

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON JUSTICE SYSTEM

Jointly with

COMMITTEE ON GENERAL WELFARE

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November 27, 2018

Start: 1:16 p.m.

Recess: 5:21 p.m.

HELD AT: Committee Room - City Hall

B E F O R E: Stephen T. Levin
Chairperson

Rory I. Lancman
Chairperson

COUNCIL MEMBERS:

Andrew Cohen
Alan N. Maisel
Deborah L. Rose
Eric A. Ulrich
Adrienne E. Adams
Diana Ayala
Vanessa L. Gibson
Mark Gjonaj
Barry S. Grodenchik
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Antonio Reynoso
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COUNCIL MEMBERS:

Ritchie J. Torres
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A P P E A R A N C E S (CONTINUED)

David Hansell
ACS Commissioner

William Fletcher
Deputy Commissioner for Division of Child
Protection at ACS

Alan Sputz
Deputy Commissioner for Division of Family Court
Legal Services at ACS

Julie Farber
Deputy Commissioner for Division of Family
Permanency Services at ACS

Andrew White
Deputy Commissioner for Policy, Planning and
Measurement at ACS

Michelle Burrell
Neighborhood Defender Services

Jayne Cooper
Legal Aid Society

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Bronx Defenders

A P P E A R A N C E S (CONTINUED)

Lauren Shapiro
Brooklyn Defenders

Tehra Coles
Center for Family Representation

Martin Guggenheim
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Dionna King
Drug Policy Alliance

Paola Jordan
Sinergia, Inc.

Lisa Gitelson
COCFCCA

Ron Richter
JCCA

Joyce McMillan

Angeline Montalbon

Miriam and Israel Schwimmer

2 CHAIRPERSON LANCMAN: Good afternoon,
3 everyone. Okay. Not bad. I'm Councilman Rory
4 Lancman, Chair of the Committee on the Justice
5 System, and today we are examining the process by
6 which children are removed from their parents'
7 custody and how these cases proceed through the
8 Family Courts. This is a joint hearing with the
9 Committee on General Welfare. We are joined by
10 Council Members Alan Maisel, Rafael Salamanca, and
11 Ruben Diaz, Senior. It is far from controversial to
12 say that children must be protected from abuse and
13 neglect. The Family Court and child protective
14 system that we are here to examine operates on that
15 simple directive, but even with the best and most
16 noble of intentions, the how is not so simple. How
17 can we act quickly but not without consideration?
18 How can we weigh the requirements of due process
19 against the potential for harm? How can we ensure
20 that between multiple bad options, we are choosing
21 the last bad one? How can we best keep children safe
22 and families together? One of the most consequential
23 decisions that must be made is whether to remove a
24 child from their home before a full hearing and final
25 decision by a court? The consequences of removing

2 children from their parents or primary caregivers if
3 often profoundly traumatic, as we have seen too often
4 in national news reports over recent months. Removal
5 should be a last resort at any stage in the process,
6 and emergency removal before any hearing, before
7 parents are giving representation and without a court
8 order should be even rarer. The law requires that
9 emergency removals only be used when a child is in
10 imminent danger and there is no opportunity to
11 request an order from the court. One question we
12 have is why have emergency removals risen 28 percent
13 from October 2016 to May 2018? Court delays can make
14 the realities of removal even more devastating to
15 families. Protracted hearings can lead parents and
16 children to be separated for months before a judge is
17 ever issued an order about the child's safety.
18 Because emergency removals lack immediate judicial
19 oversight, they should be used even more sparingly.
20 It is important to examine the temporary and
21 preliminary removals in light of the fact that
22 ultimately in 2017 only about 19 percent of cases
23 resulted in a child begin permanently removed from
24 the home. And for that reason, we must look for
25 lessons at both the removals that are affirmed by the

2 courts, but also the ones that are overturned where
3 children are returned to their families pending a
4 final disposition of the case because they are not
5 found to be at imminent risk. If there are safer
6 alternatives to emergency removal, we must explore
7 them. It has been suggested that access to counsel
8 for parents earlier in the process can help parents
9 access services, better communicate with ACS, and
10 even if removal is required, arrange for placement
11 with an approved family member rather than having the
12 child removed from the home. We're especially
13 interested in a subset of removal cases, those where
14 allegations of neglect are traceable to the effects
15 of the poverty, not willful failure to provide.
16 Cases where children are removed because there is no
17 food in the fridge, even absent any indication of
18 malnourishment or due to the disrepair of an
19 apartment, even when a bad landlord or even the City
20 itself when NYCHA developments may be to blame.
21 These families, which not surprisingly, tend to be
22 disproportionately black and Latino, need help and
23 services, not censure and the removal of their
24 children. The City must do everything it can to
25 ensure that families struggling to get by are

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2 supported and are not punished by ACS or any other
3 agency for requiring assistance. I look forward to
4 hearing today from the Administration for Children's
5 Services, legal services providers, and advocates
6 about how to better achieve our shared goal. With
7 that, it's my pleasure to invite comments from
8 Council Member Steve Levin who is Chair of the
9 General Welfare Committee.

10 CHAIRPERSON LEVIN: Thank you very much,
11 Chair Lancman. Good afternoon, everybody. I'm
12 Council Member Steve Levin, Chair of the Council's
13 Committee on General Welfare. Today we are holding
14 this hearing to address removals from parents and
15 caregivers in child welfare cases. I want to thank
16 my Co-Chair, Council Member Rory Lancman, for joining
17 me in bringing this important topic to a hearing
18 today. I also want to acknowledge Council Member
19 Debbie Rose has joined as well, and we expect to have
20 more members of the Council's General Welfare
21 Committee joining us throughout the hearing. In
22 recent months, the separation of parents from their
23 children at the U.S. border resulted in tremendous
24 outcry across the country. Just a few months ago in
25 July the Council's Committee on General Welfare held

2 a joint hearing on the impacts of the Trump
3 Administration's Family Separation Policy in New York
4 City. The hearings shed light on the toxic stress
5 and trauma incurred by children who have been
6 separated from their parents due to that callous
7 policy. This kind of trauma has both short-term and
8 long-term consequences on children and parents. Now,
9 we do not make a moral equivalency between the two,
10 but the separation of families in other parts of the
11 country necessitates that we turn the mirror on
12 ourselves and examine the impacts that our policies
13 may have on families. How many times did we all
14 hear, in light of the Trump Administration's Family
15 Separation Policy, our friends and neighbors and
16 families say, "Could you imagine what those families
17 are going through?" All of us said that. Could you
18 imagine what those families are going through? Could
19 you imagine what it must feel like to have your care?
20 Well, it happens all the time. It happens in every
21 community across our country, and it's important that
22 we take a clear-eyed look at the causes and the
23 consequences. Recent reports suggest that there is
24 more we need to be doing to prevent the unjust or
25 unnecessary removal of children from their parents.

2 A study from the New School Center for New York City
3 Affairs found that from October 2016 through May
4 2018, ACS investigated substantially more cases and
5 was far more likely to bring these cases to court
6 following the death of Zymere Perkins when compared
7 to the corresponding time period in 2014 to 2016.

8 Advocates report that virtually every high pr-- after
9 virtually every high profile child fatality in New
10 York City, ACS experiences an increase in the number
11 of reports it receives on child abuse and neglect.

12 This increase is in part due to heightened anxiety
13 and caution among Child Welfare staff and mandatory
14 reporters. Increased reportings is often reflected
15 in the increase of families brought into the system,
16 more cases filed in Family Court, and more children
17 in foster care, putting pressure on the Child Welfare
18 System overall, in particular ACS and our court
19 system. I've heard that because of the influx of
20 cases, Family Court judges sometimes only have 10
21 minutes to hear cases that will determine whether
22 children get to stay with their parents, often
23 choosing to remand a child from their home as a
24 precautionary measure. As an oversight body, the
25 Council is compelled to examine these reports and

2 ACS' process of separation, including emergency
3 removals when children are separated overnight when
4 Family Court is not in session. We need a full
5 picture of children separation-- what child
6 separation looks like here in New York City. The
7 data is clear that when it comes to the impact of
8 separating children unnecessarily, children can
9 experience an irreparable sense of loss, confusion,
10 and mistrust, and placement in the foster care system
11 can be similarly harmful and traumatic. Our most
12 recent General Welfare hearing was held on ACS'
13 preventive services, and I want to recognize the
14 steps that the City has taken to improve critical
15 connections to services and care in an effort to keep
16 families together. That cannot be overstated. The
17 amount of resources that this Administration has put
18 in, and the previous Administration preventive
19 services, in making sure that every effort is taken
20 to keep families together is the gold standard across
21 the country, what we're doing here in New York City.
22 Research has shown how critical it is for our
23 children to remain with their families and receive
24 appropriate support services, unless there is
25 sufficient proof of significant abuse and neglect and

2 imminent danger. Today, our committees will examine
3 how ACS determines which cases are sent to Family
4 Court for adjudication, how Family Court manages the
5 influx of cases, and how many cases forwarded to
6 Family Court are dismissed and/or do not result in
7 the removal a child from their home. Committees are
8 also interested in what safeguards are in place in
9 Family Court and at ACS to make sure that every child
10 is not needlessly separated from their parents. I
11 also want to highlight that the large majority of
12 reports that ACS receives and is then required to
13 investigate through the SCR are for neglect, 65
14 percent, while 15 percent are for substance abuse,
15 and 10 percent are for physical abuse. Neglect is
16 directly related to poverty. Children can be taken
17 away from their parents for causes related to lack of
18 food, clothing and shelter. We need to strengthen
19 our investment in support and preventive services and
20 do everything we can to keep families from being
21 unnecessarily listed on the statewide central
22 Register for Child Abuse and Maltreatment Registry,
23 which can in turn result in parents being denied
24 certain jobs, furthering continuing the cycle of
25 poverty. There's of course a balancing that must be

conducted, weighing the risk of harm to a child at home versus the risk of removing a child and the unnecessary trauma that could result. I do not want to minimize the fact that Child Protective Specialists have extremely difficult jobs. They are on the frontline day in and day out under very difficult circumstances making life or death decisions in the moment. However, ACS needs to continue to look closely at its practices. For example, I understand that the wait time for families who are on ACS-involved-- who are ACS-involved and are required by Family Court to receive certain types of services can be weeks at a time. Preventive services are designed to help families stabilize and supervise children safely at home, and so they need to be offered to those families as soon as possible. In addition to hearing from ACS today, we want to hear from the parent advocates and legal services providers about the challenges faced by parents who are ACS-involved and welcome any suggestions for improvement. Lastly, I just want to note that we as a council and our colleagues in the state government have a responsibility to call for and allocate resources to ACS and the Family Court system and the

2 broader support system for parents. And so we hope
3 that we can count on our state colleagues in the
4 upcoming budget to fully support our Family Court
5 judges and our Family Court system to ensure that
6 every family has-- is able to avail themselves of
7 their right to have their matters expeditiously
8 adjudicated and not suffer for months at a time
9 awaiting an outcome to their case at times when their
10 children may be in the care of a stranger. We'd like
11 to thank Council staff for their work today to
12 prepare-- their work today to prepare for today's
13 hearing, Counsel Amenta Killawon [sp?], Policy
14 Analyst Tanya Cyrus and Crystal Pond [sp?], and
15 Finance Analyst Daniel Krup [sp?]. I also like to
16 thank my Legislative Director Elizabeth Adams, my
17 Chief of Staff Johnathan Bouche [sp?], and lastly,
18 I'd like to thank Commissioner Hansell and his entire
19 team at ACS who have worked very diligently to make
20 improvements at ACS and expand the services that the
21 agency offers New York City families. We look
22 forward to working with you in collaboration in the
23 service of all of New York City's families and
24 children. Thank you.

2 CHAIRPERSON LANCMAN: Alright, I think
3 we've also been joined by Council Member Andrew
4 Cohen, Council Member Mark Gjonaj, Council Member
5 Barry Grodenchik. We can swear you in and then get
6 your testimony. Do you swear or affirm the testimony
7 you're about to give is the truth, the whole truth
8 and nothing but the truth? Thank you. Commissioner?

9 COMMISSIONER HANSELL: Thank you very
10 much. Good afternoon, Chair Lancman, Chair Levin,
11 members of the Committees on Justice System and
12 General Welfare. I'm David Hansell, Commissioner of
13 the New York City Administration for Children's
14 Services, and with me today are to my far right,
15 William Fletcher, Deputy Commissioner for the
16 Division of Child Protection, to my immediate right,
17 Alan Sputz, Deputy Commissioner for our Division of
18 Family Court Legal Services, and to my left Julie
19 Farber, Deputy Commissioner for our Division of
20 Family Permanency Services. We're pleased to join
21 you today to share more about the crucial mission of
22 ACS to protect and promote the safety and well-being
23 of New York City's children and families. Every day,
24 24 hours a day, seven days a week, Child Protective
25 Specialists are the first responders for children and

2 families in crisis. CPS staff respond to calls,
3 assess the safety of children and offer services to
4 support and strengthen families throughout the five
5 boroughs. While CPS often do not get the recognition
6 they deserve, their decisions literally save the
7 lives of children, and I want to thank this
8 opportunity to thank the more than 1,800 CPS and
9 their supervisors and managers for the work that they
10 do. Our top priority for every family we encounter
11 is the safety of the children. When an investigation
12 reveals circumstances that indicate imminent risk or
13 safety concerns, CPS staff work to help families
14 address any underlying issues that compromise safety
15 and will also meet with ACS' Family Court Legal
16 Services Unit of attorneys to determine whether court
17 intervention is necessary. And I also want to thank
18 our 251 FCLS attorneys and their supervisors and
19 managers for the critical work that they do every day
20 presenting our cases to family court. The job of
21 both CPS and FCLS is challenging. Together they work
22 tirelessly toward the goal of making the right
23 decision in every case to keep children safe, offer
24 services and supports to enable children to remain in
25 their homes whenever possible and to remove children

only when necessary to address imminent danger and after other possible safety interventions have been exhausted. My testimony today will provide an overview of the work done by our Child Protective and Legal Staff as well as the reforms we put in place to give our CPS and FCLS staff the tools and the skills they need to enhance their decision-making. I'd like to begin by giving an overview of our investigative process. When a person, anyone in New York City suspects that a child is being abused or maltreated, he or she makes a call to the State Central Registry, known as the SCR. The SCR is administered by our State Oversight Agency, the Office of Children and Family Services. Whenever OCFS accepts a report related to New York City and a New York City child, ACS is required by state law to conduct an investigation. And each year, our Division of Child Protection investigates about 60,000 reports of suspected child abuse and neglect that are made to the SCR and accepted by the state, and those reports involve typically about 80,000 New York City children. Now, every family, every child is different, and our staff are charged with making highly individualized nuanced assessments based on

2 risks and strengths and to then take appropriate
3 action to ensure child safety. CPS must commence a
4 child protection investigation and attempt to contact
5 the source of the SCR report and other people with
6 information about the child's safety within 24 to 48
7 hours of receiving the SCR report. The investigation
8 then includes reviewing the family's prior history
9 with ACS, contacting the person who first made the
10 report, visiting the home, interviewing the child,
11 the parents, household members, other important
12 people in the child's life such as teachers and
13 neighbors. A Child Protective Team has up to 60 days
14 to complete an investigation and make a determination
15 about whether there is credible evidence to support
16 allegations of maltreatment. Because many family
17 situations involved complex challenges and multiple
18 risk factors, ACS has specialized consultants
19 stationed in each of our 17 DCP Borough Offices to
20 assist Child Protective staff throughout the
21 investigation. Our ACS Clinical Consultation Program
22 includes domestic violence consultants, credentialed
23 alcoholism and substance abuse counselors, early
24 childhood and adolescent consultants, and medical and
25 mental health consultants who support the work of our

2 CPS. We also employ investigative consultants who
3 are former law enforcement professionals trained to
4 assist CPS by analyzing criminal and domestic
5 violence history and providing crucial information to
6 aid in safety and risk assessments and in creating
7 safety plans to promote the safety and wellbeing of
8 children that remain in the home with their families.

