pdf](https://www.bia.gov/sites/default/files/dup/inline-files/bsi_investigative_report_may_2022_508.pdf).

children who are disproportionately Black and Brown, family policing system supporters and agents fail to understand that their “solution” causes more harm—the trauma of family separation, the poor short- medium- and long-term outcomes for children who have spent any amount of time in the foster system, and the alarming rates of abuse in the foster system are all well-documented.<sup>8</sup>

Preventive services also replicate the history of family policing as punishment for poverty. The vast majority of ACS investigations concern allegations of neglect, and the symptoms of poverty are easily characterized as neglect. The same was true of the “Orphan Train” movement, which is a misnomer because most of the children transported to work on farms had living parents in their home cities—but these parents were deemed unfit because they were mostly poor immigrants.<sup>9</sup> Rather than provide aid to allow families to remain together, children were placed in morally upright farm families and often put to work as slave farm labor. The primary drivers of this movement were Children’s Village, the Children’s Aid Society, and New York Foundling Hospital, all of which are still operating in New York City today.<sup>10</sup>

A recent examination of ACS’s impact on Black children and families showed that Black families are overrepresented at every stage of decision-making and intervention, and acknowledged the system was formed and exists within America’s history of racial bias.<sup>11</sup> It is damning that our modern child protective system mirrors the shameful legacy of Black children being ripped away from their parents at the auction block under chattel slavery. It is time to learn from this history and to stop returning to the same ineffective strategies.

## **V. The City Council Can Take Tangible Steps to Provide Families with Actual Help**

### **a. City Council Should Demand More Transparency into Preventive Services**

While in his oral testimony to this committee, ACS Commissioner Jess Dannhauser was able to provide concrete answers to many questions posed by councilmembers about how ACS decides what services to offer whom, the lack of publicly available information prevents impacted communities from meaningful participating in those decisions. That the Commissioner was able

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<sup>8</sup> National Coalition for Child Protection Reform, *Foster Care v. Family Preservation: The Track Record on Safety and Well-Being*, February 23, 2022, available at <https://nccpr.org/nccpr-issue-paper-1-foster-care-vs-family-preservation-the-track-record-for-safety-and-well-being/>; Brenda Morton, Seeking Safety, Finding Abuse: Stories from Foster Youth on Maltreatment and Its Impact on Academic Achievement, *Child and Youth Services* 36, no. 3 (2015), available at <https://doi.org/10.1080/0145935X.2015.1037047>; Kimberly Howard et al., Early Mother-Child Separation, Parenting, and Child Well-Being in Early Head Start Families, 13 *Attachment & Human Development* 5 (2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3115616/>; Joseph J. Doyle, Jr., Child Protection and Child Outcomes: Measuring the Effects of Foster Care, 97 *Am. Econ. Rev.* 1583 (2007); Catherine Roller White et al., Michigan Foster Care Alumni Study Technical Report: Outcomes at Age 23 and 24 (Seattle, WA: Casey Family Programs, 2012), available at [www.casey.org/media/StateFosterCare\\_MI\\_fr.pdf](http://www.casey.org/media/StateFosterCare_MI_fr.pdf).

<sup>9</sup> Children’s Aid, *A History of Innovation*, archived from the original on September 18, 2017, available at <https://web.archive.org/web/20170918063019/http://www.childrensaidsociety.org/about/history>.

<sup>10</sup> Our City Charities--No.II; The New-York Juvenile Asylum, *New York Times*, January 31, 1860, archived from the original on September 9, 2017, available at <https://web.archive.org/web/20170909010259/http://www.nytimes.com/1860/01/31/news/our-city-charities-no-ii-the-new-york-juvenile-asylum.html?pagewanted=all>.

<sup>11</sup> U.S. Commission on Civil Rights, *Examining the New York Child Welfare System and Its Impact on Black Children and Families*, May 28, 2024, <https://www.usccr.gov/reports/2024/examining-new-york-child-welfare-system-and-its-impact-black-children-and-families>.

to provide information to the Council demonstrates that those data are available; there is no reason to keep it from the people who need it most.

The Commissioner provided only partial answers to questions about how ACS decides what preventive services to offer, how their contracts are developed, and how much money is spent on these various programs. For a program that spends \$330 million annually, the City Council and the public deserves much more visibility into how this system operates.

There also needs to be processes for more direct consultation with communities. Impacted parents patiently listened to the Commissioner's testimony and his answers to the Committee's questions for two hours. But the Commissioner did not stay to listen to their testimony. This happens again and again when ACS is asked to participate in conversations about the services they provide. Their Family Experience Survey cannot be the start and end of getting feedback on preventive services from the people they purportedly serve.<sup>12</sup>

#### **b. City Council Should Allocate Money More Efficiently, Through Direct Support to Families**

The resounding message from impacted people and those who advocate for them is clear: families need more support, but not through ACS. The operation of preventive services through ACS is inefficient because money that could go directly to services is instead going to the middleman. This produces greater overhead costs, and is a poor skills-match because staff trained in investigation and surveillance are asked to play expert in the complex fields of mental health, substance use disorder, and more.

More effective use of funding could include resourcing pre-existing and trusted community-based organizations, supporting the legislative efforts of the New York State Cash Alliance to provide unconditional cash to families in need, and investing in alternative infrastructure, independent from ACS, to provide direct support.

#### **c. City Council Should Support Delinking Services from Family Policing**

If ACS is to continue to provide preventive services, City Council should support creating systems within ACS to keep this separate from investigations. The blurry line between preventive services, investigations, and CARES breaks down trust with the impacted people who are supposed to be supported. One important change is to get preventive service case notes off of CONNECTIONS, the case management program used for investigations. If preventive services are truly different from an investigation, then investigators should not have immediate access to those notes.

Further, City Council needs to continue to hold ACS to account for the coerciveness in programs purported to be voluntary. Councilmember Stevens rightly pointed out that people are being threatened with the removal of their children or the launch of an investigation that could result in family separation if they do not submit to services, even where the caseworker knows that no children are in danger. While the Commissioner may testify that coercion is not the policy of

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<sup>12</sup> The Commissioner acknowledged that the survey is not anonymous, but leadership only receives meta-data. The survey methodology indicates substantial selection bias and fails to capture the critiques of preventive services that we regularly hear from clients.

ACS, the structure of preventive services and CARES demonstrate that it is at least the practice. There needs to be a culture-shift at all levels of ACS to make sure that the policies are followed, and parents are not mistreated.

## **VI. Conclusion**

We are grateful to the New York City Council Committee on Children and Youth for examining the failures of preventive services and listening to impacted people and advocates in crafting a better system to truly serve children and families. This hearing has made it clear that is a substantial disconnect between what ACS believes it is providing with preventive services, and the experiences of people who receive these services. It is crucial that the voices of impacted people are continually centered in charting a path forward: they are the experts in what is happening and what they need.



City Council Committee on Children and Families  
Hearing December 12, 2024

### **WRITTEN TESTIMONY**

Nora McCarthy, Executive Director  
NYC Family Policy Project

Chair Stevens and Committee members, thank you for the opportunity to testify and to submit this written testimony, which has been updated to reflect discussion at the hearing on Thursday.

I'm the director of the NYC Family Policy Project (FPP), a think tank that develops original research, data and policy analysis on the child welfare system in New York City. I have reported on the city's child welfare system for watchdog publications including *The Imprint* and *Child Welfare Watch* and worked with NYC system-impacted parents and youth for the past 25 years.

This testimony addresses inaccurate stories being told in the news media about child welfare in New York City in response to tragic child maltreatment deaths. We have all been shaken by the shocking and painful details that have emerged in reporting on the starvation of Jahmeik Modlin and his siblings, and other children whose lives were cut short by maltreatment.

At the same time, a major narrative is that these children's deaths have happened because ACS has gone too far in trying to reduce the threat of investigations and the trauma of removing children from home. This is inaccurate. Several media outlets also have advanced solutions to child fatalities that are known not work to work to reduce fatalities and that have the potential to increase unwarranted family separations and surveillance of thousands of children and families.

It's important to distinguish a demand for accountability from a rush to punishment. It also is urgent to confront these false narratives and solutions, which distract from finding real solutions to improve the safety of all New York City children and families.

### **Context on NYC Efforts to Reduce the Scope and Harm of Investigations**

States and cities nationwide are confronting new evidence that child protective investigations are used far too often and leave damaging effects.

One of the most serious acts of state responsibility, investigations have grown distressingly common. Nationwide, one-third of all children—and more than half of Black children—can expect to [experience an investigation](#) by age 18. In 2022, states investigated reports involving [more than 3 million children](#), an increase from 2.6 million in 2004.

In NYC, 43% of Latino children and 44% of Black children can expect an investigation in childhood. In more than 50 NYC neighborhoods, at least 1 in 10 Black children experienced an investigation just in 2019.