9 In summer 2017, we piloted our new heightened
10 oversight protocol which we made permanent and
11 expanded this past summer. This new protocol
12 combines the expertise of our CPS staff with our
13 investigative consultants in the most high-risk
14 investigations, those where the SCR report involves
15 allegations of physical or sexual abuse of a child
16 under the age of three, or involves a child under
17 three where that child or any siblings have been
18 placed in foster care prior to the current
19 investigation. Under state law, when ACS concludes
20 its child protective investigation, we are required
21 to "indicate the case" if we found some credible
22 evidence of maltreatment or to "unfound it" when we
23 have not. ACS indicates approximately 40 percent of
24 the cases we investigate. Consistent with our goals,
25 the law requires us to keep children at home with

their parents or caretakers whenever risk can be mitigated. So, CPS works with the family to provide supports and respond to service needs that are identified as a result of the investigation, or requested by the family in order to address underlying issues creating the risk and to prevent the need for removal. To work with families to develop plans to keep children safe, ACS holds a series of family team conferences which parent advocates often attend in addition to parents themselves. The family team conference approach brings families to the table to discuss safety concerns and collectively brainstorm realistic interventions that can be put in place to mitigate risk to the child. These conferences provide an opportunity for ACS and families to develop a plan that will keep children safe, which can include services, could include excluding someone from the home, could include identifying resources to assist with caring for the children and could include court-ordered supervision, potentially avoiding the need for removal. If and only if there are no interventions that can assure the child's safety and imminent risk of harm to the child remains, ACS will

2 request authority from the Family Court to remove the
3 child from the home. ACS promotes child safety and
4 family stability through our City's unprecedented
5 investigation in prevention services, which Chair
6 Levin, you referred to in your opening remarks. Over
7 19,000 families per year receive prevention services
8 and supports that are targeted to the families'
9 individual needs, such as substance abuse, mental
10 health, domestic violence, among others. Over the
11 past three years, ACS has been a forerunner in
12 launching innovating new programs and approaches to
13 continuously improve the way we serve children and
14 families, and the number of child welfare prevention
15 slots has increased from 12,000 in Fiscal Year 2015
16 to about 13,600 in Fiscal Year 2019, next year-- or
17 this current year. In expanding our continuum of
18 prevention services, we have made a deliberate effort
19 to bolster services for our higher need families
20 receiving court-ordered supervision or at immediate
21 risk of court intervention, including 960 new
22 prevention slots that are specifically created for
23 court-ordered supervision cases. Our deep commitment
24 to supporting and strengthening families in the
25 community through prevention services has allowed the

2 City to reduce the number of children in foster care
3 to a historic low of under 8,500 children today,
4 which is a momentous shift from the nearly 50,000
5 children in care 25 years ago and nearly 17,000 a
6 decade ago. And the decline in our foster care
7 population has continued even as national foster care
8 caseloads have increased since 2012. We believe
9 strongly that children should only be placed in
10 foster care when it is necessary and only for as long
11 as necessary, because research shows that children
12 have the best outcomes when they are with their
13 families. So we at ACS work to prevent foster care
14 placement whenever it's safe to do so and to safely
15 reunify children from foster care as quickly as
16 possible. Throughout ever investigation, CPS are
17 always assessing the safety and risk of children. If
18 CPS believes the safety and wellbeing of the children
19 would benefit from services while also remaining
20 safely in the home, the CPS worker can refer the
21 family to either non-contracted community-based
22 services and/or to an ACS prevention program. If due
23 to heightened safety concerns, the CPS worker feels
24 that court intervention is necessary, then the worker
25 will schedule a child safety conference to discuss

2 safety interventions and plans that can be put in
3 place to address the safety concerns identified. One
4 such outcome of a conference could be court-ordered
5 supervision. If during the child's safety
6 conference, the conference facilitator and the child
7 protective team are not in agreement with the
8 recommended outcome, the Deputy Director of the
9 Borough Office will bring the CPS team and the
10 conference facilitator specialist together to make a
11 decision on the recommendations from the child safety
12 conference. Then, if the CPS, in consultation with
13 FCLS finds that the safety of the children requires
14 ACS to monitor the safety of the home or for the
15 court to order the family to participate in services,
16 FCLS will file a petition in court and seek court-
17 ordered supervision. If the CPS worker with approval
18 from his or her supervisor, manager, and Deputy
19 Director believes that the child is at imminent risk
20 of harm and there is not enough time to seek a court
21 order in advance such as on the weekends or when
22 there's no intervention to keep the child safe prior
23 to going to court, the law allows CPS to conduct an
24 emergency removal. Whenever possible, ACS will seek
25 a court order prior to removing children from their

2 families, and all removals and all court-ordered
3 supervision must be sanctioned by a Family Court
4 Judge. Of the approximately 60,000 investigations
5 conducted each year, ACS files cases in Family Court
6 involving fewer than 20 percent of the children in
7 those investigations, and about 75 percent of those
8 filings are for court ordered supervision. Attorneys
9 in the FCLS division represent ACS in child
10 maltreatment cases in permanency hearings, in certain
11 juvenile delinquency hearings, and in other child
12 welfare proceedings in New York City Family Court,
13 and our attorneys work collaboratively with DCP, with
14 our foster care agency case planners, and with other
15 child welfare stakeholders to further our agency's
16 mission on behalf of children, youth, and families.
17 To request authorization from the court to conduct a
18 removal or court-ordered supervision, the FCLS
19 attorney will work with CPS to file a court petition
20 that states the abuse and/or the neglect allegations
21 and the basis for those allegations. When ACS has
22 conducted an emergency removal before coming to
23 court, the petition is filed on the same day of the
24 removal or at the latest by the very next court day
25 if there's not enough time to file the same day or if

2 the removal occurs outside of court hours, night or
3 on the weekends. During the first court appearance,
4 ACS will ask the Family Court Judge to issue an order
5 authorizing the intervention that ACS is seeking. If
6 ACS is recommending a remand of foster care, the CPS
7 must inform the Family Court Judge of the basis for
8 the removal, including why reasonable efforts to
9 prevent the removal have been exhausted or could not
10 be made under the circumstances. Each parent and all
11 children are also represented by attorneys who
12 present information on their behalf. The judge will
13 then determine what living arrangement, such as
14 release to a parent with court-ordered supervision,
15 released to another appropriate relative or
16 caregiver, or temporary placement in foster care is
17 safe for the child, and the court may also issue
18 other orders to protect the child's safety. In cases
19 where the court sanctions a child's removal and
20 placement into foster care, ACS' goal is to work with
21 the parents to safely reunify the family. The Family
22 Court Act provides for a series of hearings and
23 trials to reach judicial determinations on abuse and
24 neglect allegations on ACS' petition and
25 determinations on when the children in out-of-home-

2 care can safely be returned to the parents, as well
3 as hearings that are focused on the permanency plan
4 for the child and the efforts made by ACS and our
5 foster care agencies to provide services to reunify
6 the child and ensure the child's wellbeing.

7 Throughout the entire court process, ACS and our
8 contracted foster care provider agencies continually
9 assess safety risks in the home and the necessity of
10 the child's continued placement in foster care. We
11 regularly report to the Family Court on our work with
12 the family to help them move toward safe
13 reunification, including referrals for services, the
14 families participation in those services, the quality
15 of visits between children and family members as
16 authorized by the court, and any other assistance by
17 ACS and the foster care provider to increase safety
18 and promote wellbeing. When there's a question as to
19 the necessity of continued placement, the Family
20 Court may hold a hearing to decide whether the
21 children would be at imminent risk of harm if
22 returned to the parent and basis its decision on the
23 testimony of caseworkers, parents and other
24 witnesses. Now, we know that children who have
25 experienced abuse and neglect and the further trauma

of removal from their home fare best when placed with a kinship foster care resource, whether this is a grandparent, aunt, uncle, close family friend, or other individuals who is important to the child.

Whenever a child needs to be removed from his or her home, ACS tries to minimize trauma by placing the child in a family-based setting known to them. We start by exploring kinship options with the parents and the children in the hopes of safely placing the child with kin wherever possible. When a kinship resource is identified, the foster care case planner works with that resource to certify their home as a foster home so they can receive the benefits and services that other foster parents receive. If no kinship resources are identified as foster homes, ACS will seek to place a child in a non-relative foster home or where appropriate to meet the child's needs of residential placement setting. Increasing placement with kin is a top strategy in the ACS Foster Care Strategic Blueprint, and it was a recommendation in the 2018 Interagency Foster Care Taskforce Report that we are working tirelessly to implement. As of March 2018, ACS established 10 new kinship specialist positions to partner closely with

2 DCP with the dedicated function of finding and
3 engaging kin caregivers for children entering foster
4 care. We partnered with a nationally-known kinship
5 care organization, A Second Chance, to provide
6 training to these staff that was delivered in June,
7 and we've already seen an increase in the percentage
8 of children placed with kin which has grown from 31
9 percent to 37 percent this year. We understand the
10 City Council and advocates are interested in Family
11 Court practice and trends, as you identified in your
12 opening remarks. So, we've done a recently analysis
13 of available data and want to share some of the
14 trends related to ACS' removals and Family Court
15 filings. In late 2016, after the highly publicized
16 deaths of two New York City children who died as a
17 result of abuse, reports to the SCR increased. The
18 total number of investigations ACS conducted in
19 response to reports of abuse or neglect rose by more
20 than nine percent in calendar year 2015 to calendar
21 year 2017. As a national leader in prevention
22 services, we know that in-home and community-based
23 interventions can be the right choice for many
24 families, both to minimize trauma and promote good
25 outcomes. So, we seek court-ordered intervention

only when we believe it's necessary to ensure child safety. As previously stated, to serve more families that are now coming to our attention, we have been increasing the capacity of our preventive programs significantly. When children need to be placed in foster care, we work closely with our foster care provider agencies to make sure the families receive targeted services and supports to address risk factors and enable the family to reunify when safe and appropriate. As a result, the majority of children who enter foster care returned home to their families. In Fiscal Year 2018, 2,460 families-- children were reunified with their parents, and 298 children exited care through kinship guardianship, known as Kin-Gap. From 2015 to 2017 the number of children with court cases filed by ACS increased by more than 60 percent. Two of the factors driving this were the increase in the overall number of reports of suspected abuse or neglect and a sharp increase in the number of indicated investigation with domestic violence present in the home. Most of these filings sought court-ordered supervision to protect children who were remaining at home with their families. In 2017, over 70 percent of the

2 filings for court-ordered supervision involved an
3 Order of Protection, most often because of domestic
4 violence, but also for other reasons such as
5 excluding a person who physically or sexually abused
6 a child from the home. Recognizing that violence
7 poses a significant safety risk to children, ACS
8 takes court Orders of Protection usually prohibiting
9 the person causing harm from being in the home with
10 the children, and ACS also seeks court orders to
11 allow caseworkers to continue monitoring these
12 families. ACS' filings in Family Court have begun to
13 decrease in recent months. In the first six months
14 of calendar year 2018, the number of children with
15 court cases filed by ACS decreased nearly 17 percent
16 from the same period in 2017, and as a subset of
17 this, the number of children were moved on an
18 emergency basis dropped more than 11 percent in the
19 first six months of 2018 compared to the same period
20 in 2017. New York City's most important asset for
21 protecting our children, as I said at the beginning
22 of my testimony, is our team of over 1,800 Child
23 Protective Specialists who work to protect children
24 and support families in some of the most challenging
25 situations. Given the complex process I've just

2 described, it is essential that we make the best
3 possible decision about child safety in each and
4 every investigation. To that end, ACS has made
5 critical investments to strengthen CPS investigations
6 by strengthening quality assurance and oversight, by
7 keeping caseloads manageable, by enhancing training
8 and by ensuring that CPS are equipped with state-of-
9 the-art technology. We must also constantly review
10 our policies and practices to ensure that they
11 support our goal of keeping children safe while
12 supporting families and minimizing trauma. One of
13 the first reforms that I initiated when I became ACS
14 Commissioner was to restructure and relaunch
15 ChildStat, a quality improvement process in which we
16 regularly review high-risk cases under current CPS
17 investigation and analyze performance data from each
18 borough office. In addition, we've created a new
19 Quality Assurance Unit to improve case practice on
20 investigations involving high-risk families. As this
21 new unit provides front line child protective staff
22 with real-time feedback on safety assessments,
23 decision-making, and service provision. As I
24 mentioned earlier, we've enhanced case review
25 processes by implementing a new heightened oversight

2 protocol on SCR reports involving alleged physical or
3 sexual abuse of a child under the age of three or
4 where a child or siblings have been previously
5 removed. Under this new protocol, the investigative
6 consultant supervisor and a child protection manager
7 or supervisor conduct a joint case review prior to
8 initiating an investigation, and investigative
9 consultants remain involved in these cases and
10 participate on further reviews in the course of the
11 investigation to provide enhanced support in these
12 most serious cases. We've also taken steps to ensure
13 that we have a highly-trained workforce of CPS staff.
14 Through our ongoing recruitment of CPS staff we're
15 able to maintain average caseloads under 12
16 consistent with best practice standards and
17 significantly lower than most jurisdictions
18 throughout the country and across New York State. We
19 now also have clinical social workers at our Child
20 Advocacy Centers which are located in each boroughs
21 and which provide a child-friendly, neutral and
22 supportive setting where professionals from multiple
23 disciplines include ACS, CPS and NYPD detectives can
24 coordinate and expedite the investigation, the
25 prosecution and the delivery of treatment services in

2 cases of child sexual abuse and serious physical
3 abuse. The enhanced training curriculum for our CPS
4 staff includes a new safety and risk module to assist
5 in developing stronger safety plans for children and
6 it reinforces the importance of treating all families
7 equally regardless of race, ethnicity, sexual
8 orientation, or other factors. To support continuity
9 from the Training Academy not the field, our staff
10 development coordinators and coaches work with
11 supervisors and managers in our DCP borough offices
12 to bridge that transition and reinforce the extensive
13 upfront training program. And in addition to all of
14 the other internal quality assurance and improvement
15 tools we have in place, I believe it's imperative for
16 me, for our Deputy Commissioners, and for our ACS
17 leadership to regularly hear feedback from advocates
18 and providers. Since coming to ACS I've been meeting
19 routinely with parents, with parent advocates, with
20 lawyers, children's advocates and attorneys for
21 children and youth. Their feedback about ACS policy
22 practice and its impact on them and the families they
23 work with is critical information that helps us
24 strengthen our ability to keep children safe and
25 support families. In addition, we've significantly

2 expanded our efforts to formally engage the voice of
3 parents across ACS' work. For example, we contract
4 with parent advocacy groups to review materials and
5 trainings and to create resource that can help
6 parents know and exercise their rights in the child
7 welfare system. We recently expanded our contract
8 with Rise, a nonprofit organization that trains
9 parents to write and speak out their experiences with
10 the child welfare system to support and guide other
11 parents, and to help child welfare professionals
12 become more responsive to the families and the
13 communities we serve. And as part of this new
14 collaboration, Rise will deliver its Building Bridges
15 curriculum to ACS and foster care agency staff. This
16 workshop will introduce tools developed with parents
17 and foster parents that agencies can use to inform
18 and support parents, foster parents and front line
19 staff in navigating these complex relationships.
20 Also, since I've come to ACS, we've taken important
21 steps to strengthen and support child protective
22 workers through technology. CPS now have additional
23 transportation options including Zipcar and the use
24 of Zipcar's local motion technology that allows them
25 to find and reserve cars online so they can respond

even more quickly and safely to reports of child maltreatment. And over 2,000 front line CPS have received upgraded technology including smartphones, new high-speed tablets, and our safe-measure software that can automatically identify and flag high-risk cases that need additional review by managerial staff. So, I thank you for the opportunity to discuss ACS' role in child protective investigations and the Family Court in our interventions to keep New York City's children safe. I appreciate the Council's leadership and focus on this important topic and we look forward to discussing with you ways that we can strengthen the system for the benefit of all children and families across New York City. And we're happy to take any questions.

CHAIRPERSON LANCMAN: Okay, so Commissioner, I want to-- let me just say we've also been joined by Council Members Adrienne Adams, Council Member Eric Ulrich. You've been here. So, I just want to understand the numbers a little bit. I could be mistaken, but I don't think I read or heard in your testimony how many kids are being removed in a given year. So, that's approximately 60,000 calls you get a year, 60,000 visits you have to make?

2 COMMISSIONER HANSELL: That's correct.

3 CHAIRPERSON LANCMAN: And about 40
4 percent of those end up with an indication of some
5 kind.

6 COMMISSIONER HANSELL: That's correct.

7 CHAIRPERSON LANCMAN: That's about
8 24,000. Just doing the math. Half of those, ACS goes
9 to Family Court for some kind of supervision.

10 COMMISSIONER HANSELL: Actually, fewer
11 than half. So, of -- so as you said, about 24,000,
12 let's say roughly, cases in which we indicate the
13 case. In Fiscal Year 18 we filed in court on about
14 7,900 cases. So, I don't know what that is, about a
15 third, I guess, of the cases that we indicate.

16 CHAIRPERSON LANCMAN: Got it. Okay. And
17 then about 70 percent of those-- this is from your
18 testimony-- about 70 percent of those result in some
19 kind of Family Court-ordered supervision. We could
20 do 70 percent of 7,900, but then we don't get that
21 ultimate number. How many kids of those-- how many
22 kids-- how many of those are removals? How many kids
23 have removed each year?

24 COMMISSIONER HANSELL: Yeah, so in Fiscal
25 Year 18 the total number of removals was-- cases

2 involving removals was 2,177, and those cases
3 included 3,905 children.

4 CHAIRPERSON LANCMAN: Okay. And of
5 those, how many were emergency removals?

6 COMMISSIONER HANSELL: So, again, in
7 Fiscal Year 18 the number of cases that involved
8 emergency removals was 1,095, and the number of
9 children involved in those cases was 1,854. So,
10 roughly half of total removals are done on emergency
11 basis.

12 CHAIRPERSON LANCMAN: And I don't know if
13 you have this readily available, but of those
14 thousand or so emergency removals, how many were, if
15 this is the right term, ultimately confirmed by the
16 court that this was-- I don't want to say that the
17 removal was proper or improper, but this removal will
18 be confirmed.

19 COMMISSIONER HANSELL: Yeah, well let me
20 explain what the disposition. So, as I said in my
21 testimony, when we do an emergency removal we go into
22 court to file on the next available court day, and
23 the outcomes break down this way of those 1,095 in
24 Fiscal Year 18. About 75 percent of those cases-- in
25 about 75 percent of those cases, the court affirms

2 the removal decision and remands the child into ACS
3 custody and foster care. In about 20 percent of
4 those cases, the court orders court supervision of
5 some kind, and in about five percent of those cases
6 there isn't an immediate determination in the initial
7 hearing, but the ultimate determination usually
8 involves either remand or court-ordered supervision.
9 So about 75 percent of the cases result in basically
10 immediate affirmation of ACS' decision to remove the
11 child, but in the 20 percent that where the ultimate
12 court disposition is court-ordered supervision, that
13 can be for a number of reasons. In many cases, by
14 the time that decision is made in court, ACS has
15 consented to that decision because between the time
16 the removal was made and the time the case comes to
17 disposition several things could have happened. One,
18 there could have been a safety plan put in place with
19 the agreement of the parents which enables us to feel
20 the child can be safely returned to the home under
21 the safety plan under supervision. In many cases we
22 have entered into an Order of Protection to make sure
23 that the individual who is responsible for domestic
24 violence or abuse is excluded from that home where
25 the children are protected against future violence,

2 and again, that would allow us to agree that the
3 children can be safely returned to the home under
4 supervision to make sure that that order is enforced
5 and the children are safe, or we could have
6 identified another family resource would be willing
7 to take temporary responsibility for the children
8 while we're making the final disposition of the case.
9 Or in some cases, the court could have disagreed with
10 us, which is why of course we have this process in
11 the first place. Ultimately, the decision-maker is
12 the Family Court Judge, not ACS. But in most of
13 those 20 percent that are not immediately-- where the
14 remand or the removal is not immediately confirmed by
15 the court, the outcome is court-ordered supervision
16 because some other action has been taken that will
17 enable the children to remain safely at home under
18 court supervision. There are-- there are literally a
19 handful, single digit of cases where ACS has done an
20 emergency removal, but the court returns the children
21 to the home without any kind of supervision in place.

22 CHAIRPERSON LANCMAN: So, what are the
23 criteria for removal? Let's start there and work our
24 way into this.

2 COMMISSIONER HANSELL: Okay. So, the
3 criteria for a removal are that a children is at
4 imminent risk of serious harm, that the parent or
5 care taker is unable or unwilling to protect the
6 child from that harm, that the need to protect the
7 safety of the child outweighs the trauma associated
8 with removal.

9 CHAIRPERSON LANCMAN: And harm is abuse
10 or neglect?

11 COMMISSIONER HANSELL: Abuse or neglect,
12 correct. Maltreatment, abuse or neglect. So, the
13 third criteria is that the danger to the child
14 outweighs the trauma associated with removal, and the
15 fourth criterion is that there is not another
16 intervention that can safely protect the child at
17 home. So, it's only when we found imminent risk of
18 serious harm, parent is unable or unwilling to
19 protect the child against that harm, the risk of the
20 harm outweighs the trauma of removal, and there is no
21 safety intervention that can keep the child safely at
22 home. Those are the criteria for our moving forward
23 with removal.

24 CHAIRPERSON LANCMAN: And then what would
25 trigger an emergency removal? Like, we can't-- we

2 can't go to court. We got to take the child right
3 now.

4 COMMISSIONER HANSELL: Well, the vast
5 majority of those take place at night or on weekends
6 when the court is not in session. So there's
7 situations where we, a child protective specialist,
8 sees a situation and with the concurrence, as I said
9 in my testimony, of three levels of supervisory
10 approval, decides that it is not safe to leave the
11 child.

12 CHAIRPERSON LANCMAN: So, it's not-- so
13 it's not a function of a greater degree of risk to
14 the child, it's a function of the availability of
15 being able to go to--

16 COMMISSIONER HANSELL: [interposing] In
17 those cases. In the cases where it is happening at
18 night or on the weekends when the court's not in
19 session. There are also, occasionally, emergency
20 removals that are conducted during working hours and
21 those would be-- those would be heightened, elevated
22 risk situations where the judgement of the child
23 protective specialist with their supervisory chain is
24 going through the normal process of a child safety
25 conference and then an Article 10 filing would leave

2 a child in a situation where the risk to them would
3 be too great. And so when the court is evaluating
4 whether or not the child should have been removed or
5 what supervision is going to be in place, if any.

6 Can you talk about the -- I'm interested in the
7 circumstances of neglect. Abuse, I understand, and
8 ever think there's a much more clearer understanding
9 of what constitutes abuse. Neglect is something
10 that's a concern, because the question's been raised
11 whether or not the system-- I don't want to point my
12 fingers at anyone right now-- whether or not the
13 system often confuses or conflates poverty with
14 neglect. So, talk to us about the process of
15 determining that this child is being neglected, and
16 what safeguards--

17 COMMISSIONER HANSELL: [interposing] Yeah.

18 CHAIRPERSON LANCMAN: do you have in
19 place?

20 COMMISSIONER HANSELL: Yeah. Very
21 important question, and one that we spend a lot of
22 time thinking about because it is critical that we
23 differentiate between the two. So, I think it's a
24 good place to start is the definition of neglect in
25 the Family Court Act. So, the definition of neglect

2 is where a child's physical, mental, or emotional
3 health is impaired or in imminent danger of becoming
4 impaired due to a parent or a person legally
5 responsible's failure to exercise a minimum degree of
6 care. So, the two essential criteria are, again,
7 danger to the child and danger to the child that
8 results from an act or essentially really a failure
9 to act on the part of a parent or legally responsible
10 adult. So those two things must be met in order for
11 a case to be indicated as neglect. Now, some of the
12 examples of things, and I'm happy to turn it over to
13 Deputy Commissioner Sputz who can talk about how this
14 actually plays out in Family Court proceedings, but
15 examples of things that would frequently result in an
16 indicated case of neglect could include things like
17 excessive corporal punishment. It could include
18 substance abuse to the extent that it impairs a
19 caretaker's ability to care for and meets the basic
20 needs of a child--

21 CHAIRPERSON LANCMAN: [interposing] So,
22 corporal punishment would be in the neglect category,
23 not the abuse category?

24 COMMISSIONER HANSELL: Yes. Excessive--
25 yes.

2 CHAIRPERSON LANCMAN: Okay.

3 COMMISSIONER HANSELL: It could cross
4 over depending on the severity of it, but it says
5 corporal punishment in itself is considered to be
6 neglect, in the neglect category, not the abuse
7 category.

8 CHAIRPERSON LANCMAN: Okay.

9 COMMISSIONER HANSELL: As I said,
10 substance abuse, if it impairs a caretaker's ability
11 to care for and meet the needs of a child, inadequate
12 supervision of a young child, leaving a young child
13 in a situation where they can't take care of
14 themselves, and they're too young to do that, or a
15 situation in which there is domestic violence in a
16 home that could potentially endanger a child. Those
17 are some examples. There are many more like that.
18 So, there-- there's serious-- they may be short of
19 what we consider to be serious physical and sexual
20 abuse, but they're very serious issues that can
21 significantly endanger a child. Now, so, the
22 question is, you know, how do we address poverty
23 issues independent of that, and that is an important
24 issue because we know that the families that we work
25 with at ACS are disproportionately affected by

2 poverty and come from communities that are
3 disproportionately affected by poverty. So, even
4 though our decision-making about identifying and
5 indicating abuse or neglect is not poverty based and
6 is based on an independent set of criteria, we often
7 identify families that have needs that are related to
8 poverty and in the course of doing investigations or
9 in follow [sic] on preventive services that we refer
10 parents to or their parents seek from us. so, for
11 example, in the course of a child protective
12 investigation, if we identify the family needs food
13 or needs a crib for an infant, things like that,
14 we'll provide those things to the family because we
15 want to address those concerns, and that in itself
16 wouldn't be the basis for a neglect finding. And
17 similarly, once we get into longer-term involvement
18 with a family through preventive services, we
19 consider it to be a core aspect of our preventive
20 work to address poverty-related barriers or obstacles
21 that a family may be experiencing. So for example,
22 our preventive services partners will work with
23 parents to access benefits that they may be entitled
24 to but are not receiving. We'll work with them to
25 address issues of housing instability or

2 homelessness, because we have many families that are
3 in the shelter system or are at risk of homelessness.
4 We will work with families to access child care
5 services. So, we definitely consider it to be part
6 of our mission at ACS to help families from a support
7 service perspective address poverty issues, and in
8 fact, we have in the last year we've created a new
9 division at ACS called our Division of Child and
10 Family Wellbeing whose focus is specifically on how
11 we can intervene separate and apart from an advance
12 of child welfare involvement to support families and
13 communities that are addressing issues like poverty.
14 So we consider it-- I certainly consider it to be
15 part of our mission to address poverty issues, but
16 that's separate and apart from the child welfare
17 investigative process to identify maltreatment.

18 CHAIRPERSON LANCMAN: So, when is a
19 parent given a lawyer to represent their interest in
20 these proceedings?

21 COMMISSIONER HANSELL: At the time that
22 we file in Family Court. Let me as Deputy
23 Commissioner Sputz to speak to that issue.

24 DEPUTY COMMISSIONER SPUTZ: Sure, when
25 ACS makes a decision that court intervention is

2 required, the family will be given notice to appear
3 in Family Court and then my division, Family Court
4 Legal Services, will work with the Division of Child
5 Protection. We'll interview the child protective
6 specialist. We'll have conversations about the
7 investigation. We'll make a collaborative decision
8 on how to proceed and, you know, causes of action and
9 the allegations in the petition, what services the
10 CPS is requesting. Then we'll go ahead and we'll file
11 that petition in Family Court. Once that petition is
12 filed in Family Court, the Family Court will make a
13 determination, you know, whether to appoint a lawyer
14 to the family or the family retains an attorney, but
15 typically there are, you know, parent provider
16 agencies in the Family Court, 18B attorneys who will
17 represent parents.

18 CHAIRPERSON LANCMAN: So, in the
19 circumstances where there's not an emergency removal,
20 child is still with the family, the family is served
21 with papers saying, "Come to court at x date for the
22 following purpose, and you may have a right to
23 counsel, if you cannot afford one."

24 DEPUTY COMMISSIONER SPUTZ: Sure. The
25 Family Court will make a determination, and if the

2 parent cannot afford an attorney, then yes, then the
3 attorney is appointed to the parent. On all article-
4 - it falls under Article 10 of the Family Court Act.
5 All Article 10 filings if the parent cannot afford an
6 attorney they are appointed.

7 CHAIRPERSON LANCMAN: Now, what about in
8 the circumstances about half of the removals being
9 emergency removals? When will the parent have the
10 opportunity to be in court and to be represented?
11 Because as I understand it, the next day you will be
12 in court to start the process of confirming the
13 removal. Is that the filing of an Article 10 that
14 next day, or that's something even before that?

15 DEPUTY COMMISSIONER SPUTZ: No, that
16 typically will result in the filing of an Article 10
17 petition. So, if the removal occurs during court
18 business hours and CPS can get to court in time,
19 we'll file that day. If not, the next day that the
20 court is in session.

21 CHAIRPERSON LANCMAN: But the thing that
22 you're filing is the Article 10 petition.

23 DEPUTY COMMISSIONER SPUTZ: Yes.

24 COUNCIL MEMBER LANCMAN: right.

25 DEPUTY COMMISSIONER SPUTZ: Yes.

2 CHAIRPERSON LANCMAN: And so you remove
3 the child. Family Court is closed. The next day
4 you're going to be in Family Court, and that's a hard
5 and fast rule, right, the next business day?

6 DEPUTY COMMISSIONER SPUTZ: That's
7 required by the Family Court Act, yes.

8 CHAIRPERSON LANCMAN: Alright. And does
9 the parent have a right to be present at that
10 hearing? And I don't even know if hearing is the
11 right word. I may be infusing it with more process
12 and justice then what actually occurs.

13 DEPUTY COMMISSIONER SPUTZ: No, I mean,
14 hear-- you can use the term hearing. It's in the
15 Family Court Act. It's Article 1027. It's typically
16 referred to as a 1027 hearing, and yes, the parent
17 absolutely has a right to be present.

18 CHAIRPERSON LANCMAN: Okay. And do they
19 have a right to counsel at that point? What they--

20 DEPUTY COMMISSIONER SPUTZ: [interposing]
21 yes, at the filing of the petition the parent has a
22 right to be represented by counsel.

23 CHAIRPERSON LANCMAN: And then last
24 question on the legal aspect of things, and then I
25 know others have their own questions. The initial

2 child safety conference, am I correct that the
3 parents are not allowed to bring legal counsel to
4 that, to those conferences, and why would that be?

5 COMMISSIONER HANSELL: I'll ask Deputy
6 Commissioner Fletcher to talk about that process from
7 the DCP perspective. That's true. We encourage
8 parents to bring family members, advocates and
9 others, but the child safety conference is
10 fundamentally a social work intervention. It's not a
11 legal proceeding. And so we don't have representation
12 there and neither do the parents, but they can bring
13 advocates, others with them. We realize it can be a
14 stressful experience for parents to go through. We
15 want them to have people there that will provide
16 support to them, but we want to keep-- because the
17 goal of it is to try to identify interventions that
18 can keep the child safely at home, and that
19 frequently is the outcome of it. And so the hope is
20 to avoid any kind of legal proceeding coming out of a
21 child safety conference, and so what we want to do is
22 have the participants there including our
23 facilitator, advocates and others who will contribute
24 to designing a service plan that will enable us to
25 safely maintain children at home and support families

2 in making sure that their needs are met. But let me
3 ask Deputy Commissioner Fletcher to elaborate on
4 that.

5 DEPUTY COMMISSIONER FLETCHER: Yeah,
6 thank you, Commissioner. You're exactly right.
7 These conferences are facilitated by our CFS, which
8 are our Children and Family Specialists. They are
9 MSW licensed, clinical social workers. We do want to
10 keep that as the mode for these conferences.

11 Initially when we decide that we have to utilize our
12 emergency removal powers, we immediately notify the
13 family that you are able to attend the conference the
14 following day, if not being held the same day. If
15 it's before court closing, that they are able to
16 bring anyone that they would like who is not an
17 attorney, because again, we want to keep it under the
18 modality of social work, but they can bring anyone
19 else. We do have apparent advocates also that attend
20 the conferences. They meet with the family prior to
21 the actual conference being convened, and then
22 throughout the conference attending as well, or of
23 course, not just the outside or external invitees,
24 but we have our child protective specialists who
25 actually decided to do the removal. We have our

2 supervisory staff, and at time when necessary, we
3 have a manager in the room as well.

4 CHAIRPERSON LANCMAN: Council Member
5 Levin?

6 CHAIRPERSON LEVIN: Thank you very much
7 my Co-Chair Rory Lancman. So, along those lines,
8 I'll follow up on Rory's questions there. How many
9 parent advocates are available, and is there-- is
10 there a right to a parent advocate? I know that--
11 for example, I know that like ACS contracts with
12 Rise, maybe CWOP, or used to do CWOP, but are there
13 nearly enough parent advocates to be available to
14 every parent that wants one, and is one-- I mean,
15 say there's a child safety conference scheduled for
16 tomorrow. Parent says, "Well, I don't have any
17 family to go with me?" I mean, taking-- honestly,
18 setting that aside for a second, I think we need to
19 kind of look at how stressful that child safety
20 conference would be for a parent. You know, I'm a
21 parent of a young child. If something happened, and
22 I was-- had to go to a child safety conference, I
23 would be beside myself. I don't know if I could-- you
24 know, it's a lot of pressure to put on a parent to
25 conduct themselves rationally. So, if they don't

2 have family member to go with them, how do we ensure
3 that they have a family advocate that-- or parent
4 advocate that's available.

5 DEPUTY COMMISSIONER FLETCHER: I just
6 want to clarify that we currently fund parent
7 advocates through JCCA and CDHFS. More than half of
8 our child safety conferences have a parent advocate
9 present. And many of our advocates, many of our
10 parent advocates are co-located in our borough
11 offices because exactly Chair Levin as you're saying,
12 we also understand some of the trauma that families
13 are going through. Here now someone is saying that
14 right now we feel that there are some challenges
15 around your parenting, so we're going to meet and
16 talk about that. So we know that they're coming to
17 the borough offices not feeling good about themselves
18 and not feeling good about the process. So some of
19 the work we've done with our advocacy groups is that
20 we have arranged for these advocates to be present so
21 that early on they can intervene. Now, you also
22 mentioned-- so if for example, we don't have a
23 planned conference, and then we're about to convene
24 one maybe either the next morning, through our
25 process we are able to inform our advocate providers

2 that our conference is going to be scheduled for
3 tomorrow and we would like someone to be present for
4 the parent. And then there are many instances when
5 parents on their own reach out to their advocates.

6 CHAIRPERSON LEVIN: So, you said that
7 half, about half of child safety conferences involve
8 a parent advocate.

9 DEPUTY COMMISSIONER FLETCHER: Yes.

10 CHAIRPERSON LEVIN: Why not all?

11 DEPUTY COMMISSIONER FLETCHER: There are
12 instances when families say no, I'm not interested in
13 having an advocate sit in the conference.

14 CHAIRPERSON LEVIN: Why wouldn't-- why
15 wouldn't they want an advocate?

16 DEPUTY COMMISSIONER FLETCHER: That's,
17 you know, I wouldn't be able to tell you that now.
18 You know, I can survey-- you know, we could talk
19 about surveying families, but no, at this point I
20 don't know why they wouldn't--

21 CHAIRPERSON LEVIN: [interposing] But it
22 is available upon request.

23 DEPUTY COMMISSIONER FLETCHER: Sure it
24 is.

2 CHAIRPERSON LEVIN: No parent is forced
3 to go to-- if they ask for a parent advocate and
4 one's not available, a child safety conference won't
5 commence if they've asked for one?

6 DEPUTY COMMISSIONER FLETCHER: So, if
7 they ask for one, we will make sure that there is one
8 present at that child safety conference.

9 CHAIRPERSON LEVIN: And then just to be--
10 just for clarity sake, there's-- Commissioner, you
11 mentioned in your testimony child safety conferences
12 and family other conferences, family-- FTC.

13 COMMISSIONER HANSELL: Family Team
14 Conferences, yeah.

15 CHAIRPERSON LEVIN: Family team
16 conferences. Those are different?

17 COMMISSIONER HANSELL: Those are
18 different, and again, let me have Deputy Commissioner
19 Fletcher explain the distinction between the two.

20 DEPUTY COMMISSIONER FLETCHER: So, our
21 family team meetings when there's-- there are
22 concerns around risk, those conferences are convened
23 by our supervisory, CPS Supervisory II level staff.

24 CHAIRPERSON LEVIN: So that doesn't
25 involve parents?

2 DEPUTY COMMISSIONER FLETCHER: So, that
3 does involve parents, yes.

4 CHAIRPERSON LEVIN: Okay.

5 DEPUTY COMMISSIONER FLETCHER: Parents
6 are there. Our Sup II's facilitate those
7 conferences. CPS are in the room as well. Remember
8 our child safety conferences are facilitated by our
9 licensed clinicians.

10 CHAIRPERSON LEVIN: And would one case go
11 towards a family team conference and one to a child
12 safety conference?

13 DEPUTY COMMISSIONER FLETCHER: So--

14 CHAIRPERSON LEVIN: [interposing] Or are
15 they not mutually exclusive? Are they not mutually
16 exclusive, or are they different tracks, or what's--

17 DEPUTY COMMISSIONER FLETCHER:
18 [interposing] So, they're different tracks. One, when
19 you look at child safety conferencing you're looking
20 at imminent risk of danger.

21 CHAIRPERSON LEVIN: Okay.

22 DEPUTY COMMISSIONER FLETCHER: Right?
23 When you're look at a family team meeting you're just
24 looking at risk.

2 CHAIRPERSON LEVIN: Okay. Okay. I want
3 to take a step back here. My Co-Chair talked a lot
4 about issues around poverty and how that relates to
5 particularly neglect findings. Can you explain how
6 ACS is working with the other social services
7 agencies, Department of Homeless Services and HRA,
8 and Department of Education around issues that are
9 coming out of-- particularly housing instability?
10 So, just as an example, one metric that we have
11 reported in the MMR is the percentage of families
12 that are placed in shelter according to their
13 youngest child's home borough that they go to school.
14 That's where a family should be placed. If your
15 child goes to school in Queens and they're in fourth
16 grade, you go into shelter-- you go to PATH in the
17 Bronx, you should be placed in shelter in Queens,
18 because your child needs to get to their elementary
19 school, and five years ago that number was at around
20 80 percent or 90 percent of the time families were
21 placed according to their youngest child's school in
22 that borough. That number has gone down to a little
23 bit over 50 percent and it's been-- and it's stuck
24 right there around 53 percent which means 47 percent
25 of the time you go into shelter and you're going to

2 be placed wherever they find a space for you anywhere
3 in the City having no-- regardless of where your
4 child goes to school. So you either got to relocate
5 your kid to a different school or try to get to
6 school when it's going to be hard to find a bus route
7 to get to that school. Or if you're placed in Bronx
8 and your kid goes to school in Queens, that bus ride
9 might be two hours or an hour and a half. There could
10 be a mandated reporter at the school that says,
11 "Well, that child has not-- has been tardy or truant,
12 you know, an increasingly high number of times." And
13 so all of a sudden you have, you know, an educational
14 neglect call going in to SCR. How-- I mean, these
15 are large systemic problems based around housing
16 instability in particular, but the City is tasked.
17 This is a measure in the MMR. So, this is something
18 that we obviously have, you know-- this is a goal of
19 ours to do. How is ACS working around-- that's just
20 an example, but there's other issues around SNAP
21 benefits. You mentioned, you know, benefit
22 enrollment thing-- WIC, you know, food or, you know,
23 perhaps a child is coming into school, they don't
24 have enough clothes. They're coming into school with
25 dirty clothes every day, same clothes for four days

2 in a row, and call goes in for neglect to SCR, and
3 the finding is that, you know, the family doesn't
4 have adequate furniture. They're sleeping on a--
5 they don't have a bed for a child. They're sleeping
6 on a mattress on the floor. How is-- explain a
7 little bit about how-- I can understand kind of on
8 Commissioner level how we can talk about this, or you
9 know, but how is that-- how are these issues getting
10 addressed on when a CPS is going out and trying to
11 identify or weigh whether to indicate a neglect case
12 around these types of issues.