Investigations can leave enduring negative impacts on the family. Research finds that, after an investigation, parents justifiably [limit social networks and help-seeking](#) to reduce the risk of another investigation. This [social isolation](#) places children at even greater risk, and children can suffer when [parents fear discussing family needs](#) with educators, doctors and other helping professionals who are required by law to report child safety concerns.

Reports involving untreated mental illness, persistent substance abuse and domestic violence [can be serious](#), but 85 percent of investigations [have not been substantiated](#) in 2024. Frontline child welfare workers see the hand of poverty in nearly every case. Teachers, hospital staff, police and other professionals often call on child welfare to handle resource needs they are too burdened to respond to, as sociologist Dr. Kelley Fong documented in the 2023 book [Investigating Families](#). Embedded with the state of Connecticut for months, Fong witnessed frantic calls to unearth cribs, baby clothes, strollers and childcare, and to help parents access public benefits, secure housing and find food pantries. In NYC, ACS leadership suggests that 50% of cases involve material needs. Too often, calls to state hotlines are a catch-all referral not to address danger but to help parents get what they need for their children while navigating a bureaucratic safety net.

For parents, that knock on the door is their [worst fear](#). Investigators may want to help but they hold the power to remove children on the spot, and they are required to use intrusive and alarming tactics, as a [recent lawsuit](#) documented. Investigators interrogate parents in front of their children and go through the cabinets. Talk to neighbors, doctors and teachers. Take children into private rooms to question them and check their bodies for abuse. For months, children and their parents are kept waiting, not knowing what will happen next.

Exacting a lasting emotional toll on families, and costing taxpayers billions annually, this is an expensive and counterproductive way to address family needs.

Clearly, to keep children safer, we must reserve an investigatory approach for children facing real danger. For children at low risk, we must develop methods to address family distress that inflict less harm.

### **Efforts to Address Over-Reporting and Inadequate State Screening of Hotline Calls**

States as diverse as Texas, California and Montana are beginning to take important corrective action. Texas passed laws to [limit removals based on poverty](#) and, along with Montana, to [advise parents of their Fourth Amendment right](#) not to allow investigators to enter the home without a court order. To curb malicious reporting, Texas and California also [stopped allowing anonymous reports](#) to child abuse hotlines.

In New York, where [similar bills have not yet passed](#), the state agency and ACS have begun [retraining mandated reporters](#) on the steps they can take to support rather than report families when children are not in danger. Much of this training has [focused on schools](#), which report



thousands of families for truancy and attendance issues that, in some states, are handled by the school system itself. A [partnership with hospitals](#) is ensuring that doctors can directly connect families to support services without an investigation. Catching up with [20 other states](#), the city also has begun [routing lower-risk cases](#) to a type of investigation that pairs a safety assessment with efforts to address basic needs. All of these efforts seek to more quickly and directly meet family needs, without stigma and threat.

This work is especially important in NYC. New York families are more likely to be subject to investigations for lower-level concerns because [the state hotline screens out far fewer calls](#) than hotlines in most states. New York screens out only 25% of reports to the hotline, while the national average is 50%. A recent Assembly hearing illuminated that the New York State hotline uses no screening tool to determine whether reports should truly be screened in for investigation under the law. In addition, New York allows schools to report “educational neglect,” while other states including California and Texas require school personnel to handle school absence issues. The result is that ACS receives a high number of cases that, in other states, would be screened out and would not require an investigation.

ACS must respond to every report referred by the hotline. In this context, it’s crucial that ACS seek to limit the invasiveness, coercion and fear families experience when children are likely not in danger.

### **Fear—and Fear-Mongering—In Response to Needed Reforms**

This understanding of investigations may seem out of sync with images of child welfare torn from headlines. While mistakes in child protective practice produce negative outcomes in both directions – traumatic unnecessary removals in one direction, and preventable abuse or even child deaths at the other – the [vast majority of media coverage](#) focuses on the [extreme maltreatment cases](#) that represent needles in a haystack of investigations. Thousands of families come under state scrutiny because of challenges that are far more mundane.

Two decades ago, [advocacy](#) and [research](#) similarly documented the trauma of family separation and foster care placement. In the 1990s, the city agency operated on an unofficial policy of “when in doubt, pull them out.” [One in 10 newborns in Harlem](#) were yanked from their families. When a NYC mother, Sharwline Nicholson, won a [lawsuit](#) 20 years ago that accused the city child welfare agency of overreach in removing her children, the court added a [landmark provision](#) to family law: any decision to remove a child from their family must be weighed against the psychological harm to the child that could be created by the removal itself.

ACS was forced to acknowledge the [devastating impacts](#) of a child welfare approach that refused to reckon with its capacity to harm.

To many, it may appear intuitive that investigating more families and removing more children would keep children safer. For decades, however, that has proven false. Twenty years ago, people working with families every day believed that preventive services could replace most foster care, keeping children safe at home. Data bears that out. In NYC, foster care entries have [fallen by](#)

almost 50 percent since the Nicholson decision in 2004. In that time, children's deaths from maltreatment have also fallen, not increased.

Today, frontline workers similarly know that children and families would benefit if dedicated support staff in schools, hospitals and other family-serving organizations more often drew families close. Investigators in Connecticut saw too many senseless cases, telling Dr. Fong, “I don’t know why this was called in,” or, “This teacher could have handled this in some other way.” In conversations I had with more than a dozen NYC CARES investigators this fall, they told me the same thing.

However, the same fear—and fear-mongering—that greeted needed reforms two decades ago is now threatening to undo this important forward motion. As NYC and state continue to re-balance their responsibility for child welfare investigations while avoiding intrusive and hurtful overreach, we must keep an eye on the facts. Despite the serious claims aired in some media, there is no evidence that they have interrogated these claims, backing them up with the level of investigative journalism, sourcing and documentation they require.

We also must keep in mind the court’s clear guidance: any decision to intervene in a family must be weighed against the psychological harm that could be created by the intervention itself. Hearing in the news about the most serious and devastating cases ACS faces, it can be hard to remember that another 75,000 children come under ACS scrutiny every year. These children also require protection—including protection from threat and fear. We will not keep children safer by ignoring the child welfare system’s own capacity to harm, but we can keep children safer by adjusting our understanding of how to most effectively meet families’ needs.

### **The Key Role of Public Officials in Preventive a “Foster Care Panic”**

False narratives about child maltreatment fatalities are dangerous because they risk investing attention and effort in solutions proven not to work. And, too often when painful images of hurt children dominate the news, calls for accountability have the paradoxical effect of increasing wrongful investigations and removals that harm children, without reducing fatalities.

A significant body of research has documented that heightened coverage of these fatalities drives “foster care panics”—months and years when hotline calls jump and agencies make politically expedient decisions that can devastate families. These deaths represent “extreme outlier cases” but fuel social outrage that “significantly and directly influence child welfare worker decisions” to investigate families, substantiate maltreatment and remove children from home, according to a 2017 study across all 50 states over 22 years. This happened in NYC in 2016, when Zymere Perkins’ death was covered in NYC newspapers 242 times within six months and elected officials fueled social outrage. Over the next three years, ACS involvement skyrocketed, with almost 12,000 more children and their families facing court monitoring than would have been typical.

Public officials asked to respond to individual horrific tragedies can unintentionally fan the flames of sensational media coverage that has more potential to harm than protect children. In

contrast to policy enacted reactively in crises, reforms driven by grassroots advocacy can move New York forward against persistent injustices.

Additional research on “foster care panics”:

- [The Social Outrage Routinization Process in Child Protective Services \(CPS\) System: A Case Study;](#)
- [The Vicious Cycle: Recurrent Interactions Among the Media, Politicians, the Public, and Child Welfare Services Organizations;](#)
- [Scandals, Lawsuits, and Politics: Child Welfare Policy in the U.S. States](#)

### **Background Information on False Claims in NYC Media**

- *Child maltreatment fatalities are rare in NYC, and multiple state and city data points show that they have not changed in frequency in the past 10 years.* There is no indication that child maltreatment fatalities have risen this year. Although it sounds intuitive that foster care decreases might drive fatality increases, the data do not bear this out. Data shows that, in the past 20 years, heightened media coverage of extreme maltreatment cases has increased foster care placements and court monitoring of families but has not reduced child fatalities. It’s also important to note that, at least among the child deaths reported on in the media, none of these stemmed from CARES investigations.
- *NYC and State provide more transparency on child maltreatment fatalities than most cities or states.* The misleading claim that NYC provides less transparency on child fatalities was prominent in a NY1 series last April and in recent reporting. This is not true. Reviews of NYC fatality cases are done by the state Office of Children and Family Services (OCFS), which conducts and publishes detailed reports on each case, in addition to ACS’ own fatality review reports and Department of Investigation reports. In fact, leading child fatalities researcher Emily Putnam-Hornstein recently said that New York is one of the few states that releases longer and more detailed summaries of child deaths and includes a family’s previous history with the system in its fatality reports.