13 COMMISSIONER HANSELL: Yeah, that's a
14 very important question and there are a lot of pieces
15 to the answer. Let me give a couple. On the
16 specific issue of how we maintain educational school
17 continuity for children, that's a major focus of our--
18 - for children who are in foster care in particular,
19 that's a major focus. I want Deputy Commissioner
20 Farber to speak to that, but let me say a couple of
21 general things, and I'll ask her to speak
22 specifically to that question. You know, I think--
23 as I said in my response to the earlier question, I
24 do believe even though it's separate and apart from
25 our child investigative process and our

2 determinations of abuse and neglect, I do believe
3 it's a critical part of our mission to address
4 poverty among families that we encounter at ACS, and
5 there are a number of ways in which we're doing that.
6 We are expanding those ways and we are frankly always
7 looking for additional ways we can do that. And so
8 I'm certainly interested if Council Members have
9 ideas that you think we should explore. With regard
10 to our work with the Department of Homeless Services
11 and the shelter system, first of all, we have teams
12 of child protective specialists collocated at the
13 PATH. So when a family that we're working with is
14 entering the shelter system, we have the ability to
15 work with DHS around that placement to make sure--
16 now, I want to say make sure, because ultimately the
17 placement is not our responsibility, it is DHS'
18 responsibility, and they have their own issues around
19 shelter capacity, and I'd have to let them speak to
20 that. But we have the ability to be at the PATH to
21 weigh in on that decision, where we may have
22 information about what's important to maintain the
23 child's school attendance or community connections or
24 other things that might be relevant to DHS' decision
25 about where to place that family in shelter. So we

2 have that relationship in place. We also believe
3 that part of our preventive engagement with families
4 through our preventive services should focus on
5 assisting families who are dealing with housing
6 instability to avoid homelessness where we can assist
7 in doing that, and also to assist families who are in
8 the shelter system to leave the shelter system where
9 we can assist in doing that. And we have pilots in
10 place between ACS and actually both parts of DSS, DHS
11 and HRA, around both of those things in Brooklyn.
12 So, we are working. We have a pilot in place where
13 our preventive services, agencies in Brooklyn, are
14 screening families for housing instability, and if
15 they identify it, making referrals to the HRA Home-
16 based system so that families get support in eviction
17 prevention, legal counsel, all the things that they
18 need to avoid eviction and homelessness. And
19 similarly, on the other side we have a pilot under
20 way with DHS to identify families who are in--
21 initially, we starting in families who are in
22 commercial hotels who either do or should have access
23 to a subsidy that they could use to obtain rehousing
24 in private housing and to help them access that and
25 help them leave the shelter system and move back into

2 private housing. So, there are a number of things
3 that we're doing around housing issues that families
4 that we encounter are dealing with, again,
5 independent of our investigative responsibilities.
6 Similarly, as I mentioned, benefits access, one of
7 the things that we want our preventive agencies to do
8 is to help families identify and access benefits like
9 WIC, like food stamps, like SNAP, other things that
10 they may be eligible for that they're not receiving
11 where that's possible. And then we also-- and this
12 is something that we can more or less do in-house
13 since we also have responsibility for the City's
14 child care program, to make sure that families that
15 need child care for their children, both for the
16 children's wellbeing, but also so parents can go to
17 work or engage in other activities that they need to,
18 that we help those families to access child care.
19 So, those are-- there are a number of things that
20 we're doing to expand that, and the issue of
21 educational continuity in particular is very
22 important to us, especially when children are in
23 foster care. And let me ask Deputy Commissioner
24 Farber to speak to that.

2 DEPUTY COMMISSIONER FARBER: So, school
3 stability obviously is a critical piece of reducing
4 trauma for children when they're entering foster
5 care, and this is an area where the system performs
6 quite well compared to other jurisdictions around the
7 country. We have about 75 to 80 percent of children
8 entering foster care who remain in their same school,
9 and that compare to their other jurisdictions where
10 that's, you know, 30 percent. You know, clearly
11 we're always working to do as well as we can on this.
12 it's also important to recognize that even the 25
13 percent, you know, who may not be staying in their
14 same school, that can happen as a result of a best
15 interest determination where it's actually been
16 determined that it is actually based on a number of
17 factors, actually in a child's interest to be placed
18 in a different school. we work very closely with the
19 DOE, and when children can get on an existing bus
20 route we have a business process between ACS and the
21 DOE to identify those kids and get those kids on
22 those bus routes, and when the DOE does not have a
23 bus route, ACS then pays for a private transportation
24 for the children to be able to get to school.

2 CHAIRPERSON LEVIN: Do we have data on
3 the number of calls to SCR or the number of cases,
4 the indicated cases that where the family is residing
5 in the DHS shelter or in an HRA shelter, in a DV
6 shelter? I realize there might be some privacy
7 issues around that, but it's within the same social
8 services agency, you know, district [sic]. So,
9 something that may be examined.

10 COMMISSIONER HANSELL: We'll take a look
11 at that and get back to you with the best information
12 that we have.

13 CHAIRPERSON LEVIN: My concern is, say a
14 family is in shelter, you know, they-- I visited a
15 hotel that where families are residing through DHS.
16 The room is about 150 square feet. There's no desk.
17 There's, you know, there's no place for those kids to
18 recreate. There's not-- you know, they're eating,
19 you know, like kind of a frozen meal of some kinds.
20 There's-- the room itself where they were staying
21 where there's three kids or two kids and a parent,
22 you know, in a very, very small hotel room. And if
23 I-- when a CPS walks into that circumstance, what--
24 how are they assessing that living situation and
25 whether or not aspects of it might fall into their

2 definition of neglect just because you have three
3 people living in a 150-square foot room.

4 COMMISSIONER HANSELL: Let me say a word
5 about that and have-- actually, as it happens, I have
6 had experience because in one of the times that I
7 shadowed a child protective team, one of the visits
8 we did was to a family that was in a commercial
9 hotel. So I've actually experienced that. And again,
10 that-- parents-- what we would assess in terms of
11 neglect would be is there imminent risk to a child's
12 physical, mental, or emotional health, and is that
13 the result of a parents' failure to provide minimum
14 care. The fact of living in a small space by itself
15 wouldn't be relevant to either of those things.
16 There are ways-- I mean, not optimal or ideal, and
17 that's why we're working with DHS to try to help get
18 families out of commercial hotels. We I think all
19 agree that that's not the ideal place for any family
20 to be. But from perspective of our-- the legal
21 definition under which we could indicate neglect,
22 that in itself wouldn't be relevant to that standard
23 at all.

24 DEPUTY COMMISSIONER FLETCHER: And just
25 to add that-- so we've been doing a lot of

2 relationship building with DHS, Division of Child
3 Protection, and we do have individuals that we can
4 reach out to. So, on the ground, when a CPS goes into
5 that type of unit and it's not conducive for the
6 family, it's not a question around neglect; it's a
7 question of let's find the right setting for this
8 family so that they can thrive. So we're able then to
9 reach out to counterparts from DHS, not just from the
10 actual facility, but also from their central office
11 for us to be able to negotiate or to, you know,
12 advocate for this family to be placed in the right
13 unit. The other thing the Commissioner mentioned,
14 our PATH Unit which is collocated at the DHS site in
15 the Bronx, we also use them as well to help advocate
16 for our families.

17 CHAIRPERSON LEVIN: Okay, I'm going to
18 jump around a little bit if that's okay, just because
19 I think my questions are, you know, on various topics
20 here. In the-- going to some data here. If we're
21 looking at the number of cases that are remanded, you
22 know, during the course of a year, you have about
23 half are emergency removals, and then half are post-
24 filing removals, so court-ordered at the initial
25 hearing. Those are going-- those are cases where

2 either it's out of the-- it's during normal business
3 hours or they're able to go to a judge and judge is
4 going through a child safety conference and ACS is
5 making a determination to ask for removal and the
6 judge is approving it at that time. you said-- so of
7 just of those cases, how many-- do we have a
8 breakdown of how many of those cases result in
9 children being reunited with their families, and then
10 kind of on like a timeframe of within 10 days, one
11 month, three months, six months?

12 DEPUTY COMMISSIONER WHITE: [off mic] kids
13 placed in foster care.

14 CHAIRPERSON LEVIN: [interposing] Sorry,
15 Deputy Commissioner, if you could identify yourself
16 for the record, please?

17 DEPUTY COMMISSIONER WHITE: Sorry, Andrew
18 White, I'm Deputy Commissioner for Policy--

19 CHAIRPERSON LEVIN: [interposing] And if
20 you can get up close to the mic, just for the record
21 here.

22 DEPUTY COMMISSIONER WHITE: So, 10
23 percent of the children remanded by the court placed
24 in foster care are reunified within 30 days.

2 CHAIRPERSON LEVIN: Ten percent within 30
3 days, and then within six months is there a--

4 DEPUTY COMMISSIONER WHITE: Yeah, we have
5 that here, too.

6 COMMISSIONER HANSELL: Yes, I have it
7 right here, in fact. Within six months, 26.8
8 percent.

9 CHAIRPERSON LEVIN: Okay. And then
10 within a year, is that number--

11 COMMISSIONER HANSELL: [interposing]
12 Within a year,--

13 CHAIRPERSON LEVIN: continue to go up,
14 or?

15 COMMISSIONER HANSELL: so, and this is I
16 guess this is cumulative. So, 10 percent within 30
17 days, an additional 26 percent within six months, and
18 then an additional 9.2 percent within a year. So,
19 that would get a total of about-- what is that, like
20 45 percent.

21 CHAIRPERSON LEVIN: Okay. And are-- the
22 process for that taking place, is that-- why is that
23 taking place in some instances but not in others, and
24 why are some cases happening within a month, and why
25 isn't some cases it happening in six months, and why

2 is it in some cases happening within a year? Is it
3 because-- is it because-- I mean, I guess what I'm
4 getting at here is it because it's taking that long
5 for the court to be making determinations as to
6 whether there is an imminent risk, or is it that ACS
7 is working with the families on appropriate court-
8 ordered supervision protocols, or what's happening
9 there? Why would it-- like, you know, why is it in
10 some cases it happening more quickly and then in
11 others?

12 COMMISSIONER HANSELL: Yeah.

13 CHAIRPERSON LEVIN: And why is it some
14 cases where it's happening and other cases where it's
15 not?

16 COMMISSIONER HANSELL: It can be either,
17 and let me just say a couple things, and then I'll
18 turn it over to one of my colleagues on either side
19 who can talk about the judicial aspect of this and
20 the foster care aspect. So, it could be either,
21 Council Member. So, obviously our goal is always
22 reunification and as quickly as possible. So, from
23 the placement of a child in foster care, we in the
24 foster care agency are working with the family to
25 address the risks that led to the child being placed

2 in the first place. And if we are able to develop a
3 safety plan that we think allows us to safely return
4 the child, then we wouldn't feel a need to continue a
5 court proceeding to keep the child in foster care. So
6 we would be willing to move much more quickly to have
7 that child returned to the home. If we believe the
8 risk continues to exist, then the proceeding in court
9 may go on for a longer period of time, because then
10 there may still be a contested proceeding between the
11 parent and ACS and the foster care agency about the
12 ultimate disposition of that child's permanency plan.
13 So, it could be that the amount of time could be
14 shorter if ACS is able to identify and work with the
15 family and the foster care agency on a safety plan
16 that allows us to support reunification, and if
17 that's not possible or that it takes a longer time to
18 get there, then the proceeding in Family Court could
19 continue for a longer period of time which could
20 delay and extend foster care placement.

21 CHAIRPERSON LEVIN: I-- quoting this
22 Center for New York City Affairs analysis that came
23 out in July of this year. One case that was cited by
24 the Bronx Defenders in speaking to the actual just
25 how jammed up the court system is, it took 20-- the

2 family had a 1028 hearing which is to contest the
3 removal and in one 1028 hearing took 23 court
4 appearances over 28 weeks, only to find that there
5 was no imminent risk. So I don't have the details of
6 the case, but speaks to how protracted I think these
7 cases can be, because the judges have so many
8 hearings scheduled on a single day that they don't
9 have time to-- you only have 30 minutes or so in
10 order-- on any given court appearance, and so, you
11 know, as a result it just-- just to weigh all of
12 this, that's almost a year. I don't know how old this
13 child was, but if this child was two years old, I
14 mean it's almost six months, six months away from
15 their mother, you know, as a two-year-old could be
16 just utterly devastating, and in that case, you know,
17 the court was able to determine-- I don't know,
18 again, I don't know whether it was contested or what
19 the-- whatever the adjudication was. I don't know
20 whether that was court-ordered supervision, but it
21 took a long time to get there, and there's no reason
22 in the world why it should take 23 court appearances
23 to arrive at that kind of determination. Is that
24 because the system is-- just don't have the capacity
25 to handle all of the cases or the hearings or the SCR

2 complaints, or I mean, how is this-- I mean, do we
3 need more judge? I mean, one of the things that I
4 find most galling is when-- and Rory could speak to
5 this as well. You know, when the state announces in
6 their budget some years that they're adding Family
7 Court judges, it's with all this pomp and
8 circumstance that they've added 12 Family Court
9 judges for New York State. You know, it's like two
10 million dollars in a budget of-- I don't know, the
11 state budget is probably 150 billion dollars a year,
12 and it's, you know, and they're adding two or four
13 million dollars to the Family Court system, and it's
14 like a budget highlight, and it's absurd, because we
15 have, you know, these families whose lives are being
16 torn apart, because of delays in the system. I mean,
17 am I wrong about that, or is--

18 DEPUTY COMMISSIONER SPUTZ: Well, let me
19 just say overall, you know, as a child protective
20 agency, obviously ACS is focused on child safety and
21 that drives our decision to file cases and obviously
22 access the court system for orders that we think are
23 necessary to keep children safe. You know, that being
24 said, we certainly-- and I would defer to the
25 Commissioner-- but you know, would support greater

2 resources for the Family Court if that's what was
3 necessary. We certainly on a day-to-day basis-- you
4 know, we're citywide, so we have Family Court, Legal
5 Services offices, in each county Family Court and we
6 try to work very closely and collaboratively with
7 court and the other stakeholders to try to make the
8 work as efficient as possible. You know, we'll come
9 up with, you know, various ideas, maybe work around
10 trying to focus on settlements. So cases where we
11 think that some of the risk and safety have been
12 meliorated, we can work on settling those cases to
13 avoid protracted litigation. We also try in some of
14 our boroughs to be-- have our attorneys to be
15 dedicated to certain court rooms or clustered around
16 certain court rooms to try to be as available as
17 possible and try to also work on intake, the intake
18 process, to try to make that as efficient as
19 possible. So, you know, there's any number of
20 factors. I think that results in some cases--
21 obviously the case that you're speaking about, I
22 don't know the facts of that case, and so it would be
23 difficult for me to comment on that particular case,
24 but we certainly want the cases to resolve and be
25 heard as quickly as possible, and have the decisions

2 made. I think we are aligned and seek the same, you
3 know, outcome that having the decisions made at the
4 earliest possible point is a benefit to everybody
5 involved.

6 CHAIRPERSON LEVIN: Maybe this coming
7 year we could all, all of us, Bronx Defenders,
8 Brooklyn Defenders, Legal Aid, ACS, me and Rory and
9 Adrienne and Mark and Debbie, and everybody go up to
10 Albany and ask for more resources for the Family
11 Court.

12 COMMISSIONER HANSELL: You know, we would
13 certainly be happy to work with you as we develop
14 our, you know, legislative and budgetary proposals
15 next year, to work with you and the Council on that,
16 because it is a concern to us. You know, I do want
17 to say in fairness, the Family Court leadership is as
18 concerned as we are about this. Everyone wants these
19 proceedings to move as quickly as they can for all
20 the reasons that you said, Council Member, which is,
21 you know, families deserve expeditious hearings on
22 these matters. They're very important to the lives
23 of children. And we work close-- I do at the
24 leadership level with Judge Ruiz [sic] who is the
25 Chief Judge of the Court and Deputy Commissioner

2 Sputz and his staff do on a day-to-day basis. I
3 think they work as well as they can within the
4 constraints that they have, but it is challenging,
5 and of course, they have also, Family Court system
6 has also recently taken on additional
7 responsibilities with Raise the Age, where now some
8 proceedings that would have been in Criminal Court
9 are now devolved into Family Court. So, I think
10 given that as well,--

11 CHAIRPERSON LEVIN: [interposing] Those
12 are the same judges hearing those cases?

13 COMMISSIONER HANSELL: Same judges or
14 same courts anyways. They may assign them
15 differently. That's a--

16 CHAIRPERSON LEVIN: [interposing] Right,
17 right, right.

18 COMMISSIONER HANSELL: business process
19 decision, but it's the same courts.

20 CHAIRPERSON LEVIN: They didn't come with
21 additional resources for more Family Court judges in
22 our Family Courts.

23 COMMISSIONER HANSELL: Right, right. So,
24 I say that partly to say I think for that reason too
25 this is a very opportune time to look at the capacity

2 of Family Court and maybe make some recommendations
3 to the state.

4 CHAIRPERSON LEVIN: Okay. I'm going to
5 turn it back over to Rory. Thank you.

6 CHAIRPERSON LANCMAN: I know that Council
7 Member Rose had a question. I don't know if she's
8 left for good, but Council Member Adams? You have a
9 question? Yes, Council Member Adams?