That said, it’s accurate that ACS provides very little information on fatalities when there are surviving siblings and could, under the law, provide basic information, such as the dates of previous investigations and whether they were substantiated, without compromising privacy. If ACS were to provide that basic information to media, inaccurate and incomplete media reporting might be avoided. NYC Family Policy Project also welcome ACS’ announcement that it will reinstate a panel of outside experts to review child maltreatment fatalities and contribute to public reports.

- *There is no evidence that a court-ordered monitor of New Jersey’s child welfare system reduced child fatalities.* A third false narrative, promoted recently by the Daily News and in past coverage by NY1, is that New Jersey’s system enjoys outcomes that are much better than NYC’s and that the state’s child maltreatment fatality rates have dropped as a result of court oversight. Annual child maltreatment fatalities reported from 2016-2022 in New Jersey were: 16, 18, 9, 23, 21, 13, 18, 19, 17, 10, 19, according to federal data. Nothing in that data suggests the efficacy of 10 years of court oversight in reducing child

maltreatment fatalities. In addition, NYC's child maltreatment fatality numbers cannot be directly compared to New Jersey's because substantiation standards are completely different, so it's not at all possible to know how similar fatalities would be classified in NYC.

## **Background Information on CARES**

CARES has been subject to significant misinformation and confusion in NYC, in part because ACS rolled out the expansion in 2020 with misleading claims that it would lead to a "reduction in unwarranted investigations" and "address racial disproportionality." These claims are wholly untrue. CARES is not a bold new practice; it's a type of investigation that has been used in NYC and upstate counties since 2013, as well as used in 20 other states, where it is called "alternative response."

The Narrowing the Front Door Work Group has been reporting on CARES. The information below is drawn from interviews with two dozen CARES staff, ACS leadership, parents who have experienced CARES and their attorneys, as well as data for 2022 and 2023 provided by ACS.

## **CARES - Key Takeaways**

- Collaborative Assessment, Response, Engagement & Support or "CARES" is not new - it has been used in New York City and State since 2013 and is used in 20 other states (called Family Assessment Response upstate and Alternate Response or Differential Response nationally)
  - CARES is not an ACS-developed process; regulations were developed by the state Office of Children and Family Services and training is provided by the state
- CARES is not a service, it's a type of investigation for lower-risk cases
  - It begins with a 7-day safety assessment that is nearly identical to the safety assessment protocol used in all investigations
  - All CARES staff are investigators who have been through the full investigative training
  - CARES investigators have typically been on the job at least 18 months prior to assignment to CARES units
  - CARES is part of the ACS Division of Child Protection, which is responsible for all investigations (it is not part of Preventive Services)
- CARES cases can become investigations at any time and all information provided to ACS during a CARES case can be used against the family in court (and is recorded in CONNECTIONS, the ACS information database).
  - 13% of CARES cases became an investigation in 2023, according to ACS data
  - 3% of CARES cases resulted in indication; .8% resulted in removal in 2023
- CARES is "voluntary" in that parents can refuse CARES, but that will result in an investigation

- ACS must investigate all reports referred by the hotline, whether through CARES or a typical investigation
- CARES cases are often more intrusive for families, as CARES requires meetings with all family members and required documentation in CARES asks parents to divulge extensive information about family needs even when children are determined not to be in any danger
  - ACS data shows that CARES investigators are in the home more often in CARES than in other investigations
  - 75% of CARES cases last 40-60 days, just as long as an investigation
  - In an investigation, parents have a right not to allow ACS to enter the home without a court order, but the CARES protocol requires in-home visits and it is unclear whether parents can assert this right in CARES
  - CARES staff are intensely trained to “help” families, placing families under high pressure to accept referrals they may not want or need, adding stress
- CARES can have some benefits in reducing the threat and harm of investigation
  - CARES begins with a phone call and an appointment, rather than a knock on the door
  - Cases are neither substantiated or unsubstantiated, so parents’ names are never placed on the State Central Register, which is serious and can impact employment

## **CARES - Deeper Dive**

When the Administration for Children’s Services announced the expansion of its CARES program in October, 2020, months after George Floyd’s murder, the agency was under fire for its treatment of Black and Latino families. The agency’s 2019 [Equity Action Plan](#) documented that Black children enter foster placements and have longer stays than other children, while an [internal report](#) described ACS as a “predatory system that specifically targets Black and Brown parents.”

ACS cast CARES as an exciting anti-racist strategy. “CARES means more support for families and a reduction in unwarranted child welfare investigations,” read the press release, quoting then-Commissioner David Hansell as saying, “This expansion is a critical component of our Equity Action Plan and just one more step ACS is taking to address racial disproportionality.”

In fact, CARES is not a novel approach and it doesn’t reduce investigations—it *is* an investigation. Called “alternate response” nationally, CARES is a type of child protective investigation for lower-risk cases that is used in 20 states and was first piloted in NYC in 2013.

Now, news reports have painted the mainstream practice as radical, with “whistleblower” CPS investigators asserting that they “can’t keep children safe” with CARES. On the flip side, parents and attorneys and advocates who have experienced CARES cases report that, far from a light touch, New York City’s implementation of CARES represents a new form of investigative overreach. State regulations require CARES investigators to scrutinize family issues well beyond children’s safety, often visiting the home more often than in a traditional investigation.

The Narrowing the Front Door Work Group began reporting on CARES last year. Below is some information that we hope can begin to clarify what CARES is, how it works, and what is concerning about this approach. This is based on two dozen interviews—with CARES frontline staff, supervisors and training personnel; with ACS leadership; and with parents with CARES cases and family defense attorneys. It also draws on 2022 and 2023 data provided by ACS.

## **What is CARES?**

CARES is the NYC name for a kind of investigation designed to address lower-risk cases. Intended to be less invasive and to emphasize working with the family to assess and address needs through referrals to services, the approach was envisioned as a way to more effectively respond to common family challenges in low-risk cases, such as teen truancy, housing instability, or basic resource needs.

After beginning to pilot the approach 11 years ago, ACS expanded CARES to all five boroughs in 2020 and further expanded the number of CARES units over the past two years. Now, one-quarter of all reports from the hotline are routed to CARES.

In NYC, nearly 40% of CARES cases respond to reports by education personnel, which CARES investigators report often involve teenagers not attending school despite parents' efforts or younger children not attending because of transportation issues for families doubled up or in shelter, not having appropriate warm clothing, or because parents are facing significant challenges, like imminent eviction, and struggling to maintain family routines. In many cases, direct referrals to community support organizations would be more effective.

That said, CARES also takes on cases that may include more serious issues, such as children left alone, or drug or alcohol abuse. When hotline reports come in, a unit within the Division of Child Protection reviews the allegations in the report and past history of the family with ACS to decide whether the case can be tracked to CARES.

CARES is not an ACS invention or design. New York State's child welfare agency, the Office of Children and Family Services (OCFS) developed the CARES regulations and trainings. All ACS CARES staff are trained by OCFS, with follow-up training and coaching by ACS.

## **How is CARES different from a regular investigation?**

CARES, like an investigation, may last up to 60 days and begins with a safety assessment. CARES is different from an investigation in a few ways.

- First, most CARES cases begin with the investigator calling the parent to set up a time to meet, whereas investigations begin with the investigator knocking on the parent's door. CARES is slightly less threatening and more respectful in that way.
- Second, both CARES and an investigation begin with a safety assessment that must be completed within 7 days. In that safety assessment, ACS investigators speak with "collateral contacts" such as a child's teacher, doctor and neighbor, as well as ask parents to sign a HIPAA agreement for investigators to review medical and mental health records.

However, even in a CARES assessment, the family has a little control over these contacts, such as being able to decide which neighbor and which teacher the ACS investigator will speak to.

- In a CARES case, if the safety assessment shows that there are no safety risks, the case can be closed quickly. In theory, many cases should close soon after the 7-day assessment, but so far, ACS investigators have been hesitant to close CARES cases quickly. In 2023, only 7% of CARES cases closed in less than 20 days, while 75% of CARES cases remained open for 40-60 days, similar to investigations.
- At any point in a CARES case, if the investigator believes the child may be in danger, the CARES case can be re-tracked to an investigation. In 2023, 13% of cases opened as CARES were re-tracked to an investigation. However, there is no indication that serious cases are being inappropriately tracked to CARES. Only 3% of all cases opened as CARES in 2023 became indicated investigations, and less than 1% (.78%) resulted in removal.
- Third, in a CARES case, the focus is less on proving or disproving the allegation and more on addressing family needs. Typical investigations rarely act as a pathway to resources for the family. A 2024 Urban Institute and Chapin Hall study, for example, found that only 7% of families referred to services during investigations in NYC from 2014-2019 actually complete them, accounting for just 1% of all families in investigations. With one-quarter of unsubstantiated investigations resulting in a repeat investigation, one promise of CARES is that it could more often address needs and family challenges, and some studies have shown lower repeat investigations with alternate response cases.
- CARES investigators use an OCFS-developed assessment tool called the FLAG to assess families' broader needs across a number of domains, such as housing stability. Both families and ACS report that CARES involves significant time spent in the home by ACS investigators—more than during a typical investigation. In 2023, 53% of CARES cases included 4-6 in-home contacts with the family, and 3% included more than 6 in-home contacts.
- Fourth, families in both CARES and other investigations may be referred to ACS preventive services. While technically voluntary, families may feel significant coercive pressure to enroll in these services to avoid an escalation of ACS involvement. If a family enrolls in preventive services through a CARES investigation, they enroll as an “advocates case,” which means that their preventive service records will not be accessible to ACS. ACS would have access to all ACS-contracted preventive services records for families enrolling through an investigation.
- Lastly, in a CARES case, there is no determination of whether the allegations were true or not. The allegations are neither substantiated nor unsubstantiated. For families who would have had a substantiated allegation in an investigation, this means that their names are not placed on the State Central Register indicating that they have maltreated their

child, which is serious and can impact employment. For instance, a parent may have kept their child out of school inappropriately and, in an investigation, would have been indicated for educational neglect. In a CARES case, there would be no indication and therefore no placement on the registry. This is a significant advantage for families through CARES.

### **Is CARES part of ACS Preventive Services?**

No, CARES is not a service. CARES is not part of ACS' Preventive Services Division, or any part of the spectrum of child welfare-contracted preventive services. CARES is part of the Division of Child Protection, which is responsible for responding to abuse and neglect reports called in to the state hotline and referred to ACS for investigation.

In September, ACS Commissioner Jess Dannhauser walked back language suggesting that CARES is nothing more than a benign pathway to support, emphasizing publicly, "No one should be calling the SCR for CARES. CARES is a safety assessment. CARES is an intervention."

ACS had described CARES in such glowing terms that people were calling the state child abuse and neglect hotline to "get CARES" for families, or asking ACS how to "refer families to CARES." CARES is not a service to provide resources and support to families. It is a safety assessment by ACS investigators that can be switched to the investigative track at any time, resulting in an indicated case and/or removal, although it's rare, with only .8% of cases beginning as CARES resulting in removal in 2023.

### **Is CARES voluntary?**

Yes and no. ACS is required under the law to investigate all reports referred by the hotline, whether through a typical investigation or CARES. If a case is routed to CARES, the CARES investigator reaches out to the family by phone to explain CARES, ask if the family is agreeing to a CARES investigation and schedule a first visit to the home. If a parent does not want a CARES case, the case is transferred to an investigations unit and is treated as an investigation. So, it's voluntary to participate in the CARES approach, but there is no way to opt out of any investigation. Parents have reported significant confusion about what it means to agree to or refuse a CARES case.

A parent may not want a CARES case because CARES requires families to cooperate extensively with ACS. In an investigation, the family does not have to cooperate. Under CARES, ACS must hold a number of meetings with all family members in the household. In an investigation, a parent can refuse entry, withhold information about "collateral contacts" like teachers or doctors that the investigator would want to interview, refuse to sign a HIPAA granting access to medical records, etc. In those circumstances, ACS would have to get a court order to access the home and this information. If a family took those actions in a CARES case, ACS could simply convert it to an investigation and seek a court order.

A family also might not want a CARES case because, under CARES, there is no determination of whether the allegations were true or not. The allegations are neither substantiated nor



unsubstantiated. Parents who want to be cleared of any wrongdoing may opt for an investigation instead of a CARES case. (That can be especially important in any ongoing custody dispute.)

### **Are there safety risks with CARES?**

Some CARES staff have spoken to the media anonymously to say that they "can't keep children safe" under CARES, although details were not provided. In one upstate county, Monroe County, Family Assessment Response (as CARES is called upstate) was halted in response to safety concerns, and this is true in other states as well. Yet 20 states continue to use alternate response, often for a high percentage of cases.

Under New York State regulations, certain types of lower-risk cases can be routed to alternate response, and these cases are flagged to ACS. However, ACS applies additional exclusionary criteria to case selection. A secondary review of flagged cases is done by trained Child Protective Investigators, who review case records and route some of these potentially eligible cases back to investigations. It's important to note that these staff and all CARES staff have gone through the entire investigative training at ACS. Few CARES staff having been on the job as investigators for less than 18 months at the time they begin with CARES units.

To date, no child maltreatment fatalities publicly reported on in the media have been CARES cases. Fewer than 3% of CARES cases have resulted in an indicated investigation and fewer than .8% of CARES cases have resulted in removal, which may indicate that these cases carry minimal risks.

### **What problems are parents and advocates seeing with CARES?**

- **Protecting parents' rights:** Although ACS protocol in all investigations, including CARES, is to provide written information letting parents know that they can refuse entry and access legal representation, it is unclear how parents can assert this right in CARES cases. CARES staff have been trained that regulations require a visit to the home, and, in interviews, it was unclear that ACS is prepared to hold family meetings outside the home at parents' request. In addition, it is unclear whether parents can refuse to engage with some invasive parts of the CARES protocol, such as supplying extensive information on family needs for the FLAG. The CARES protocol and FLAG risk of widening the net well beyond "risk" to "family needs," expanding surveillance.
- **Coercion:** ACS emphasizes that CARES is collaborative but any "partnership" that comes with the threat of child removal is inherently coercive. Families as well as ACS investigators report that there is a lot of pressure on CARES staff to "help" families and for families to accept referrals to resources and services made through CARES. OCFS training, in particular, emphasizes the need to help families—even though many families with CARES cases may have been inappropriately reported and may not need or want help through ACS. Often, services add stress to families during times of challenge, without addressing families' most important needs. Families have a right not to be coerced into services and training should better emphasize that, without a court order, parents cannot be required to enroll in services or access particular resources.

- Slow case closure: Although the Commissioner testified that CARES cases are completely voluntary after the first 7 days, and CARES regulations state clearly that cases can close when the safety assessment shows no safety concerns, parents are not advised that the case can close at this point and that any further engagement around resources and support is optional. Paperwork required for the “FLAG” assessment of family needs also can be burdensome, extending case times when there is no safety concern. ACS should provide notice to families at the time that case closure is an option; ensure that families understand that resource referrals are optional; and work to reduce case lengths.
- Confusion: Because many people don’t know what CARES is, parents seeking guidance from friends and family, community groups, or others when facing a CARES investigation may not be advised to seek legal representation. All information in a CARES case can be used against a parent in court. It’s important that CARES is widely understood to be a type of ACS investigation.

### **Is there a good reason for ACS to use CARES in some cases?**

Yes, NYC does need methods to reduce the intrusion, terror and harm of investigations. A lawsuit filed last year [documented the grim experience of an investigation](#), with a knock on the door coming late at night, parents frequently met at the door by police or the threat of police action, and children required to speak to investigators out of sight of their parents and to be strip-searched.

In theory, CARES cases can be less intrusive, can close quickly and can be more conducive to connecting families to supportive resources, which might reduce repeat investigations. Much needs to change in how CARES is delivered but it is important that ACS begin to address lower-risk cases in ways that cause less trauma and fear for families and do not result in an indication in the State Central Register.

New York City Council  
**Committee on Children and Youth**

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**Oversight – Examination of ACS’s Preventative Services Programming  
December 12, 2024**

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**Testimony of The Legal Aid Society**

199 Water Street  
New York, NY 10038  
(212) 577-3300

December 12, 2024

Prepared by:  
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## **Introduction**

The Legal Aid Society thanks Chairperson Althea Stevens for holding this hearing focusing on supporting the needs of families. We strongly urge the City Council to continue to exercise its oversight powers to ensure that adequate and effective preventative services are available to youth who are either at-risk of involvement or already involved with the legal system as the result of a child protective investigation. Preventative services and programs are especially essential to assist in maintaining familial bonds. Further, children who are returning home after being removed from their families by the child welfare system, or what advocates now call the family regulation system are often in dire need of free and comprehensive mental health programming. Removals are one of the most traumatizing and harmful events that can happen to a child in contact with the family regulation system. Identifying the most effective ways to provide these services is critical. A pilot program would provide information to determine the best way to offer important and timely support to the children who need it.

## **About The Legal Aid Society**

The Legal Aid Society is the nation's largest and oldest provider of legal services to low-income families and individuals. The Society operates three major legal practices – Civil, Criminal and Juvenile Rights – providing comprehensive legal services throughout New York City. The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States, and it brings a depth and breadth of perspective that is unmatched in the legal profession.