10 COUNCIL MEMBER ADAMS: Thank you to our
11 co-chairs today for having this really important
12 hearing, and I welcome and thank you all for your
13 testimony today. I represent District 28 in Queens
14 that encompasses the areas of Jamaica, South Ozone
15 Park, Richmond Hill, and Rochdale Village, and in
16 2016 there was a very young boy, and I'm sure aware
17 of it, who was tragically-- who tragically died. It
18 happened to very close to where I live, actually. I
19 believe his name was Michael Gonzales, and it was
20 very unfortunate circumstance surrounding his death.
21 At that time, I was Chairperson of Community Board
22 12, Queens, and I did follow up with NYPD to find out
23 exactly what happened to that child and how that
24 could have possibly have happened to that child.
25 Come to find out, he did have some health issues, but

2 there was also a lot of neglect that was very well-
3 known to ACS and other agencies at the time. I said
4 that part just to say that I am very concerned about
5 our children in the system. I continue to keep my
6 eyes as much as I can on the welfare of our children
7 in the system. between Community Board 10 Queens and
8 Community Board 12 Queens we have the highest
9 instance of commercial sheltering and homeless
10 shelters in the entire borough of Queens, and this
11 has been an issue that I've been dealing with for a
12 very, very long time, where we have seen a lot of
13 promises coming through DHS, which again, I work with
14 closely and Commissioner Banks closely over the years
15 to try to get a handle on this issue. We've seen it
16 peak in numbers that are just outrageous. I say that
17 because in looking at our children who are sheltered
18 in commercial hotels, places that children should
19 never be housed, and seeing a very large percentage
20 of those children going to school every day, trying
21 to get to and fro and normalized this situation that
22 is anything but normal is very disheartening to me.
23 So all that said, I just want to thank you for the
24 job that you do. It is not an easy job, and I know
25 that you get a whole lot of flak and a whole lot of

2 rough-going. It is tough for all of us in taking a
3 look at this situation trying to size it up, and
4 heaven help us all to try to get a grip on it and a
5 handle on it. So, as the Co-Chairs have expressed
6 with the Council, we'll do whatever we can to assist
7 and to help with this horrible epidemic of
8 homelessness that has taken over the City of New
9 York. It has affected us immeasurably, particularly
10 as compared to other places in the nation. So, I
11 just wanted to go back a little bit to what Co-Chair
12 Levin asked about the difference between-- I believe
13 it was the difference, because I wrote it down also,
14 and then he asked the question, kind of just pulled
15 it out of my brain. The difference between family
16 team conferences and child safety conferences, and we
17 kind of sized it up by saying child safety
18 conferences are conferences when a child is at
19 imminent risk and family team conferences are when
20 children are at risk, correct? Right. Can we just
21 take a little closer look at that? When we take a
22 look at the pieces of what comprises a family in
23 these instance where we have to call in for the
24 conference, be it family team or child safety, can
25 you give me an example first of all of what may

2 encompass a family dynamic? Is it a single parent,
3 two parents, grandparents, other children in the home
4 as well? Would that be-- would that compromise the
5 family or would it just be the parent, parents, the
6 grandparents, excluding other children that may be
7 living in the residence as well? Let me just start
8 there.

9 DEPUTY COMMISSIONER FLETCHER: So,
10 definitely when we take that composite look at the
11 entire family it involves everyone that's in that
12 household as well as other people who may interact
13 with the household, because I know as we all know, it
14 you know, takes a group of people to help raise
15 children and have influence over children. So,
16 definitely we take into account everyone, even though
17 there may be a specific child where the allegations
18 relate to that one child, a possible or alleged
19 maltreatment. We also assessed every child that's in
20 that home. As it relates to child safety conferencing
21 and risk, the difference, so risk for example could
22 be a child not going to school. So, what we will do
23 is then convene that family team meeting to talk
24 about options for the family, what supports perhaps
25 the family may need to help more this child so that

2 the child may be able to attend school on a regular
3 basis, and we take baby steps with the family as we
4 plan with the family. You know, we don't have high
5 expectations by saying within a month we want this
6 child not to miss any school. Let's at least first
7 find out what the challenge is, and then secondly,
8 what do we need to do change the behavior. That's
9 the work that's done in that family team conference.
10 The child safety conference, again, when we look at
11 impending or imminent risk of harm, they're without
12 us putting in major safety interventions, and we
13 probably would have to remove. So that we play out
14 in that child safety conference. What interventions
15 can we put in place to mitigate some of those major
16 safety or imminent risks of harm to this child?
17 That's done in a child safety conference, and when we
18 can't come to a meeting of the mind as it relates to
19 putting in the right interventions, then we have no
20 choice but to remove that child to keep that child
21 safe. I hope that answered--

22 COUNCIL MEMBER ADAMS: [interposing] It
23 did.

24 DEPUTY COMMISSIONER FLETCHER: Okay.
25

2 COUNCIL MEMBER ADAMS: Thank you. Just
3 is there-- and I know this is probably a little bit
4 difficult to answer, but between the two types of
5 conferences, is there an average number of
6 conferences that it would take to get to completion
7 or conclusion or to close that particular session out
8 between the family team conference or the child
9 safety conference? Is there like a number you say,
10 "Oh, we want to-- maybe five is enough meetings or
11 four is enough."

12 DEPUTY COMMISSIONER FLETCHER: So, there
13 are-- definitely there's a continuum of conferences
14 that occur for a family. One of course is if we
15 don't convene a family team meeting and we end up
16 going straight to the child safety conference route,
17 there's a 30-day follow-up conference that occurs.
18 That's when we reconvene. We bring all people back to
19 the table, and we talk about where we are now with
20 the family, and if the child was removed to keep the
21 child safe, then our foster care partners convenes
22 various conferences throughout the life of the family
23 being involved with ACS. I don't know, Julie, if
24 you're-- if you can speak to those type of
25 conferences.

2 COMMISSIONER HANSELL: Yeah, let me--
3 before I do, I just want to make the point, you know,
4 much of what we do in child welfare investigations is
5 mandated by the state. We have to do investigation
6 into-- initiate within 20 or 48 hours, complete in 60
7 days, the standards for abuse and neglect, those are
8 all mandated by the state, and we're required by law
9 to follow them. Conferencing is not. The family
10 team meetings are not. These are things that we do at
11 ACS because we believe that as much as possible we
12 want to work with families rather than impose
13 decisions on families. So, these are processes that
14 we have added on our own, because we think they're
15 way-- and we believe, and I think, you know, our
16 experience bears out, that when we work with families
17 in the way that Deputy Commissioner Fletcher is
18 speaking of, we are more likely to get to a result, a
19 positive result for the family and for those children
20 than if we simply impose obligations on families, and
21 that's why we have put these procedures in place.

22 DEPUTY COMMISSIONER FARBER: Yes, so you
23 know, family team conferences is really a
24 reflections, you know, of our value of working with
25 families and having families at the table, and at

2 conferences families can have advocates and bring
3 other family members and bring other folks to the
4 table who serve as supports to them, and we really
5 value that and support that. When a child does come
6 into foster care throughout the life of the case,
7 there's a schedule of regular family team conferences
8 that can coincide with permanency hearings and other
9 procedural matters that are happening in the Family
10 Court as well as conferences that are scheduled when,
11 you know, there's a significant change in the life of
12 the family or, you know, something happens with the
13 child. You can call a conference, bring everyone
14 around the table, but really is sort of a critical
15 piece of the way in which we work with families
16 throughout the life of a foster care case.

17 COUNCIL MEMBER ADAMS: Thank you. Along
18 the same line, we were speaking of parent advocates a
19 little while ago. Now, parent advocates are
20 voluntary, correct? If a parent req-- they're upon
21 request of parents, guardians, super-- okay.

22 COMMISSIONER HANSELL: That's correct.

23 COUNCIL MEMBER ADAMS: Alright. How
24 important is the presence of a parent advocate in all
25 of these sessions?

2 COMMISSIONER HANSELL: Well, we believe
3 it's very important, because we believe that-- we
4 know interactions with the child welfare system can
5 be stressful for families. We know participation in
6 these meetings and conferences, even if they're in
7 families' best interest can still be stressful and
8 difficult, and so we think it's important to have--
9 for families to have the support of both people they
10 know, other family members, neighbors, whoever,
11 people that they have a relationship with who they
12 feel comfortable having there, but also parent
13 advocates who know the system, most of whom have been
14 through the system themselves, and that's why we have
15 made a big investment in our relationships with
16 organizations of parent advocates to do this work
17 because we think it is important for every family to
18 at least have the option of having a parent advocate
19 who knows the system, who's been through the system
20 and who can advise them about how to work through the
21 process in a way that's in the best interest of the
22 family and the children.

23 COUNCIL MEMBER ADAMS: I agree, and I
24 also would agree with Chair Levin. If I were a
25 parent in a situation like that, I would be

2 petrified, I would be intimidated and I would feel
3 very, very alone. Do you think that it's something
4 that needs to be mandated?

5 COMMISSIONER HANSELL: We-- again, the
6 goal of the family team meetings and the child safety
7 conferences is to engage families. So, I think my
8 concern about that would be it-- you know, too often
9 people frankly feel that ACS imposes things on them
10 rather than consults them. I'd be a little bit
11 reluctant to impose the participation of a parent
12 advocate on a family that didn't want one. I think
13 most families do want them, but in a situation where
14 a family may feel more comfortable having someone
15 other than one of our parent advocates, I guess my
16 feeling is they should have that choice. That should
17 be the families' choice, not our choice.

18 COUNCIL MEMBER ADAMS: Do you think that
19 it's important that parents have representation by an
20 advocate that would protect them in every meeting?

21 COMMISSIONER HANSELL: Well, they have
22 the option to have an advocate with them at each
23 meeting if they want to.

24 COUNCIL MEMBER ADAMS: Okay. Thank you.
25 I have one other line of questioning, and I'm doing

2 this in behalf of my colleague Council Member Ulrich
3 who had to leave, and he wants to know how are
4 removals of children with special needs assessed and
5 accommodated? Are there specialized CPS workers with
6 expertise in assessing children with special needs
7 who may-- children who may not be able to express
8 instances of abuse, or identifying abusers, how are
9 those children handled?

10 COMMISSIONER HANSELL: Yes, so in the
11 investigative process we have to make sure that we
12 are addressing needs of children with special medical
13 needs, developmental disabilities, intellectual
14 disabilities, both parents and-- both children and
15 parents, actually, because we also have to make sure
16 that we're taking that into consideration when we're
17 assessing parenting incapacity, if there issues that
18 parents have. And so, we have specialized units that
19 do that work, and we talk to you in more detail about
20 that if you'd like us to. And then we also have
21 within our preventive services portfolio, we have a
22 number of specialized programs to meet the needs of
23 children with special medical needs or other unique
24 needs that would not be appropriately served by one
25 of our general preventive programs. So we both factor

2 those issues into the investigative process to make
3 sure that as we are, you know, reaching our
4 conclusions about risk, we are appropriately taking
5 into consideration issues that either the parent or
6 the child might have, and then also as we develop a
7 service plan for the family through preventive
8 services, we do have specialized programs to make
9 sure that we're appropriately meeting the needs of
10 children.

11 COUNCIL MEMBER ADAMS: Thank you very
12 much for your testimony. Thank you.

13 COMMISSIONER HANSELL: Thank you.

14 CHAIRPERSON LEVIN: Council Member Rose
15 for questions?

16 COUNCIL MEMBER ROSE: Thank you. Good
17 afternoon, Commissioners. After reading the
18 statistics, I was wondering how do you account for
19 the variations in child removals amongst boroughs. I
20 represent the 49th district, and we have one of the
21 highest removal rates in New York City, and it's been
22 that way for quite a while. How do you account for
23 so the disparit--

24 COMMISSIONER HANSELL: [interposing] Yeah,
25 no, that's a very good question. It's first and

2 foremost a function of the number of reports that we
3 receive, and as I indicate in my testimony, we are
4 required by law to investigate every report we
5 receive. There is certainly variation in the number
6 of reports we receive from different community
7 districts or different neighborhoods around the City.
8 Our responsibility is to investigate every report
9 that we receive and then to make our determination
10 about whether we believe there is evidence of abuse
11 or neglect and whether a action is necessary,
12 including supervision or ultimately removal. So, to
13 a large extent it's out of our hands, because it's
14 driven by where we receive reports. I will say,
15 though, and I said this a little bit earlier, I do
16 believe that even independent of our child welfare
17 investigations, we have a responsibility as a child-
18 serving agency to work with communities to address
19 those issues and address those disparities that do
20 exist from borough to borough, from community
21 district to community district, from neighborhood to
22 neighborhood. And so we are identifying additional
23 ways that we can work with communities to address
24 some of the challenges that those communities are
25 facing outside of the child welfare system, and

2 hopefully so, those families never have any
3 engagement with the child welfare system, which is
4 what we would all, I think, prefer, and so some of
5 the things that we have launched recently like, we
6 have new programs we call Family Enrichment Centers,
7 two of which are in the Bronx, one is in Brooklyn,
8 are working with communities completely outside the
9 child welfare system to identify with families in
10 those neighborhood, in this case it's in Highbridge
11 and in the south Bronx, to identify the services that
12 they feel are missing in their neighborhoods and to
13 make sure that we are providing those services
14 through these Family Enrichment Centers. We also
15 have community partnerships do the same thing. So
16 we're trying to partner with communities to help
17 build that infrastructure that will support families
18 with a hope of avoiding child welfare involvement
19 altogether.

20 COUNCIL MEMBER ROSE: But again, in
21 Staten Island we don't have that--

22 COMMISSIONER HANSELL: [interposing] Yes.

23 COUNCIL MEMBER ROSE: those type of
24 support programs, and we have a smaller population
25 than the other boroughs, and so I'm wondering is

2 there some sort of culture. Is there some different
3 level or standard that we're looking at to drive? I
4 mean, it's a huge difference between the numbers of,
5 you know, reported cases, and that are found and have
6 been determined founded. So, I was just wondering if
7 there was something that you've looked at internally
8 to see what's driving this, you know, large number,
9 and if it is that people feel more comfortable
10 reporting, then that's fine, but then are you saying
11 that's a level of comfort doesn't exist in the other
12 boroughs? I'm just trying to figure out why Staten
13 Island is disproportionately higher than others.

14 COMMISSIONER HANSELL: So, we'd have to--

15 [laughter]

16 COMMISSIONER HANSELL: [inaudible] my
17 direction here. But the truth is we don't know, I
18 mean, to be honest. You're asking a very good
19 question we don't have a clear answer to. We do--
20 you know, there are factors that we are familiar
21 with. For example, we do know that Staten Island has
22 been more heavily hit by the opioid epidemic than
23 other parts of New York City.

24 COUNCIL MEMBER ROSE: Staten Island what?
25

2 COMMISSIONER HANSELL: Has been more
3 heavily hit by the opioid epidemic--

4 COUNCIL MEMBER ROSE: [interposing] Yes.

5 COMMISSIONER HANSELL: than other parts
6 of New York City, and there's no question that has
7 resulted in an increase in reports to ACS that we
8 have to investigate, and in some cases action we have
9 to take if other issues that involve not just
10 substance abuse, per say, but its impact on parents'
11 ability to care for children. So, that is certainly
12 a factor. Another factor is a very-- you know, our
13 reports come from both what we call mandated
14 reporters, service providers that are required to
15 report if they see a concern with a child and non-
16 mandated, and mandated reporters, of course, can
17 include teachers or educational professionals,--

18 COUNCIL MEMBER ROSE: [interposing] Right.

19 COMMISSIONER HANSELL: medical, you know,
20 and so on. And the largest source of our reports
21 actually is school personnel as a category. We
22 receive a very large number of reports from school
23 personnel. So, one of the things that we're doing,
24 not just focused on Staten Island but citywide, is to
25 work with the school system, with Department of

2 Education, to develop ways that we can communicate
3 with the schools so that we have communication
4 channels in place so that teachers, administrators,
5 and so on in the schools feel like they have other
6 avenues to communicate to ACS about concerns about
7 children other than filing a formal child welfare
8 report. So, there are ways that we're trying to get
9 at that issue.

10 COUNCIL MEMBER ROSE: So, do you sort of
11 report in those categories, mandated reporters versus
12 outside, or--

13 COMMISSIONER HANSELL: [interposing] Yes,
14 we do.

15 COUNCIL MEMBER ROSE: Okay.

16 COMMISSIONER HANSELL: And we even break
17 it down by categories of mandated reporters, and we
18 can provide you with that data.

19 COUNCIL MEMBER ROSE: And have you been
20 able to determine how many of the mandated reporters'
21 reports have been founded?

22 COMMISSIONER HANSELL: Yes, we can do
23 that now for you.

24 COUNCIL MEMBER ROSE: You can do that?
25 You can give me that information?

2 COMMISSIONER HANSELL: Yes, we can do
3 that.

4 COUNCIL MEMBER ROSE: I would like to see
5 that, and then for Staten Islanders, I seem to be
6 obsessed with Staten Island, but most of the cases
7 when children are removed, they are then addressed or
8 processed by social services in Brooklyn, and that
9 creates a hardship for the families in Staten Island.
10 Is there any chance that you would look to change
11 that? Often times we don't have our own standalone
12 services that are provided on Staten Island, and
13 you're taking families that are already challenged
14 and having them get, you know, services elsewhere.
15 Is that something that--

16 COMMISSIONER HANSELL: [interposing] Yes,
17 that's a great question, and that is something that
18 we're focused on. I'm actually happy to say that is
19 something we'll be addressing soon. Our-- you know,
20 we have a portfolio of what we call preventive
21 services, which are the supportive services that
22 you're providing that we offer to families in a
23 situation where we think a family needs assistance
24 with a health issue, medical issue, a substance abuse
25 issue, whatever it may be, domestic violence issue,

2 and those services exist. We have a number of
3 providers around the City, 54 of them in total, but
4 they're not many in Staten Island, it's true, and we
5 do not currently have the capacity to offer every
6 type of preventive services in every borough. All of
7 those preventive services contracts actually will be
8 expiring about a year and a half from now, and we are
9 about to begin the process of renewing those
10 contracts with our new RFP to select a new group of
11 providers, and one of the things that we hope to move
12 to is a model where we can offer more universal
13 coverage across all boroughs of the services that we
14 provide. So that is a goal of ours.