Legal Aid's Juvenile Rights Practice provides legal representation to children who appear before the New York City Family Courts in all five boroughs, in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Our staff typically represent approximately 30,000 children each year. Our perspective comes from our daily contacts with children and their families, and from our frequent interactions with the courts, social service providers, and State and City agencies whose practices impact our clients and their families. In addition to its individual representation, The Legal Aid Society also seeks to create broader, more powerful systemic change for society as a whole through its law reform representation. These efforts have benefitted some two million low-income families and individuals in New York City and the landmark rulings in many of these cases have had a state-wide and national impact. Our experiences engaging in courtroom and other advocacy on behalf of our clients as well as through coalition building with other stakeholders informs our testimony.

## **New York City Must Change the Way It Provides Preventive Services to Families Who Need Them**

Research shows that removing children from their families of origin and placing them in foster care is traumatic and raises long term risks to the children's well-being. These risks include poor school performance, homelessness, justice system involvement, and poor health outcomes, even

compared to children from similar socioeconomic backgrounds who remain with their families.<sup>1</sup> In the face of this reality, New York has led the nation in reducing the census of children in foster care while simultaneously enhancing services that enable children to remain safely at home with their families. In New York City, the number of children in foster care declined by about 50 percent from 2002 to 2012,<sup>2</sup> and has continued to decline to 6,467 in 2024.<sup>3</sup>

The Family First Prevention Services Act (FFPSA) was enacted in 2019 and “authorized new optional title IV-E funding for time-limited prevention services for mental health, substance abuse, and in-home parent skill-based programs for children or youth who are candidates for foster care, pregnant or parenting youth in foster care, and the parents or kin caregivers of those children and youth.”<sup>4</sup> Preventive services can reduce child abuse and neglect, improve parental resilience, build stronger social connections and positive child development and increase access to concrete supports such as housing and transportation.<sup>5</sup> National child welfare experts and the state and federal government have recognized that these strategies support and preserve families and promote child safety and well-being.<sup>6</sup>

The Title IV-E Prevention Services Clearinghouse was established “to conduct an objective and transparent review of research on programs and services intended to provide enhanced support”

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<sup>1</sup> Vera Institute of Justice, Child Welfare Policy Brief, *Innovations in NYC Health and Human Services Policy*, January 2014 [hereinafter “Vera Institute Policy Brief”] (citing Allen, et al., 1997, *Assessing the Long Term Effects of Foster Care: A Research Synthesis*. Child Welfare League of America).

<sup>2</sup> NYC foster care census was 26,337 in 2002 and 13,289 in 2012. Vera Institute Policy Brief (citing statistics reported by the NYC Administration for Children’s Services in addition to statistics reported by the U.S. Department of Health and Human Services reflecting nationwide decrease in foster care population of approximately 23 percent for the same time period).

<sup>3</sup> As of September 2024; Snapshot of Children Receiving ACS Services – Foster Care, accessed December 6, 2024, at <http://www1.nyc.gov/site/acs/about/data-policy.page>.

<sup>4</sup> U.S. Department of Health and Human Services, Title IV-E prevention program, THE ADMINISTRATION FOR CHILDREN AND FAMILIES (2024), <https://www.acf.hhs.gov/cb/title-iv-e-prevention-program> (last visited Nov 25, 2024).

<sup>5</sup> Casey Family Programs, *Community-Based Family Support, Exemplars with Implementation and Evaluation Strategies*, May 2016; Center for Disease Control, *Preventing Child Abuse and Neglect: A Technical Package for Policy, Norm, and Programmatic Activities*, 2016; Center for the Study of Social Policy, *Strengthening Families Through Early Care & Education, Protective Factors Literature Review*, September 2003; Child Welfare Information Gateway, *Child Maltreatment Prevention: Past, Present, and Future*, Issue Brief July 2011; Jacquelyn McCroskey & William Meezan, *Family-Centered Services: Approaches and Effectiveness*, *Protecting Children from Abuse and Neglect*, Vol. 8, No. 1, Spring 1998; New York City Independent Budget Office, *A Changed Emphasis in City’s Child Welfare System: How Has Shift Away from Foster Care Affected Funding, Spending, Caseloads?*, Fiscal Brief October 2011.

<sup>6</sup> Casey Family Programs, *Community-Based Family Support, Exemplars with Implementation and Evaluation Strategies*, May 2016; Center for Disease Control, *Preventing Child Abuse and Neglect: A Technical Package for Policy, Norm, and Programmatic Activities*, 2016; Center for the Study of Social Policy, *Strengthening Families Through Early Care & Education, Protective Factors Literature Review*, September 2003; Child Welfare Information Gateway, *Child Maltreatment Prevention: Past, Present, and Future*, Issue Brief July 2011.

under the FFPSA.<sup>7</sup> The Clearinghouse categorizes and ranks services as “well-supported,” “supported,” “promising,” and “not currently meeting criteria.”

New York currently offers ten programs that are “well-supported,” and thirteen that are “supported.”<sup>8</sup> The preventive services offered through the Administration for Children’s Services (“ACS”) are intended to help keep families together and children safely at home. The preventive services spectrum includes services focused on mental health, substance abuse, domestic violence, exploited youth, special medical needs, home care services, and aftercare.<sup>9</sup> ACS now makes these programs available to families even when they do not have an open investigation.

Many of the preventive services offered by ACS focus on therapy or behavior-modification/correction. While it is critical to have robust mental health services available, it is as critical to provide tangible, material supports to families. To that end, City Council should champion efforts to alleviate the stress poverty places on families and focus on reducing stressors caused by a lack of affordable housing, childcare, healthcare, and available employment. We know that providing material support to families often alleviates the need for child welfare intervention given the deep ties between poverty and alleged neglect. On the strength of this growing understanding, the NYS Office of Children and Family Services, among other agencies operating in New York City and nationally, have begun to conduct pilot programs to test the impact of direct cash infusions to families. The preventive milieu must offer more direct cash assistance to families to reduce the myriad harms caused by poverty.

Furthermore, fear of child welfare intervention can deter families from seeking services because such supportive services offered by the family regulation system are often staffed by individuals who are mandated reporters to the NYS Central Register of Child Abuse and Maltreatment. In addition, the staff of these service providers may be influenced by the fact that ACS funds them, thereby creating a conflict of interest between the family’s need for confidential support and the provider’s need to protect their contract with ACS. Indeed, the ACS’s own webpage for preventive services states: “If your case worker believes that your children are at risk or unsafe, at any time during your case; you and other providers who are involved with your family, will be invited to participate at a conference to prevent potential harm to your children.”<sup>10</sup> While it is important to clearly inform families that preventive-service involvement can lead to child removal and Family Court involvement, it is also obvious why families might be hesitant to seek assistance from a government agency that then has the power to remove their children, even if they find themselves in dire straits.

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<sup>7</sup> ACF, Welcome, TITLE IV-E PREVENTION SERVICES CLEARINGHOUSE, <https://preventionservices.acf.hhs.gov/> (last visited Nov 25, 2024).

<sup>8</sup> Prevention Services Clearinghouse, Programs and services reviewed, TITLE IV-E PREVENTION SERVICES CLEARINGHOUSE, <https://preventionservices.acf.hhs.gov/program> (last visited Nov 25, 2024).

<sup>9</sup> ACS Preventive Services, accessed December 12, 2024, at <https://www.nyc.gov/site/acs/for-families/prevention-services.page>.

<sup>10</sup> <https://www.nyc.gov/site/acs/for-families/prevention-services.page>.

Therefore, while the material and therapeutic assistance offered by preventive services is critical, there must be a fundamental shift in how preventive services are provided. Specifically, the system must pivot from providing funding to ACS for services overseen by the family regulation system, and instead towards funding services in the community, with concurrent emphasis on training the organizations that staff these services to further minimize the number of unnecessary reports to the family regulation system. This important shift must take place if we want to move the system away from being used to surveil families and towards providing meaningful assistance without the threat of court involvement or child removal. In this way, services can better serve struggling families who need support but are deterred due to fear of the potential stigma and the risk of being pulled deeper into systems-involvement.

The proposed NYS Child and Family Well-Being Fund<sup>11</sup> is one example of a step in the right direction. The Child and Family Well-Being Fund aims to combat community distrust in the system by authorizing funding for small, community-based nonprofits, empowering communities without triggering a child welfare response. It would provide resources to trusted organizations identified by community members that are too small to easily access other government funding streams but that help families avoid system entanglement. In this way, the Fund would enhance the neighborhood conditions needed for families to thrive. New York City should explore this model to determine how to best dramatically improve funding for community-based assistance.

ACS has significantly reduced the number of children pulled into the family regulation system by leaning into the preventive model. That is commendable. However, the time has now come to protect family privacy and integrity for families seeking help by providing material and therapeutic support without the threat of mandatory reporters or the coercive surveillance of the state.

### **The CARES Investigation Track Does Not Achieve Its Purported Goal**

New York City must take additional steps to reduce surveillance of families who are struggling and in need of support. In New York City, ACS now offers a differential response program called the Collaborative Assessment, Response, Engagement & Support (“CARES”) track. Although we support diverting families reported to the NYS Central Register (SCR) away from the investigative track when a child is not in imminent danger of serious child abuse, in practice, the current CARES paradigm falls short of supporting rather than surveilling families. On October 9, 2024, Commissioner Jess Dannhauser testified before the New York State Assembly’s Hearing on the SCR and reported that 20% of families are being diverted to CARES.<sup>12</sup> A core tenet of the program is a faster final determination, and therefore ostensibly a shorter period of surveillance.

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<sup>11</sup> [https://scaany.org/wp-content/uploads/2023/02/Child-Family-Wellbeing-Fund-One-pager\\_02012023.pdf](https://scaany.org/wp-content/uploads/2023/02/Child-Family-Wellbeing-Fund-One-pager_02012023.pdf).

<sup>12</sup> [https://nystateassembly.granicus.com/player/clip/8612?view\\_id=8&redirect=true](https://nystateassembly.granicus.com/player/clip/8612?view_id=8&redirect=true)

CARES track case safety determinations are supposed to be made within 7 days, after which participation in the program is optional. However, 80% of those families in 2022 and 75% of families in 2023 were involved in CARES for between 41 and 60 days<sup>13</sup> – which is the length of a traditional investigation. Only 6% were closed in under 20 days.<sup>14</sup> Further, while this is described as a “voluntary” program, many families participating in CARES do so under the threat of investigation by ACS and without notice that they can opt out. In addition, ACS always maintains the ability to remove a child on an emergency basis. The nature of the program raises concerns as to whether families are receiving fewer due process protections in this differential response model, reserved for less serious cases, than in a traditional investigation.

In addition, the coercive nature of this model can undermine its effectiveness. Families and family advocates know first-hand that the coercive power wielded by ACS can be strong.<sup>15</sup> When supportive services are tethered to the threat of family separation, families often fear ramifications for disclosing their challenges, undercutting the efficacy of the services CARES intends to provide. For CARES to carry out its mandate of diverting families away from investigation and towards voluntary support, the program must make meaningful change. We recommend this committee hold a hearing with respect to CARES.

### **Increased Access to Mental Health Services for Youth Who Cannot Afford Them is Direly Needed.**

For many children, being pulled into the foster care system is often experienced as a significant trauma. Exposure to unprocessed trauma can lead to a myriad of negative outcomes, including higher rates of contact with the juvenile legal system.<sup>16</sup> Some children exit care with no access to free mental health services to assist them with processing their experience of having been removed from the parent, working through their experiences within the foster care system, and reintegrating with their families. NYC youth have emphasized their own needs for mental health services in their 2023 Youth Agenda.<sup>17</sup> According to the Youth Ask Youth Census, over 35% of youth did not have access to mental health services when they needed them, and almost 30% of surveyed youth could not access medication, support groups, trusted people to speak with, or general counseling when they needed it.<sup>18</sup> As outlined above, young people urgently need interventions that offer care and support, not surveillance and punishment. New York City must provide timely access

<sup>13</sup> These statistics come from a set of raw data prepared by ACS, but not yet published.

<sup>14</sup> Id.

<sup>15</sup> See, e.g. Kelley Fong, *Investigating Families: Motherhood in the Shadow of Child Protective Services* (2023) (“[L]eaning into CPS’s helping role does not negate its coercive power.... [S]upport through [ACS] remains inextricably tethered to surveillance; the promise of care is inseparable from the threat of removal... [D]ifferential response often gives families essentially the same thing [as traditional ACS intervention] in different wrapping paper.”)

<sup>16</sup> Intersection between Mental Health and the Juvenile Justice System, Literature Review: A Product of the Model Programs Guide, Office of Juvenile Justice & Delinquency Prevention (July 2017), [https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/intsection\\_between\\_mental\\_health\\_and\\_the\\_juvenile\\_justice\\_system.pdf](https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/intsection_between_mental_health_and_the_juvenile_justice_system.pdf).

<sup>17</sup> See <https://yvotes.org/nyc-youth-agenda/>

<sup>18</sup> Id.



to mental health services for children who cannot afford them at critical junctures when we know they need them.

### **Int. No. 0652-2024**

The Legal Aid Society supports all meaningful efforts to provide mental health services to youth, particularly those who experience trauma related to being removed from their families and placed into foster care.

Removal of children from their families causes lasting harm to that child. Regardless of how long the separation between parent and child, harm that children experience sweeps broadly, negatively affecting a child's psychology and compromising their personal safety and interpersonal well-being.<sup>19</sup> Children removed into foster care also face a heightened risk of developing emotional and behavioral issues, persisting long after reunification with their parents, including trouble sleeping, overreaction to perceived threats,<sup>20</sup> attachment issues,<sup>21</sup> and aggression.<sup>22</sup> Among children separated from their families, rates of post-traumatic stress disorder are nearly twice that of veterans returning from combat.<sup>23</sup> The consequences of untreated mental health challenges in children and adolescents correlate with poor academic achievement, teenage pregnancy, unstable employment, substance use, behavioral challenges, and poor medical outcomes.<sup>24</sup> As one of the most devastating consequences of untreated mental health conditions, suicide is the second leading cause of death in youth between 10 and 24 years old.<sup>25</sup>

In his testimony before the City Council on December 12, 2024, Commissioner Dannhauser clarified that all children exiting foster care are eligible for continuity of mental health services for a

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<sup>19</sup> Vivek Sankaran et al., *A Cure Worse than the Disease? The Impact of Removal on Children and Their Families*, 102 MARQ. L. REV. 1161, 1166-67 (2019).

<sup>20</sup> Hajar Habbach, Kathryn Hampton & Ranit Mishori, "YOU WILL NEVER SEE YOUR CHILD AGAIN": THE PERSISTENT PSYCHOLOGICAL EFFECTS OF FAMILY SEPARATION 20 (Physicians for Human Rights, Feb. 2020).

<sup>21</sup> *Key Points: Traumatic Separation and Refugee & Immigrant Children*, THE NATIONAL CHILD TRAUMATIC STRESS NETWORK, [https://www.nctsn.org/sites/default/files/resources/tip-sheet/key\\_points\\_traumatic\\_separation\\_and\\_refugee\\_immigrant\\_children.pdf](https://www.nctsn.org/sites/default/files/resources/tip-sheet/key_points_traumatic_separation_and_refugee_immigrant_children.pdf).

<sup>22</sup> Hajar Habbach, Kathryn Hampton & Ranit Mishori, "YOU WILL NEVER SEE YOUR CHILD AGAIN": THE PERSISTENT PSYCHOLOGICAL EFFECTS OF FAMILY SEPARATION 20 (Physicians for Human Rights, Feb. 2020) (describing how symptoms were not resolving even after reunification).

<sup>23</sup> PETER J. PECORA, ET AL., IMPROVING FAMILY FOSTER CARE: FINDINGS FROM THE NORTHWEST FOSTER CARE ALUMNI STUDY 1 (2005), [https://casefamilypro-wpengine.netdna-ssl.com/media/AlumniStudies\\_NW\\_Report\\_FR.pdf](https://casefamilypro-wpengine.netdna-ssl.com/media/AlumniStudies_NW_Report_FR.pdf).

<sup>24</sup> Mental Health of Adolescents Fact Sheet, World Health Organization, <https://www.who.int/news-room/fact-sheets/detail/adolescent-mental-health#:~:text=Suicide%20is%20the%20third%20leading%20cause%20of,opportunities%20to%20lead%20fulfilling%20lives%20as%20adults>.

See also, How Mental Health Disorders Affect Youth, Youth.Gov, <https://youth.gov/youth-topics/youth-mental-health/how-mental-health-disorders-affect-youth#:~:text=The%20parental%20relationship%20is%20challenged%2C%20which%20may,difficult%20family%20interactions%20leads%20to%20social%20isolation>.

<sup>25</sup> American Academy of Pediatrics, School-Based Mental Health: Pediatric Mental Health Series, <https://www.aap.org/en/patient-care/mental-health-minute/school-based-mental-health>.

year following discharge. However, numerous community members, particularly people with lived experience as parents or children in the system, testified about a total absence of mental health support. We support increasing long-term mental health services for youth removed from their homes and subsequently reunified. All children placed into foster care who return to their families should have access to timely, consistent, and sustainable mental health and social-emotional support and services.

### **Int. No. 9-A**

While we support the provision of early legal representation in ACS investigations, the current bill should be amended. At the outset, The Legal Aid Society is concerned that Int. No. 9-A as drafted only requires notice to a parent about legal counsel after the case has been indicated – in other words, after the investigation has been conducted and concluded. Specifically, the current definition of “Covered Proceeding” in Int. No. 9-A is: “an ACS child protective investigation following an indicated report in such investigation pursuant to section 424 of the New York state social services law.” However, the critical moment when a parent (and child) must be informed of their rights is at the beginning of the ACS investigation. An investigation may be indicated or unfounded 60 days after it has commenced, and it is critical that families are made aware of their rights from the first moment of contact with ACS. Thus, the language of Int. No. 9-A should be amended to define “covered proceeding” as: “the first contact between an ACS caseworker and a parent during the ACS child protective investigation initiated pursuant to Section 424 of the New York State Social Services Law.” Additionally, we urge the addition of a provision requiring similar information be given to children over the age of seven whenever CPS is speaking with them outside the presence of their parents or guardians.