15 COUNCIL MEMBER ROSE: I'm glad to hear
16 you say that because during the budget process I
17 noticed that there are a lot of agencies that request
18 funding and get funding, and they say they're
19 citywide, but yet, Staten Islanders have to leave the
20 borough to get those services. So, in the RFP, if in
21 fact you could sort of indicate that if they were
22 willing to provide sort of the satellite services in
23 the borough as opposed to saying that they will serve
24 Staten Islanders, but in another borough, that would
25 be, you know, really helpful.

2 COMMISSIONER HANSELL: Yep.

3 COUNCIL MEMBER ROSE: And just to circle
4 back with the mandated reporters, especially our DOE
5 reporters, you said that there's going to be some
6 more extensive training for them, is that what I
7 heard you say?

8 COMMISSIONER HANSELL: For the mandated
9 reporters?

10 COUNCIL MEMBER ROSE: That you're looking
11 at expanding training to mandated trainers? You
12 know,--

13 COMMISSIONER HANSELL: [interposing] We--
14 there were actually-- mandated reporter training is
15 done by the state, not by us. We work directly with
16 the reporters from the Department of Education. So,
17 the educational--

18 COUNCIL MEMBER ROSE: [interposing] Right,
19 and--

20 COMMISSIONER HANSELL: which are a
21 substantial proportion of the reports that we
22 receive. So, yes, we do do regular ongoing training
23 and education for DOE personnel about options for
24 communicating concerns to ACS.

2 COUNCIL MEMBER ROSE: So, I just wanted
3 to encourage you to do that for my DOE personnel on
4 Staten Island.

5 COMMISSIONER HANSELL: Absolutely, we'll
6 make sure that our Staten Island office is aware of
7 that and that we do that.

8 COUNCIL MEMBER ROSE: Thank you, and how
9 did the SCR determine the youngest child turns 28 to
10 be the appropriate amount of time to keep a family's
11 record on file?

12 COMMISSIONER HANSELL: That's actually
13 required by state law. State Law says that a-- when
14 a case is indicated that that must be maintained as
15 record until the youngest child in that family-- ten
16 years after the youngest child in that family turns
17 18. That's a matter of state law.

18 COUNCIL MEMBER ROSE: Is there a
19 likelihood that would that that would be looked at?
20 That's a long time for a family to be stigmatized.
21 It impacts their employment, you know, possibilities,
22 sometimes their housing. It has such a long-term
23 impact for, you know, for it to be 28 years. And I'm
24 not saying that if there's a history of abuse and
25 it's ongoing that they should get a pass, but there

2 are families who have been reported and sometimes, as
3 I think some of my numbers on Staten Island show,
4 they might be somewhat questionable. But for a
5 family to be stigmatized, for a parent to stigmatized
6 for 28 years is, I think, is just unfair unless there
7 is chronic, ongoing, you know, abuse. So, I think we
8 should look at.

9 COMMISSIONER HANSELL: Yeah.

10 COUNCIL MEMBER ROSE: Because we are
11 actually keeping them in a situation what would
12 perpetuate abuse if you can't get a job, if you can't
13 provide for your family, you know, the stressors of
14 those types of, you know,--

15 COMMISSIONER HANSELL: [interposing] Well,
16 no, I very--

17 COUNCIL MEMBER ROSE: [interposing] things
18 that have impact.

19 COMMISSIONER HANSELL: much hear your
20 concern. As I said, that's a matter of state law, so
21 the State Legislature would have to make the decision
22 to change that with the governor, but I know that
23 there is-- there are views in the advocacy community
24 about that, and I'm sure that will be a topic of
25 conversation in the next legislative session, but

2 it's really ultimately a decision the State
3 Legislature would have to make.

4 COUNCIL MEMBER ROSE: Okay. I'd like to
5 get behind it, and I just have one other question
6 about-- so the families that are at risk because
7 they're in substandard housing or housing in need of
8 significant repairs and maintenance, NYCHA and lead,
9 I mean, those things can lead to neglect and abuse.
10 Does ACS ever work with other city agencies to help
11 parents acquire the necessary repairs or housing so
12 that we can keep people in their homes as opposed to
13 pushing them into shelters that are equally as
14 substandard in my opinion?

15 COMMISSIONER HANSELL: Yes, we do. First
16 thing, I do want to be clear that those things in
17 themselves would not lead to an abuse or neglect
18 finding, because you know, as I-- the standard, as I
19 said before revolves around harm to the child--

20 COUNCIL MEMBER ROSE: [interposing] Right.

21 COMMISSIONER HANSELL: and the parent not
22 taking action that's within the parent's control.

23 COUNCIL MEMBER ROSE: But if you have a
24 family is who is-- who has a history and is at risk
25

2 and they're living in, you know, that type of
3 situation, it's a contributing factor.

4 COMMISSIONER HANSELL: It is certainly a
5 concern, absolutely, and so as we're working with the
6 family either in our investigative process or through
7 preventive services, if that family needs assistance
8 advocating with HPD or NYCHA around those sorts of
9 things, we would certainly assist them in doing that.

10 COUNCIL MEMBER ROSE: Thank you, Chair.

11 CHAIRPERSON LEVIN: Thank you, Council
12 Member Rose. Commissioner, I just have a few more
13 questions. We'll try to-- again, I'll be jumping
14 around, but I'll try to keep this quick. One area of
15 concern has to do with marijuana use or allegations
16 of marijuana use as a reasoning for a finding of
17 neglect or of other maltreatment in another way. Are
18 there ever any instances where marijuana itself is a
19 determining-- marijuana use by a parent is a
20 determining factor for either removal or court-
21 ordered supervision or an indication of a neglect
22 case? In other words-- I guess, start with
23 indication and then go to court-ordered supervision
24 or whatever--

2 COMMISSIONER HANSELL: [interposing] No,
3 marijuana use per-say would never be the basis for an
4 indicated finding of abuse or neglect. It would only
5 be marijuana use, but for that matter any substance
6 abuse that has an impact on parenting capacity or
7 ability to provide adequate guardianship for a child
8 that would be a potential issue in a neglect
9 situation.

10 CHAIRPERSON LEVIN: Has it ever been, or
11 is that a policy change that has shifted over time?

12 COMMISSIONER HANSELL: I don't believe it
13 has ever been. No.

14 CHAIRPERSON LEVIN: Or on the other side
15 of it, is it ever cited as a reason not to return a
16 child to their parents? Is-- on the other side of
17 it, it is ever cited as a reason not to return a
18 child to their parents. So, a removal has happened
19 for some other reason. They've completed a
20 preventive services course, but they are-- you know,
21 they take a drug test and show positive for marijuana
22 use. Is that ever cited as a reason not to return a
23 child to their parents?

24 DEPUTY COMMISSIONER SPUTZ: So, again,
25 you know, it's very fact specific. It's really based

2 on each individual case in each individual family.
3 So, it's difficult in a vacuum to comment on that,
4 and typically marijuana may-- there may be other
5 allegations that are a part of a petition that sort
6 of go along with the marijuana use. But it really
7 depends on what brought the family to the attention
8 of ACS into the Family Court. And so in and of itself
9 a positive test for marijuana without their having
10 been some prior history of marijuana use where that
11 prior history was shown to have a substantial impact
12 upon the safety of a child, would not necessarily
13 lead to an argument that the child has to continue to
14 be removed because there was sort of this, you know,
15 aberration, or there was this one positive test from
16 anyone--

17 CHAIRPERSON LEVIN: [interposing] Not just
18 one positive test, but say a child was removed
19 educational neglect, or something that rose to a
20 level that was a high level of neglect, not abuse,
21 but high level of neglect. In one the findings was
22 that the-- you know, upon the initial removal was--
23 or one of the contributing factors-- is it ever set
24 as a contributing factor for removal? In other
25 words, that's why-- you know, here's the list of

2 reasons and one of those reasons is a positive
3 marijuana test?

4 DEPUTY COMMISSIONER SPUTZ: I think if
5 there's demonstration that that marijuana use is then
6 linked to the impact upon the child, it could be that
7 there's potential for that. So again, I think it's
8 very fact-specific--

9 CHAIRPERSON LEVIN: [interposing] I mean--

10 DEPUTY COMMISSIONER SPUTZ: [interposing]
11 and what is happening with--

12 CHAIRPERSON LEVIN: [interposing] Why
13 would marijuana use be for one family, you know,
14 contributing factor and for another family not? I
15 mean--

16 DEPUTY COMMISSIONER SPUTZ: You sort of
17 have to come up with some facts that it would be that
18 could be extensive marijuana use where that leads to
19 then, you know, depending upon the ages of the
20 children in the home, there could be a lack of
21 supervision if there is significant marijuana use and
22 you have an infant in the home and there's an
23 inability to properly supervise a young child in the
24 home. So, again, really fact-specific what the

2 history of the family is and how that impact, you
3 know, to the child or children.

4 CHAIRPERSON LEVIN: Because within
5 several years we're likely to have, you know, full
6 legalization of marijuana in the state, and I don't
7 know how that would then change, you know,-- we could
8 talk about it a little more later, I guess.

9 COMMISSIONER HANSELL: Yeah, no, I mean,
10 certainly we're going to have to follow the change in
11 the legal status of marijuana, and if and when it's
12 legalizes-- it may be-- we'll look at that impact it
13 has on our policies, but of course, alcohol is legal,
14 but--

15 CHAIRPERSON LEVIN: [interposing] Right,
16 and--

17 COMMISSIONER HANSELL: there are cases in
18 which--

19 CHAIRPERSON LEVIN: [interposing] alcohol
20 use is cited [sic].

21 COMMISSIONER HANSELL: use of alcohol in a
22 way that impairs parent incapacity leads to child
23 welfare concerns.

24 CHAIRPERSON LEVIN: Right, okay.
25

2 COMMISSIONER HANSELL: I do want to just
3 say for the record, though, because-- and we looked
4 at this specifically, because we thought the question
5 might come up. We looked at all of our cases in FY
6 18, there's not a single case in which an educational
7 neglect finding alone led to removal.

8 CHAIRPERSON LEVIN: Got it.

9 COMMISSIONER HANSELL: It doesn't happen.

10 CHAIRPERSON LEVIN: Okay, right, I think
11 that's important clarify. Other forms of neglect
12 that are-- that don't rise to the level of abusive
13 behavior, I mean,-- other forms of neglect that are
14 not physical, have they led to removal?

15 COMMISSIONER HANSELL: Yes, certainly.
16 Inadequate guardianship could lead to removal.
17 Failure to attend to a child's critical medical needs
18 could lead-- so, yes, there are definitely issues
19 that don't involve actual physical.

20 CHAIRPERSON LEVIN: I mean, inadequate
21 guardianship is a fairly broad category it sounds
22 like, right?

23 COMMISSIONER HANSELL: It is. It is, and
24 it covers a lot of things, but obviously the extreme
25 situations that might lead to removal would be a very

2 young child left in a situation where they can't care
3 for themselves, and it would be dangerous to leave a
4 child in that situation.

5 CHAIRPERSON LEVIN: Just a couple of
6 other quick questions here. Corporal punishment is
7 in-- that's under neglect, right? How do we as a
8 city or does ACS examine the issue of corporal
9 punishment in certain cultures where a parent might
10 come from another country where corporal punishment
11 is more commonplace or more socially accepted than
12 here, and I mean, how is that contemplated and what
13 type of outreach do we do to immigrant communities
14 where it may be more commonplace, you know, in a kind
15 of preventive fashion?

16 DEPUTY COMMISSIONER SPUTZ: So, I mean,
17 there certainly might be preventive services that
18 would address that, and I think that there's a desire
19 to work with the family and to educate the family
20 around-- really, under the law it's excessive
21 corporal punishment. So, you're allowed to punish
22 your child, but it can't be excessive. And when it
23 crosses that line is when it becomes neglect. And
24 so, you know, we would look at the facts of the case
25 and make a determination, and I'll let Deputy

2 Commissioner Fletcher talk about the investigations
3 around those, but I think, you know, our
4 determination is whether or not that corporal-- use
5 of corporal punishment is excessive. And so--

6 CHAIRPERSON LEVIN: [interposing] Right,
7 I'm coming at a kind of bigger picture. Is it
8 something that ACS contemplates broadly if there are--
9 - you know, there are communities out there, largely
10 immigrant communities that where societal norms are
11 different with regard to corporal punishment. I
12 mean, is that something that kind of-- that we look
13 at how do we contemplate that issue kind of on a
14 bigger picture.

15 DEPUTY COMMISSIONER FLETCHER: Yeah, so
16 as Deputy Commissioner Sputz alluded to is that we,
17 when we're faced with immigrant families that have
18 certain customs, that I think speak to more excessive
19 corporal punishment. We involve some of our
20 preventive providers who serve as brokers to help us
21 to be able to articulate how best if at all children
22 are disciplined whether or not doing it excessively.
23 So there's a lot of work. For example, in Brooklyn
24 we work with Arab-American agency who help us with
25 families who culturally may discipline in one

respect, and we're telling them that it's bordering on abuse. There's a lot of work that we're doing with that.

CHAIRPERSON LEVIN: I mean, I looked up an article a while ago where a Chinese-American Planning Council going back to the 1990s--

DEPUTY COMMISSIONER FLETCHER:
[interposing] Yes.

CHAIRPERSON LEVIN: with looking at this issue. I found a Times article from 1992 or something like that where this is being discussed, and just-- is it still something that is-- does ACS have contracts outside of preventive?

DEPUTY COMMISSIONER FLETCHER: So, we also utilize home-making services that some of our home-making-- home-makers are culturally sensitive have come from or had immigrant status at one point. We utilize them as well to work with the families, and then there are community-based organizations, as well. You know, throughout community partnership programs that help us as well when a preventive provider may not be able to meet the needs of that specific family or they don't have the capacity at the time.

2 CHAIRPERSON LEVIN: Commissioner, you
3 spoke about the Quality Assurance Unit and ChildStat,
4 kind of ChildStat 2.0, what are we finding from these
5 efforts that are noteworthy? What's coming out of
6 these reviews that we're seeing that are helpful
7 information or helpful to policy moving forward?

8 COMMISSIONER HANSELL: Well, first of
9 all, we're finding that decision-making is extremely
10 complex, which we knew, and so you know,
11 reinforcement is important. What-- the ChildStat
12 model that we put in place last year, one of the
13 things that's distinctive about it in relation to
14 previous iterations of it is that out of every
15 ChildStat session we identify a set of concrete
16 recommendations, some of which are directed to the
17 particular child protective zone that's presenting on
18 their case, and some of which are systemic to the
19 entire agency, because we realize that in order to--
20 and I spoke to this a bit in my testimony-- but for
21 Child Protective Specialists, to do their work as
22 well as we want them to, they of course need
23 training. They need to understand the policies and
24 have the ability to meet them, but they also needs
25 all sorts of infrastructure support to do that well,

2 and so out of our ChildStat sessions we have
3 developed actually hundreds of recommendations that
4 address both practice issues that come up, some of
5 them are very technical. There are lots of things
6 involved, you know, how we code things in the system,
7 which is important, because if something gets coded
8 improperly that might lead to, you know, the wrong,
9 sort of, next step in the process, so it's very
10 important that they know how to code things. How to
11 move cases-- you know, the movement of cases from one
12 unit to another can be very important. So for
13 example, if the investigation is initiated at night
14 or on the weekends by our Emergency Children's
15 Services Unit and then transitions into a borough
16 office, making sure it transitions in a way that most
17 efficiently supports the continuity of that
18 investigation is important. So, a lot of
19 recommendations that have to do with things that may
20 seem very technical but are really critical to the
21 investigative process, and then systemic
22 recommendations around things like technology and
23 transportation, the various tools that Child
24 Protective Specialists need to do the work as well as
25 they can. So, we've produced really hundreds of

2 recommendations out of that process that we're
3 following up on.

4 CHAIRPERSON LEVIN: It's been a
5 worthwhile exercise?

6 COMMISSIONER HANSELL: From my
7 perspective, absolutely.

8 CHAIRPERSON LEVIN: Has there ever been a
9 case that you said everything's just perfect here,
10 everything's you know-- there's no recommendation--

11 COMMISSIONER HANSELL: [interposing] Oh--

12 CHAIRPERSON LEVIN: [interposing] No
13 recommendations have come out of this case? Or every
14 single case illuminates something--

15 COMMISSIONER HANSELL: [interposing] There
16 has been no ChildStat session the outcome of which
17 has been we did everything exactly correct. Our work
18 is too complicated, and our organization is too--
19 there is no organization as large as ACS whose
20 mission is as complex as ACS that can't identify
21 opportunities for improvement, and that's, I think,
22 our obligation.

23 CHAIRPERSON LEVIN: I just have two more
24 questions, and again I'm jumping around here. When
25 trying to make a determination, say for example, on

2 excessive corporal punishment, and you're balancing
3 on whether or not a removal is necessary, is there a
4 quantifiable way in which ACS contemplates the trauma
5 of removal to a child and parent? I mean, is that
6 something that's able to be weighed in some kind--
7 with some kind of metric? Or, I mean, how does that--
8 - how is that measured?

9 COMMISSIONER HANSELL: I don't think it's
10 measurable. I'll look to others and see if-- I mean,
11 it's something that exists in every case. We know
12 every removal involves trauma. So it's a factor that
13 we have to consider in every removal, but ultimately,
14 any decision about whether to move forward to request
15 supervision or removal is not based on a mathematical
16 formula. It's based on-- it's a judgement that's
17 based on all the facts and circumstances that we have
18 available to us when we're making that decision, and
19 the extent of trauma to the children and the family
20 is one of those factors we have to weigh, but I don't
21 think there's a way that we can quantify it.

22 CHAIRPERSON LEVIN: It remains a kind of
23 ongoing challenge, and something that hopefully
24 evolves as time goes on. I mean, I think that one of
25 the things that-- I'm imagining that you do follow

2 whatever research is out there on-- I'm not sure
3 that-- supposing that there is research out there on
4 what types of trauma arise out of removals or
5 remanding from child welfare cases.

6 COMMISSIONER HANSELL: Yes, absolutely,
7 and we are certainly incorporating trauma-informed
8 approaches into all of the work that we do. We
9 certainly have infused that. That's one of the
10 things we've done in our foster care system, through
11 the waiver that we have in place with the Federal
12 Government that allows us-- has allowed us to invest
13 in various enhancements to the work that our foster
14 care agencies do, that includes trauma-informed
15 services. It's part of our preventive services
16 program. It really is infused in all the work that
17 we do.