Further, Int. No. 9-A does not go far enough to support more fulsome protection of the family right to privacy and integrity and merely codifies what ACS is already doing. In testimony before City Council, Commissioner Dannhauser testified that all parents currently receive basic information about legal representation at the first point of contact.<sup>26</sup> However, advocates know first-hand that the provision of a phone number for family advocates is not enough to protect a family. We call for the City Council to issue a resolution in support of the proposed New York State legislation known as the Family Miranda Rights Act. The Family Miranda Rights Act goes well beyond Int. No. 9-A towards ensuring that parents are fully informed of their rights. Currently, in New York State, ACS is not required to inform parents of their rights at any point during a child protective investigation – including the fact that, absent a court order, a parent need not speak with a CPS worker or permit the worker to enter their home, or provide information or submit to drug testing. They also need not be advised that they are entitled to be informed of the allegations against them and to have an attorney present during any interview by CPS. During that 60-day investigation period children can be subject to strip searches (even where the allegations do not involve any acts of physical or sexual abuse), children can be pulled from their classes during school, and children are subject to invasive

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<sup>26</sup> Testimony of the Administration for Children’s Services before the Committee on Children and Youth, Oversight – Examination of ACS’s Preventative Services Programming, December 12, 2024.

questioning by strangers. The Family Miranda Rights Act would require workers to inform parents and caretakers of their rights at the start of an investigation, and we ask the City Council to support this effort.

### **Conclusion**

Thank you again to the Committee on Children and Youth for looking closely at the preventive services offered in New York City and considering improvements to the current service milieu. We ask that New York City Council adopt our recommendations, continue to work to decouple preventive services from state surveillance, and prioritize access to adequate, timely, and effective preventative services for youth and their families who are at-risk of involvement or already involved with the family regulation system as the result of an investigation.

We are happy to answer any questions.

### **CONTACT:**

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**From:** [Mari Moss](#)  
**To:** [Testimony](#)  
**Subject:** [EXTERNAL] ACS testimony on domestic violence and trauma to survivor parents and children\*\*  
**Date:** Thursday, December 12, 2024 1:51:49 PM

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thank you chair althea Gibson for hosting this hearing

Mari moss regional representative for the community action board dycd for east harlem and central harlem provides millions of dollars of federal funding to ACS and the providers of the ACS among other city agencies

I also serve on the mayors task force for end gender and domestic based violence.

I am in support of 0009 report to parents

And 0652 mental health services

Seven years ago, my life was irrevocably altered, and the trauma of that time continues to echo not only in my life but also in the lives of my three daughters, whom I affectionately call my “little Harlem girls.” They were just 2, 4, and 6 years old when I became a victim of domestic violence at the hands of my then-husband. At the time, I was pursuing a master’s degree in Public Administration at MCNY, working in city government, and developing an economic theory to reduce poverty in Harlem. My trajectory was promising, but it all came to a halt when the court system failed me.

After enduring multiple instances of physical, verbal, and mental abuse, I called the police during a

particularly violent episode where my husband threw me to the ground while I was already in a cast. Instead of protection, I was met with systemic failure. The courts sided with my abuser, leaving me homeless, alienated from my children, and forced to endure unimaginable grief.

My experience with ACS only deepened this pain. I was limited to seeing my daughters under their supervision, which exacerbated the trauma. In one particularly egregious incident, an ACS worker, Beatrice Bennon, assaulted me in front of my children as I documented the abuses I was experiencing. I captured the entire incident on video. My youngest daughter, just two years old at the time, clung to my leg, pleading to the ACS workers “I’m going to roar at you like a dinosaur and put you in jail.” Even at that tender age, she recognized the injustice.

As I reassured her that I loved her and promised to protect her, ACS staff forcibly pried her away, despite her cries and desperate reach for me. That moment—my daughter’s terror and my helplessness—remains etched in my memory. Since that day, access to my children has been severely restricted, despite my ongoing efforts to advocate for them and rebuild my life.

This systemic failure goes beyond my personal story.

ACS, an agency tasked with protecting children and families, has often failed in its mission. Its lack of oversight has allowed instances of sexual exploitation, trafficking, and abuse by unvetted consultants and untrained staff within its ranks. These grave injustices, coupled with the systemic endorsement of domestic violence and parental alienation, have caused irreparable harm to countless families.

As a member of the Mayor's Task Force to End Gender-Based and Domestic Violence, I am appalled that such egregious violations can persist within city agencies, funded by taxpayer dollars. If ACS were truly part of the solution, such atrocities would never occur.

I am urgently calling for:

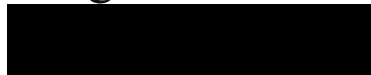
1. **A Joint Committee Investigation** involving the Women's Committee, Judiciary, ACS Oversight, Public Safety, and Investigations to examine the systemic failures within ACS. We need to fact check commissioners and what they testify to vs. what is actually happening within the agencies, because sometimes Commissioners are not always aware of what is actually happening. CRM tracking services and involvement can help provide understanding in this regard.
2. **Independent Oversight** to ensure proper vetting of staff and consultants and the implementation of

safeguards to protect children and families as well as trainings for sensitive matters of domestic violence and other forms of abuse within families.

**3. Reparations and Accountability** for survivors of parental alienation and abuse at the hands of ACS and the court system corrective actions are needed for mistakes made by the agencies.

This is not just a personal issue—it is a matter of public safety and justice. The city must confront this crisis head-on and implement meaningful reforms to prevent further harm to families.

The Honorable Mari Moss, MPA  
Mother of Calia, Sophia and Anya  
Community Action Board Region 9  
Neighborhood advisory Board 10



Sent from my iPhone

**TESTIMONY OF:**

**Maria Hernandez**

**Social Work Student and Impacted Parent**

**Presented Before**

**The Committee on Children and Youth**

**Regarding Int 0652**

My name is Maria Hernandez, I am a current social work student and an impacted parent. My daughter was removed from my care at four months, a critical stage for us to continue to bond to form a secure attachment. The American Academy of Pediatrics states that family separation can be irreparable having lasting emotional consequences and affect their long and short-term health. People believe the idea that because the child is still an infant, they will have no recollection of events. Even though the brain doesn't remember, the body holds memory. Her body language, facial expressions, and cry would tell her father and I another story. Every time we left a visit, confusion would fill her face. She would cry and become inconsolable. Almost every day I would receive facetime calls from the foster parent because she acknowledged that the people my daughter wanted was us her parents. The time that my daughter spent away from us was ten months which felt like an eternity. Through that time, she was away, she did form a strong bond with her aunt, and her cousins who call her their sister. Once we were reunited, she was not able to see them as much as she used to. She went from crying because she wanted to see me, to crying because she wanted to see them. A situation that became conflicting for her.

I am someone who enjoys capturing every single moment on camera. Like any other mother my camera roll is full of thousands of pictures of her. As I look back at those first four months that she was in my care I see a happy well taken care of baby. I was able to capture her first smile ever on my phone. I look at all the times she laid on my chest and would fall asleep. I look at the times where I captured her, and her father together cuddled up on his chair. When I compared to the pictures, I took of her when she was out of my care that is not the same baby I knew. Those pictures show her expressionless, in a daze, with a frown. Now, my partner and I have dedicated every minute of the day making up for lost time. She smiles in every picture we take; she enjoys playing, eating meals together, and more. Although she has been back home a year, there is still a lot that we deal with. She cries in her sleep, and cries for either mommy or daddy. When her father is at work, she says "mommy where's daddy?", and vice versa. She clings to me and follows me around everywhere. One can say it is because children go through these stages, but this is more than just that. For her to fall asleep she needs my arm over her. Once she feels that I move my arm she instantly wakes up and puts it over her again. There are other times where she needs her face right next to me, cheek to cheek. There is a closeness that she craves, that I can only pinpoint to the time we spent away from each other. The experience of my daughter is the experience of other children as well.