18 CHAIRPERSON LEVIN: Okay. Just one kind
19 of note to leave on here, and I don't mean to leave
20 on a down note, but you know, it does-- the number
21 that jumped out at me was the increase in the number
22 of cases that are referred for court intervention,
23 which we've seen-- sorry, I'm looking for the data
24 point here. It's a significant increase from-- It's
25 a 54 percent increase from-- in Family Court

2 petitions from 2014 to last year, I believe. Which
3 obviously there-- you know, that's-- that is in line
4 with the-- it's not totally in line, but it
5 corresponds to an increase in the number of calls
6 coming in to the SCR, but not of-- but that hasn't
7 increased by 54 percent. And so, that is-- that
8 obviously means that that many more cases are going
9 through the system. That many more cases are
10 getting, you know, are having the 23 court
11 appearances and so that's a-- that remains a concern,
12 and I know that-- I think you said in your testimony
13 that that number is coming down now compared to where
14 it was last year. But it's just something that I
15 think we need to keep looking at, and obviously we
16 have to act out of an abundance of caution, and the
17 first, as you said and is very important. ACS' first
18 responsibility is to the safety of New York City's
19 children, and we have to make sure that we're doing
20 everything appropriate to keep each child safe that
21 is-- that we have a responsibility to look out for.
22 at the same time, you know, following larger trends
23 where we're seeing just an increase of that size is
24 concerning because of the-- it-- because of the other
25 side of the coin, which is trauma that some families

2 may needlessly face as a result of being court-
3 involved for extended periods of time. And so that's
4 just one thing that I think that we should continue
5 to look at moving forward and trying to track where
6 the appropriate level is there.

7 COMMISSIONER HANSELL: Yeah, no, I very
8 much agree. We do look at that very closely. I
9 don't believe many of those are families that have 23
10 court appearances because these are families that are
11 under supervision, not in foster care, so we don't
12 have the ongoing foster care issue that was in the
13 other example that you cited, but still, obviously,
14 even supervision is an imposition on families. We
15 would, you know, where we can safely obviously much
16 prefer to take the supervision route to the removal
17 and the foster care route. So many of these are
18 cases where otherwise might have ended up-- and you
19 know,, if you go back a few years, we were doing
20 many, many more removals than we're doing today,
21 several time as many removals a year as we are
22 currently doing. And I think today many of those
23 cases that would have been removals years ago are now
24 supervision cases. That's an improvement, but yes,
25 we absolutely have to make sure that we are making

2 the right decision every case and we are requesting
3 supervision only when we believe it's absolutely
4 necessary to keep kids safe, and that's fundamentally
5 while we're making such a big investment in quality
6 assurance to make sure we're following appropriate
7 procedure and decision-making in every case.

8 CHAIRPERSON LEVIN: Well, thank you very
9 much, Commissioner. I'll turn it back over to my co-
10 chair. Colleagues, any other questions?

11 CHAIRPERSON LANCMAN: Thank you very
12 much.

13 COMMISSIONER HANSELL: Thank you all very
14 much.

15 CHAIRPERSON LANCMAN: So, our next panel
16 will be legal services providers and those who have
17 signed up are Emma Ketteringham from Bronx Defenders,
18 Lauren Shapiro, Brooklyn Defenders, Tehra Coles from
19 Center for Family Representation, Jane Cooper from
20 Legal Aid Society, and Michelle Burrell from
21 Neighborhood Defender Services of Harlem.

22 [break]

23 CHAIRPERSON LANCMAN: Ladies and
24 gentlemen, ladies and gentlemen, ladies and
25 gentlemen, if you could find your seats and we can

2 proceed that would be great. If the Sergeant at Arms
3 could encourage people to find their seats or move on
4 to the next event in their day, that would be--
5 that'd be wonderful. So, we're going to put five
6 minutes on the clock. If you feel compelled to speak
7 longer, I'm not going to stop you, but that's-- yes?
8 Unless you can do five total, that'd be-- you'd get a
9 gold star for that. So, if you could all raise your
10 right hand so we can get sworn in. Do you swear or
11 affirm the testimony you're about to give is the
12 truth, the whole truth and nothing but the truth?
13 Excellent. If we could put five minutes on the clock
14 for each witness, and unless you have any plan for
15 the order in which you should go, I would say we
16 could do left to right. You want to do right to--
17 you want to go first? That's fine if that's fine
18 with everyone. Okay. No offense. I'm-- I'm leaving
19 at four, so.

20 EMMA KETTERINGHAM: Oh, okay.

21 CHAIRPERSON LANCMAN: You and I will be
22 heading out together.

23 EMMA KETTERINGHAM: Okay. Okay.

24 CHAIRPERSON LANCMAN: Go.
25

2 EMMA KETTERINGHAM: Chairmans [sic]
3 Lancman and Levin and the members of the Justice
4 System and General Welfare Committees, my name is
5 Emma Ketteringham, and I'm the Managing Director of
6 the Family Defense Practice at the Bronx Defenders.
7 Thank you for today's opportunity. I oversee the
8 Bronx Defenders' Family Defense Practice which
9 consists of over 50 attorneys, social workers and
10 parent advocates who represent parents in child
11 protection proceedings in the Bronx. Since New York
12 City first funded intuitional parent representation
13 in 2007, we've represented more than 11,000 parents
14 in the Bronx and helped thousands of children either
15 safely remain at home or safely reunite with their
16 family. Last spring our nation witnessed the forced
17 separation of 2,500 children from their parents on
18 the U.S./Mexico border. Doctor Charles Nelson,
19 Professor of Pediatrics at Harvard Medical School,
20 warned there's so much research on the short and
21 long-term harm of family separation on children that
22 if people paid attention at all to the science, they
23 would never do this. Those of us on the front liens
24 of child protection proceedings in New York City are
25 not strangers to family separation. We see hundreds,

2 over a thousand a year. We see children torn away
3 from their families unnecessarily while a relative
4 willing to care for them sits just feet away. We see
5 children separated from their family because the
6 court did not have enough time to hear their case.
7 We see mothers willing to do services, willing to
8 accept supervision by ACS only to be asked to hand
9 over their newborn. We see parents leaving ACS field
10 offices and courts with empty car seats and empty
11 strollers, because a misunderstanding had escalated
12 or a mistake of fact gone uncorrected during an
13 investigation. We participate in hearings to
14 determine whether a family separation is legal or
15 justified that pend for days, weeks, even months as
16 children deteriorate in foster care. We see families
17 lose their housing and their income after their
18 family is separated, making it almost impossible for
19 them to meet the demand of the child protection case
20 to reunite the family. We see children needlessly
21 removed on an emergency basis from their beds in the
22 night or in schools in front of their friends, only
23 to be returned days later after a court reverses ACS'
24 determination, and we see children return changed,
25 their faith shaken, never again having full trust

2 that they are safe and their parents can protect
3 them. Of course, in New York City we do not
4 intentionally separate children from their families
5 to serve a political purpose or to do them harm. The
6 child welfare system separates families over concerns
7 for children's safety and wellbeing. The devastating
8 consequences of family separation to a child,
9 however, are the same no matter the reason and no
10 matter the intent. That's why we must not ever
11 separate them needlessly and that safeguards that
12 work, we have to make sure they're in place. The
13 vast majority of children, as has been already
14 recognized, are not separated from their families in
15 New York City because of the allegations of abuse.
16 They're separated most often because their families
17 live in poverty and experience the social isolation,
18 the lack of support and stress that comes with
19 raising a family in impoverished conditions. They're
20 often separated for things that other parents also
21 experience, parents with private resources for things
22 like mental health issues or drug use, and research
23 shows that children are often removed from
24 circumstances that cause them less harm and less
25 trauma than that caused by family separation, and in

2 our city, black and brown children disproportionately
3 suffer this harm. Since New York City first
4 contracted with institutional provider since 2007,
5 the foster care census has been reduced by almost 50
6 percent, over 17,000 to under 9,000 children, and
7 there's been no evidence of an increased occurrence
8 in child abuse. This progress is in no doubt as a
9 result of ACS' stronger commitment to prevention and
10 keeping families together. The reduction is also the
11 result of stronger institutional representation for
12 parents provided by New York City during the same
13 time period. This robust representation often
14 results in the prevention of unnecessary family
15 separation and holds the agency more accountable than
16 ever before. There are two recommendations based on
17 our experience that I would like to emphasize today.
18 Our written testimony is pages long and contains
19 others, but these are the two. First, families in
20 New York City should be given access to attorneys and
21 social workers and parent advocates during the child
22 welfare investigation, before a case is filed. The
23 vast majority of parents are assigned a lawyer the
24 moment when they first appear in court, but it's the
25 days, sometimes weeks, before a case comes to court

2 during that critical investigation period, that
3 critical decisions about family separation are being
4 made. It's during this time that ACS is questioning
5 parents, visiting their home, talking to their
6 children, gathering information, and considering a
7 variety of safety plans. They might even ask a
8 parent to consent to a child medical examination. In
9 New York City, parents undergo these investigations
10 on their own. In addition, ACS might convene a child
11 safety conference, which we discussed. Those
12 conferences are held when the agency has decided to
13 file a court and case, and they are usually done to
14 consider whether a child should be separated or not.
15 Parents appear alone there. ACS spoke about parent
16 advocates being made available to parents in those
17 instances. Those are not parent advocates that are
18 accountable to the parents or work for their legal
19 defense teams. The parent advocates that ACS was
20 referring to are parent advocates that they contract
21 with. So there are other members of-- to a parent,
22 they're the members of the ACS team, and they're not
23 accountable to the parent. They don't work for the
24 parent. In 378 cases that the Bronx Defender was
25 able to provide advocacy and advice to before the

case was filed, during the investigation, in 378 cases in Fiscal Year 2018, only 16 of those families were separated. We did that with seed money. We did that, honestly, out of how hard our lawyers and our advocates work over time and beyond what is expected of us. The same results cannot be achieved by lowering ACS caseloads or training caseworkers differently. Even if a caseworker had just one case and years of training, they couldn't replace a legal team that includes a parent advocate or a social worker. While caseworkers are required to make efforts that are considered reasonable under the law in order to avoid a family separation, defense teams owe a duty of loyalty to and are accountable to the parent. The team works for her. They work as hard as they can to reach that parent's legal goal. They're trained and motivated to go way beyond the duty of reasonable effort, which might be met by making a phone call or handing a parent a service referral. That's not sufficient for the advocates who are part of the defense team. Finally, I would ask also that the council consider using its power to influence MOCJ to include civil advocates as part of our contracts, especially with the increase of

2 filings, all of our attorney lines are made up of
3 Article 10 attorneys, the attorneys that appear in
4 the Family Court on the abuse or neglect action. We
5 need housing lawyers. We need civil advocates. We
6 need lawyers and advocates who are able to assist our
7 clients with the issues of public benefits, with the
8 issues of housing, both those issues that drove the
9 family into the child protection system in the first
10 instance, like a hazardous condition in the
11 apartment, for example, or the loss of medical
12 benefits. A mention was made of a parent not meeting
13 a child's medical needs. If you miss a meeting, if
14 your Medicaid is turned off, that can lead to the
15 very type of circumstance that is a child protection
16 case. If parents have access to advocates to help
17 them negotiate those issues, we can prevent family
18 separations from occurring. I think that's it. I
19 want to give time to my colleagues. Thank you very
20 much.

21 CHAIRPERSON LEVIN: I just want to ask
22 you before you leave, the subject of-- in a child
23 safety conference representation. ACS obviously not
24 in favor of this. the reason is-- I mean, I'm kind
25 of paraphrasing their reason, is that it would be

2 then an extension of the litigation or that it would
3 become overly litigious and this is a social work
4 setting, and it's not a legal setting, per say, and
5 so by introducing-- you know, then their lawyer would
6 have to be present and it would become a prelude to
7 litigation. What do you think is the appropriate
8 type of representation in that setting? Is it legal
9 representation? Is it an advocate that is contracted
10 with the legal services provider? So, not through
11 ACS, or you know, it could be sub-contracted through
12 legal service provider. What is the-- what's the
13 right balance there? Because as you said, I mean, I
14 could just only imagine going into a setting as a
15 parent by myself and facing, you know, the
16 possibility of losing my child. It's an enormous
17 amount of stress.

18 EMMA KETTERINGHAM: The way that we have
19 done it, and we have had the opportunity, all of us
20 have, had the opportunity to participate in child
21 safety conferences. The way we do it, however, is
22 usually not by sending a lawyer, but by sending a
23 social worker or parent advocate, depending on the
24 allegations in the case, to participate with the
25 parent. So, a parent-- so we don't necessarily have

2 lawyers appear at child safety conferences. I don't
3 think that it is accurate to think they would just
4 become, you know, acrimonious or litigious if lawyers
5 were there, but that isn't actually how we do it now,
6 and it's not exactly how I would, you know, foresee
7 us doing it. What I would see is that we would
8 receive notice that a parent was under investigation
9 and that we would make a parent advocate and a social
10 worker from the legal team available to assist the
11 parent at any interactions, be it a family team
12 conference, be it a child safety conference, maybe
13 even if it's a home visit, and what we have found is
14 that this results in a greater sharing of
15 information, much, much more context to the situation
16 is provided, because often when we meet our clients
17 they're too scared to participate. They don't know
18 what their options are. They don't know the
19 consequences of not participating, for example, and
20 often times the lawyer is the one explaining to the
21 parent, you know, actually, you know, this is-- we
22 should show them the pediatric records, or we should
23 share this information, or let's call your child's
24 teacher and have them call ACS and tell them what
25 they see. So, in fact, I think it's the opposite. I

2 don't think they've become more litigious. I think
3 actually they become a much-- they end up providing
4 the agency with a much fuller picture upon which to
5 make a decision.

6 CHAIRPERSON LEVIN: The current structure
7 is not effective or appropriate.

8 EMMA KETTERINGHAM: The current structure
9 is that parents go alone unless they're lucky enough
10 to reach out to an office and say I just was told I'm
11 under investigation, can I speak to you? which by
12 the way, I think would be how any other parent who
13 has access to legal counsel would proceed if they
14 ever got that notice under their door, because it is
15 terrifying, as you said.

16 CHAIRPERSON LEVIN: Oh, you have to turn
17 on the microphone. Make sure the mic is-- the red
18 light is on.

19 LAUREN SHAPIRO: I would just add that we
20 already do participate-- our social workers do
21 participate in these conferences when there's court-
22 ordered supervision and ACS is seeking a removal, our
23 social workers go to these conferences. Also, we
24 have criminal practices, and so sometimes our client-
25 - we're already representing the client, and I do

2 believe that the case workers are used to dealing
3 with our social workers. It's not very adversarial.
4 I mean, it can be. It can become-- there can be a
5 difference of opinion, but I don't think that we're
6 asking for something that's so far off from in some
7 ways what currently exists in terms of the type of
8 communication that goes on every day between
9 institutional providers and the caseworkers.

10 : I think that it's also just important
11 to remember that while there may not be attorneys
12 from ACS in the conference, the case workers still
13 have access to their legal counsel. It's not as
14 though they're acting independently. They can still
15 go to the FCLS [sic] attorney and speak and make
16 decisions and consult. Then they have a much more--
17 they have much more information about how the system
18 works, that the average parent is not privy to. But
19 our office, actually in 2004, in 2005, piloted a
20 program similar to what we're talking about with ACS
21 called Project Engage, and that involved them
22 contacting us during the investigation stage of a
23 case, and we are-- staff would be able to speak to
24 the client, attend the conferences, do a lot of what
25 Lauren was just speaking about, and in a lot of those

2 cases, I think 80 percent of the ones that we were
3 referred to, either there was no filing or the family
4 wasn't separated.

5 CHAIRPERSON LEVIN: Thank you.

6 LAUREN SHAPIRO: I think I was going to
7 go next. My name is Lauren Shapiro from the Brooklyn
8 Defender Services, and I'm the Director of the Family
9 Defense practice. We're the primary provider of
10 parent representation in Brooklyn, and we currently
11 represent over 2,700 parents, and thank you, as
12 everyone has mentioned, thank you so much for this
13 opportunity to address this important issue. I think
14 there's no dispute that filings have gone up in
15 Brooklyn. It's by 50 percent in the last two years,
16 and I guess what we would disagree with is the impact
17 of those filings on Family Court and the children and
18 families. I'm going to speak particularly about
19 Brooklyn and in their comments they were saying that,
20 yes, we believe that Family Court needs more
21 resources and we want to work with you to get more
22 resources, but I think by saying that they're
23 undermining the impact that all these filings have
24 had in Family Court. The increase in number of
25 filings that seem unnecessary to us, the increase in

2 the number of remands that they wouldn't have asked
3 for before, trying to get judges to make decisions
4 instead of them making decisions has resulted in some
5 really harmful impacts on both children and families
6 as well as the Family Court. I think we keep hearing
7 from ACS today and in many other context that the
8 foster care census has not increased, but we would
9 argue that to the extent in the last two years the
10 number of children in foster care hasn't gone up,
11 it's because institutional providers are actively
12 litigating emergency hearings early on in cases. The
13 number of cases that we have litigated challenging
14 removals since October 2016 has gone up by 90
15 percent. Most of our energy and resources now are
16 going into hearings. We do about 40 emergency
17 hearings each month, and this is really taking a
18 toll. And as it was mentioned by one of the
19 councilmen, these hearings are taking place over days
20 and sometimes months, and contributing to even
21 further extensive delays in resolving the underlying
22 issue of whether abuse or neglect even has occurred.
23 And for sure, we're seeing that most of the removals
24 are actually neglect cases. There was also mentioned
25 several times of how many cases are court-ordered

2 supervision cases where children are not in foster
3 care, but I just want to make sure everyone
4 understands that those cases do involve separation of
5 families in many respects, because often the
6 caretaker is being excluded from the home, and those
7 parents have a right to a 1028 hearing, to an
8 emergency hearing, and so those cases are also
9 clogging up the system when we're seeing one-time
10 incidents of domestic violence where the parent who
11 could be the sole provider for the family is being
12 excluded from the home, and that trauma on the
13 children is also significant. Don't want to repeat
14 everything that we've already said about like the
15 incredible trauma that is occurring to children even
16 in all these cases that we're winning and getting
17 kids back home either by agreement or by the judge.
18 Those children are suffering even when they're
19 separated for a short period of time by staying at
20 the Children's Center by missing school by being
21 separated from siblings in countless ways. I also
22 wanted to highlight something that was said, I
23 believe it was Council Member Levin asked about the
24 harm of removal and how do you quantify that, but
25 this is a really, really important issue, because you

2 know, despite the fact that, you know, the law in New
3 York is very clear that, you know, it's in children's
4 best interest to live with their parents because the
5 child's need for normal family life will usually best
6 be met in the home of its birth present. And even
7 though that's what the law is, and we know about all
8 this, these studies about how traumatic it is for
9 parents and children to be separated. You know,
10 every day we're seeing black and brown families and
11 immigrants have ACS coming to their homes and
12 removing children. And we're not seeing that those
13 caseworkers are considering the harm of removal at
14 all when they're deciding to separate children from
15 their families. And if they do, we think there'd be a
16 lot less removals than there are. And you know, the
17 law requires this. It's not just, "Oh, are you
18 considering the harm of removal?" But you know, the
19 law is very clear. The court of appeals case says
20 that the court must consider the harm of removal when
21 looking at the risk, and it doesn't seem to me like
22 even from the responses that ACS realizes that, you
23 know, this should be part of the equation. You know,
24 we've been actually working with them to try to
25 address this issue through the development of

2 different training memos and we have yet to actually
3 get those memos finalized, and we believe that that
4 would really help in terms of addressing this issue.
5 You know, also-- running out of time here. But we
6 have lots of concerns about the number of children
7 that are being removed on an emergency basis. I
8 think the Commissioner said that it's 50 percent. I
9 mean, that's really too many children to be removed
10 from their family without any court intervention at
11 all. ACS has to do a better job of going to court
12 very quickly. One of the ways that we've tried to
13 work with them on this is, you know, they used to
14 hold a child safety conference after they removed
15 children, and we fought against that and argued that
16 they should be going; to court first, and they agreed
17 to do that on a temporary basis, but that's an area
18 where we think it's really important for them to, you
19 know-- beginning judicial oversight at every
20 decision. Fifty percent, again, is just way too
21 much. Just want to reiterate also. I was mentioning
22 the emergency hearings. We have so many examples,
23 and these are in our testimony of cases that are
24 supposed to be expedited taking place over four
25 months and children being returned after that. One

2 of the areas that we haven't talked about is the
3 delays in fact-finding cases. So, again, there has
4 been an avalanche effect of all the filings, and one
5 of them is that our fact-finding cases, I mean, we
6 have cases right now where they were filed two years
7 ago and we still haven't had a trial on whether or
8 not abuse or neglect even occurred.