Not only do children need therapy, but so do the parents. We are expected to go from a minimum of one hour a week of visitation to being full time parents once again after months of separation. Some parents get robbed of the joy of being first time parents, like my partner and me. We missed her holding a bottle on her own, sitting up, crawling, and walking for the first time. We even missed her first words. From the beginning of an ACS case many parents are looked down upon and treated inhumane. I recall hearing the nurses station



talking about my partner and me. I recall all the times I was given dirty looks from doctors, and other workers because they already assumed who I was. I remember the hospital social worker making a face because I had informed her of my diagnoses of PTSD and being on medication for it. I remember when the investigative CPS worker tried to criminalize my mental health. Due to all the stress, and grief I went from a dose of 50 mg to 175. I was fortunate enough to have therapy long before and long after my ACS case. If it wasn't for therapy, I don't know how I would've pushed through. We deal with the long and short term impacts that family separation has on our children, not the investigative workers, preventive service workers, or anyone else but us the parents. A thousand-dollar discharge grant, further surveillance through preventive services, and a childcare voucher that I cannot even use isn't enough to pick up the broken pieces. It is essential for parents to also be given a space to talk about their case and how it made them feel without the fear of this information being reported to caseworkers. It is essential for not just children but parents to have free, non-invasive, mental health services, available when they are ready to process the family separation they went through. The grief we experience as parents is not linear and does not stop. My daughter has been home for a year, and I still talk about it in almost every therapy single session.

For this to work, there are other steps that must be taken. It cannot be as simple as here is free mental health services because there is work that must begin in social work schools. We need to educate our future social workers about how to help families cope with family separation because of an ACS case. As I mentioned I am also a social work student. There are many statements that I have heard in my classes that show just how much work needs to be done. I have heard preventive service workers state that "they don't understand why mother keeps having babies after one was already removed", I have heard foster care workers say "well, that mom is not getting her kid back". I have had a professor say, "it can be hard to empathize with a parent who abused or neglected their child". I have sent emails to the MSW program director and MSW program advisor about teaching future social workers that the solution is not to pick up the phone and dial the hotline, but to provide resources first. Which I was given a reply "will bring up in future meetings", and "one can take a supportive approach after completing mandated reporter training". If that doesn't show how much work needs to be done than I don't know what does. Social workers will play an integrate part of this proposition, and for us to not cause more harm we need to begin in the higher institutions first. ACS literally covers the cost of their workers who are pursuing their master's degree. I have a handful of CPS workers in one class, and one of them specifically said "we take their kids to mandate them to do services". If we cannot get social work schools on board then this will simply not work and will cause more harm.

(No Subject)

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From: Michelle Deal Winfield [REDACTED]

To: [REDACTED]

Date: Wednesday, November 20, 2024 at 03:31 PM EST

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Dear New York City Council Members,

Amiri Anderson went through the NYC Foster Care system. There have been ups and downs which included: approached by Foster Care mother's boyfriends, a man entering her room at night and Social Workers bullying to silence her. As a young adult Amiri was paying \$400 a month for an shared apartment with two other women.. That enabled Amiri to save while working as a substitute teacher. However, many sit downs with the Social Worker did not improve the living conditions which included the girls bringing in men into the apartment.

Suggestions to agency supporting Foster Care children:

1. Take serious allegations of groping, molestations and drug use in the home they are staying.
2. Provide appropriate amount of uniforms to attend school.
3. Death threats are not just an incident. A rebate should have been provided to the student.
4. Paid tutoring should be paid and included in grant.
5. Encourage children to further their education and obtain work.
6. Theft and or bullying should not be tolerated by ACS staff.
7. If the College is not meeting their responsibilities, an employee should follow up on behalf of the student.

When she was placed in supportive housing this would have been an opportunity for Amiri to have saved a small nest egg before moving out. She went to the police and reported the incidents to the Social Worker. After the second death threat she had to flee.

Amiri Anderson has also written, Five Feet of Water, a book about some of her experiences.

There have been bills passed to support children in Foster Care. Before the pandemic, I was present when 7 bills were passed. However, if the problems are not shared they will not be corrected.

Cassandra and Gerard Schriffen have gone the extra mile, asking friends and acquaintances to fund additional activities and luggage needed for Amiri to participate in life.( from age 11 - present)

Consider, watching a You Tube video : Amiri Anderson. A presentation and question/answer.

Thank you for receiving these suggestions.

Looking forward to a real discussion of what changes are needed.

Sincerely,

Michelle D Winfield

District Leader 74 AD  
[REDACTED]

On Monday, July 22, 2024 at 09:05:59 AM EDT, Amiri [REDACTED] wrote:

Hello Michelle,

I'm currently living in a studio in Jamaica, Queens but working in Harlem, and I would like to relocate to Manhattan.

My foster care agency, HeartShare-St.Vincents Services (HSVS), originally placed me in "Supportive Housing" at 133 Pitt Street. I had two other roommates who also have a foster care background. They didn't go to school, they invited strange men into the apartment, they started fights with each other, and the building wasn't safe overall. I moved into an affordable housing unit in Queens, but it's far and it has its own issues. A lot of the tenants in this specific building come from NYCHA and the shelter. Police are often called due to domestic violence, packages are often stolen, etc.

I'm currently pursuing a Master's at the University of Pennsylvania, and my foster care agency, HSVS, only covers up to \$3500 per semester. Tutoring is expensive, and I have previously paid \$90/hr.

Thank you for sharing some of the affordable housing units via text. I don't qualify for either of them because although my income falls between \$59,898 - \$74,580 which is listed on the website, that's for a two person household.

I appreciate everything that you're doing to help me.

Thanks,  
Amiri

Topic: Angels Whisper

Title: ANGELS SPEAK UP!

The New York City Administration for Children's Services are responsible for the well-being of over 7 thousand kids in Foster Care.

Behind closed doors, a Case Worker whispered, "That child should feel lucky to stay there."

If the Guardian Angels don't protect them, then who?

Copyright: Michelle Deal Winfield, October 9, 2024

Information source: "Five Feet of Water" by Amiri Anderson. Ms. Anderson kept a journal of her experiences in the Foster Care system since she was eleven years old. Molestation, lack of proper school clothing and limited food choices were mentioned. Amiri is now a Mathematics teacher in a Charter School in New York City.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Nora McCarthy

Address: 242 W. 38th St. 6th Fl.

I represent: NYC Family Policy Project

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/2024

(PLEASE PRINT)

Name: Raymond Toorzer

Address: Associate Commissioner, Community

I represent: Administrator for Children's Services  
Based Alternatives

Address: 150 William St NY, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/2024

(PLEASE PRINT)

Name: Elizabeth Walkomic

Address: Deputy Commissioner, Child + Family

I represent: Administrator for Children's Services  
well-bang

Address: 150 William St, NY, NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/2024

(PLEASE PRINT)

Name: Luisa Linares

Address: Deputy Commissioner, Prevention

I represent: Administration for Children's Services

Address: 150 William St NY, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/2024

(PLEASE PRINT)

Name: Jess Dannhauser

Address: Commissioner

I represent: Administration for Children's Services

Address: 150 William St NY, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 652 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/2024

(PLEASE PRINT)

Name: Etophia Lane

Address: [Redacted] Brooklyn NY

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/2024

(PLEASE PRINT)

Name: Jesse McGeleughlin

Address: Bronx Defendants

I represent: ↑

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0652 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/25

(PLEASE PRINT)

Name: Maria Hernandez

Address: \_\_\_\_\_

I represent: BRXNY Myself 461

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0652 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12.12.2024

(PLEASE PRINT)

Name: SPICKS BREWINGTON

Address: \_\_\_\_\_ NY, NY 10030

I represent: SELF

Address: SEE ABOVE

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 2741 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MICHELLE D WINFIELD

Address: \_\_\_\_\_

I represent: NY NY 10010 DISTRICT LEADER 74TH AP

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/2024

(PLEASE PRINT)

Name: Tanisha Grant

Address: \_\_\_\_\_ W 163 St \_\_\_\_\_

I represent: Parents Supporting Parents NY

Address: \_\_\_\_\_ W 163 St \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 2741 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Dr. Sophie Charles

Address: 254 W 31 St NYC

I represent: COFCCA

Address: 254 W. 31 St

Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 2741 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/24

(PLEASE PRINT)

Name: Nila Natarajan

Address: \_\_\_\_\_

I represent: Brooklyn Defender Services

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/24

(PLEASE PRINT)

Name: DAPHNE TORRES - DOUGLAS

Address: Children's Village

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 2741 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/24

(PLEASE PRINT)

Name: Mari Moss

Address: \_\_\_\_\_

I represent: Mothers dealing with Domestic Violence

Address: ACS ISS

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: KYM MAYO

Address: JCCA

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

*Please complete this card and return to the Sergeant-at-Arms*

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: 12/12/24

**(PLEASE PRINT)**

Name: Daphne Torres - Douglas

Address: The Children's Village

I represent: \_\_\_\_\_

Address: Preventive

*Please complete this card and return to the Sergeant-at-Arms*

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 2741 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/24

(PLEASE PRINT)

Name: Kym Mayo

Address: 57 Willoughby street

I represent: JCCA

Address: 57 Willoughby St

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 12/12/2024

(PLEASE PRINT)

Name: Sharon Brown Jeter

Address: \_\_\_\_\_

I represent: Jamaica NY 11436  
Rose Of Sharon Enterprises

Address: 43 Madison Street 3F Bklyn  
NY 11238

Please complete this card and return to the Sergeant-at-Arms