9 MICHELLE BURRELL: So, I think I'll go
10 next. Good afternoon, and thank you again for the
11 opportunity to speak today. My name is Michele
12 Burrell, and I'm the managing attorney at the
13 Neighborhood Defender Service of Harlem. At NDS we
14 represent parents in abuse and neglect cases in a
15 community-based, collaborative, client-centered
16 model, and we have been representing parents in this
17 capacity since 2014. Currently, we serve
18 approximately 1,600 families. Over my 10 years of
19 representing parents in abuse and neglect
20 proceedings, there has been no more traumatic a
21 juncture in the lives of parents and children in New
22 York City than at the point of a removal from their
23 parent, even when the removal is for a very short
24 period of time. The lives of children and parents
25 are never the same when they're forcibly separated.

2 Early on in my career I can recall a four-year-old
3 being removed from her mother and father on an
4 emergency basis because of the use of marijuana in
5 the home. In spite of the New York City
6 Administration for Children's Services pleading that
7 she was at imminent risk of harm because of the
8 marijuana use, the Family Court promptly returned
9 this child. Months later I can recall my client, the
10 mother, telling me that even though her child was
11 removed for only one night, she continuously had
12 wetting accidents at home and at school, didn't want
13 to sleep in her room which was away from her parents,
14 and was frantic each and every time that she was
15 dropped off anywhere. But it is important to
16 understand that these traumatic removals are not
17 being experienced by a broad, even swath of New York
18 City. Similar to the children that were removed
19 earlier this year at the border, there is a
20 disproportionate amount of black and brown children
21 who are subject to child protective proceedings and
22 who were removed from their parents. Though the
23 players involved in the system are privy to this
24 devastating disparity because it is readily apparent
25 every day just walking into any Family Court in any

2 jurisdiction in New York City, there is a concerning
3 lack of formal data surrounding the demographics of
4 families in New York City who are subject to these
5 investigations and corresponding outcomes for
6 children once they are placed in foster care. And we
7 cannot fully appreciate or understand the extent of
8 the racial disproportionality in which children are
9 subjected to the trauma of a necessary removal unless
10 ACS reports this data in a full way. It is a fact
11 that the reports of suspected child maltreatment that
12 ACS receives are themselves disproportionately
13 focused on families of color. In 2010, for example,
14 black children represented 28 percent of all children
15 in New York City, but 38.7 percent of children with
16 whom ACS received reports. However, the
17 disproportionality constituted progressively higher
18 percentages of children who enter foster care in New
19 York City which was 46.6 percent entering foster care
20 and remaining in foster care in 2010, which was 53.8
21 percent of black children. What this tells us is
22 that racial disproportionality affects not just which
23 families are reported to ACS, but also which children
24 are removed from their families and how long those
25 separations last for. This data actually comes from

2 the state agency that oversees ACS, OCFS, and is not
3 publicly reported every year. New York City law does
4 require ACS to report monthly and annual data points
5 to the council and to the public. However, those
6 data points are organized by neighborhood, not
7 demographic information. The data about
8 neighborhoods can hint at racial disproportionalities
9 which is what I believe the council person was
10 speaking around when she spoke about Staten Island.
11 However, it doesn't give us exact-- it doesn't
12 actually confirm what the disproportionalities are.
13 It also-- it also can tell us about the racial
14 disparities and how families experience New York City
15 child welfare systems at each stage, at the
16 investigation stage, family separation, and working
17 towards unification. A model does exist at the
18 federal level for collecting data about racial
19 disproportionality at each point of contact with ACS.
20 The national Juvenile Justice and Delinquency
21 Prevention Act requires each state to report data
22 about multiple points of juvenile justice contact,
23 which is arrest, diversion versus detention,
24 confinement, disposition, probation, and so on.
25 States are further required to report on the rates of

2 each young person who comes in contact with the city,
3 the system rather, providing a clear picture of
4 minority representation at each procedural stage of
5 the case. This level of reporting should also exist
6 within New York City Child Welfare System, so as to
7 fully appreciate the ways in which race impacts the
8 decision to move children, the decisions to return
9 them, and the outcomes for children who are not
10 returned. Thank you.

11 CHAIRPERSON LEVIN: Please, speak into
12 the microphone. Thank you.

13 TEHRA COLES: Hi, good afternoon. Thank
14 you for this opportunity. My name is Tehra Coles,
15 and I'm with the Center for Family Representation.
16 I'm a Litigation Supervisor. We have offices in
17 Manhattan and Queens and similar to the other
18 providers, we represent indigent parents in Family
19 Court. Recently, our office was assigned to
20 represent a young mother, Ms. P. She was technically
21 in foster care herself, but was residing in her own
22 NYCHA apartment and along with her baby. She was
23 attending school. ACS held a child safety conference
24 to discuss their concerns about her parenting. The
25 concerns included the condition of her home, an

2 alleged six-hour delay in seeking medical attention
3 for her daughter when she was alerted that she had a
4 fever, and that she had missed a month of mental
5 health appointments. She had also been allowing her
6 aunt to care for the child for extended periods of
7 time, and ACS was concerned that she wasn't leaving
8 proper provision. At the end of that conference, at
9 which Ms. P was accompanied by a family friend, ACS
10 conducted an emergency removal of the baby. It took
11 more than two days for ACS to file a petition and for
12 us to be assigned as her attorneys. Knowing that her
13 daughter had already been removed when we met Ms. P,
14 we were prepared to have an emergency hearing that
15 day. However, ACS did not seek a removal. At that
16 appearance they consented to her daughter returning
17 home after her being separated for over two days. We
18 see this case as an example of one that did not need
19 to be filed. We also see it as an example of a case
20 where had Ms. P had representation, being a social
21 worker or an attorney at that child safety conference
22 it would not have taken two days for a petition to be
23 filed, and perhaps the removal would not have
24 happened at all. Unfortunately, since 2016, in the
25 wake of the tragic death of Zymere Perkins, which I

2 think was mentioned earlier, we have seen a dramatic
3 increase in abuse and neglect filings in both Queens
4 and Manhattan. Between October 2017 and September
5 2018, we saw a 40 percent increase in filings in
6 Manhattan and a 62 percent increase in Queens as
7 compared to that same period prior to 2016. And
8 while ACS may not be removing a higher percentage of
9 children, it is still removing higher numbers than it
10 was in late 2016. And as was earlier mentioned by my
11 colleagues, we're engaging in more contested
12 hearings. We're also seeing a lot of petitions that
13 don't need to be filed. I already spoke about the
14 work that our office did with Project Engage, and
15 again, as Emma mentioned, we would urge the Council
16 to consider supporting funding to fund similar
17 pilots. The families that are impacted by the child
18 protection system deserve to have representation and
19 advocacy that is devoted to working with them that is
20 not employed by ACS. The fact is a lot of parents
21 are afraid to speak to a case worker, are afraid to
22 agree to do certain services, because they think that
23 the result is that means they're guilty of doing
24 something, and if I say I'll do a parenting class
25 then that must mean I'm a bad parent. If I say that

2 I will do an anger management class, that must mean I
3 have an anger management problem, and sometimes when
4 they come to court and we hear what the application
5 is, be it a removal application, and even if it's a
6 release of court-ordered supervision, there's still a
7 reluctance on the part of the parent to engage in the
8 service because ACS, it's ACS' service plan, that's
9 what they want me to do. They think I'm a bad
10 parent. I'm not a bad parent. And sometimes
11 speaking to a social worker, someone who is not
12 employed by ACS who they have confidentiality with,
13 that they can be freer to share the personal stories
14 or personal experience with without fear of it coming
15 back to harm them, they're more willing to engage in
16 the services that they're being asked to do, which
17 can result in avoiding a removal or resolving a case
18 much more favorably and quickly and not using the
19 court's time for hearings that don't need to happen.
20 One other thing that I wanted to mention, I think it
21 was Councilman Levin who asked about the marijuana
22 cases to the Commissioner before, and one thing I do
23 want to note about what we're seeing personally, what
24 we're seeing in Queens and Manhattan, is that even if
25 a petition is not filed solely based on marijuana

2 allegations, we want to remove your child because
3 you're using marijuana. It also is sometimes used as
4 a reason not to expand visitation of a parent that's
5 tested positive for marijuana or that there's even
6 someone who suspects that they've been using
7 marijuana, and it also does show up in petitions.
8 And it's not uncommon for a parent to be asked to do--
9 - to submit to a drug screen before ACS will consent
10 to a release.

11 CHAIRPERSON LEVIN: Marijuana, which is
12 legal in about half a dozen states now? It will be
13 probably legal here in five years. So, I just-- the
14 case that you mentioned in the outset of your
15 testimony, she didn't-- the parent didn't call for
16 medical attention when her child had a fever?

17 TEHRA COLES: Her child had a fever and
18 ACS was concerned about-- I believe the child's fever
19 first presented itself when she was with the
20 resource, with the relative who was caring for the
21 child, but our client was not able to return to that
22 home to pick up the child to take her to the doctor
23 for six hours.

24 CHAIRPERSON LEVIN: Because children get
25 fevers. You're not-- you know, I don't think that any

2 doctor says you need to call your pediatrician every
3 time your child gets a fever.

4 TEHRA COLES: Right, and I think it's an
5 example of how when our clients become involved in
6 the system they're held to a different standard. You
7 know, every fall should result in an emergency room
8 visit or a note from the doctor that everything is
9 okay, which is not something that an average parent--

10 CHAIRPERSON LEVIN: [interposing] Most
11 pediatricians-- most pediatricians would get annoyed
12 if you called them every time your kid got a fever.

13 TEHRA COLES: Most likely.

14 CHAIRPERSON LEVIN: Thank you. And I just
15 want to-- to this entire panel, I mean, we should be
16 working together moving forward with ACS. You
17 mentioned in your testimony before about a memo that
18 you were-- I mean, we should be examining what the
19 status of that memo is. Thank you.

20 JAYNE COOPER: Hi, good afternoon. My
21 name is Jayne Cooper. I'm an attorney with the Legal
22 Aid Society's Juvenile Rights Practice. We represent
23 the majority of children whose parents are in charge
24 with abuse or neglect in Family Court in all five
25 boroughs of New York City. I would encourage the

2 Council Members to read our full testimony that we
3 submitted. I'm just going to point to a few--
4 summarize a few points. As the family separation
5 crisis has been playing out on the national stage,
6 many of us have been rightly outraged. It is
7 certainly gut-wrenching to see children pulled from
8 their parents' arms and thrust into unfamiliar
9 places. We heard public officials here in New York
10 call the separation of children from their parents
11 cruel and an assault on our values, and pediatricians
12 explain the devastating long-term consequences for
13 the children involved. For those of us who practice
14 in the child welfare field, however, these were
15 familiar sights and sounds from Family Courts across
16 New York City, from the ACS Children's Center and
17 from foster homes as parent/child separation is often
18 the intended outcome of the child welfare system.
19 Because these forced removals occur to mostly poor
20 black and brown families in New York City and across
21 this nation, this historically has evaded the
22 attention outside of the child welfare system and
23 field. We must recognize that it is families of
24 color who are so disproportionately affected by these
25 removals and be vigilant that the system does not

2 confuse poverty for bad parenting. When talking
3 about separation of children from their parents, it
4 is also important to note that it is not just the
5 initial separation that we should be looking at.
6 Separation often involves ongoing separations and
7 separations from siblings, separations from extended
8 family members, separations from neighborhoods and
9 communities, from schools, social and recreational
10 activities, among other things. Without question,
11 parent/child separation and removals are at times
12 necessary to protect children from imminent harm. We
13 certainly have clients where it is a necessary
14 situation. However, given the life altering harm of
15 removal, we must do everything in our power to limit
16 unnecessary removals. We have six suggestions for
17 the Council. First, we would continue to invest in
18 quality preventive services to support families as
19 ACS is working to do. Second, we would ensure that
20 Family Courts have the resources to promptly conduct
21 meaningful reviews of ACS removals, which they
22 currently lack. We see the same delays, the same
23 massive influx in hearings and emergency hearings,
24 and delays in reunification because other types of
25 hearings are pushed out for longer periods of time as

2 well. Third, we would ask that council help ensure
3 that case workers have reasonable caseloads so that
4 they can make well-founded determinations of the need
5 for removal and can effectively provide support to
6 allow for separated families to timely reunify.

7 Four, to fund adequate social services for families
8 so that a lack of access to services does not delay
9 reunification. The influx in filings that we've seen
10 of recent has led to significant delays in the
11 provision of services for families. This again

12 extends the separation of children from their
13 parents. Fifth, we've seen a huge benefit to our
14 representation, certainly children with the creation
15 of institutional parent representation providers in
16 New York City. Staten Island lacks that at this

17 time, and we would very much support whatever funding
18 is necessary so that an RFP could be created to allow
19 for institutional parent representation in Staten

20 Island. We also-- while we have not formally vetted
21 a proposal regarding representation of parents pre-
22 filing, for example, at child safety conference, we

23 are inclined to support the appointment of counsel
24 for parents pre-filings in all the boroughs. And
25 six, we would ask the Council to consider mandating

2 ongoing thing from ACS about all removals of children
3 from their parents, including when children are
4 reunified prior to court involvement, or when the
5 court denies ACS' request for removal. We heard some
6 of this data today. We heard the data with regard to
7 when a court does not approve ACS' request for
8 removal when court-ordered supervision is instead
9 what is permitted that there are children who are
10 removed on an emergency basis where the court is
11 never-- where court action is never sought, where
12 they in fact are returned prior to that point as
13 well, and we would ask City Council to mandate
14 reporting about all children removed from their
15 parents. This would allow ACS, City Council and the
16 public to understand how the system is actually
17 operating. More can and simply must be done at this
18 point to protect the children in New York City from
19 the harm that results from undue and unnecessary
20 separations from their families. Thank you.

21 CHAIRPERSON LEVIN: Thank you. So, I--
22 unfortunately my colleague had to leave, but I want
23 to thank him, Council Member Chair Rory Lancman for
24 having convened this hearing. And you know, on his
25 behalf I would express my gratitude to this panel and

2 truly I think it's important that maybe we-- we
3 convene in the coming weeks to talk about both
4 reporting, which we can legislate here, and so we
5 intend to do that, and we want as much thorough and
6 helpful, meaningful reporting as possible. And but
7 also we should be-- we should be examining how to
8 best reconcile what we have heard from this panel
9 with what we heard from the previous panel, and make
10 sure that they are understanding-- they have the
11 resources, right? We as a city have the resources.
12 As a state government we have the resources and the
13 ability to institute any reforms that we deem
14 appropriate in the public interest and those policies
15 should be informed in collaboration with everybody at
16 this table. I think it's great that Legal Aid and
17 the legislation representation for parents are both
18 all at the same table, and are speaking with a
19 unified voice, and I think that that is-- says to me
20 that there is institutional changes and reforms that
21 need to continue to be made, and that can only be
22 done by having those that are doing the work day in
23 and day out at the table informing that policy. And
24 so we only know what we are hearing from you and so I
25 think that it's a-- you know, I certainly don't want

2 to try to, you know, endeavor on making reforms
3 unilaterally or trying to do something without a real
4 collaboration. So, in the coming weeks and into the
5 new year I hope that we can kind of work together,
6 and I know in the spirit of collaboration that
7 Commissioner Hansell has put forward, you know,
8 hopefully they'll be open to that. But I want to
9 thank you. Thank you very much for your time. And
10 thank you for the work you're doing and all of your
11 staff that you work with. Final panel, Matt
12 Guggenheim, NYU Law School, Dionna King, Drug Policy
13 Alliance, Paola Jordan, Sinergia Inc., Lisa Gitelson
14 COCFCCA, Ron Richter from JCCA. Angeline Montalbone
15 [sp?], Joyce McMillan-- this is a-- we might have to
16 break this up into two panels, I think. Okay, so
17 we'll leave this panel at that, and then there's
18 going to be one-- oh, okay, and Joyce McMillan.
19 Actually, and we'll-- well, okay, I think that the
20 last panel is Myriam and Israel Schwimmer [sp?].
21 We'll have them come up when this panel is concluded.
22 If you could all--

23 [off mic comments]

24 CHAIRPERSON LEVIN: Okay, thank you very
25 much for your patience. Okay, this might be the

2 largest panel we've ever had, but whoever wants to
3 begin, you can go ahead. Okay, you want to start?
4 Sure.

5 RONALD RICHTER: So good afternoon, Chair
6 Levin and if Chair Lancman was here I'd say good
7 afternoon to him, too. Thank you and other City
8 Council Members for the opportunity to testify at
9 today's Oversight Hearing on Parent/Child separation
10 in Family Court. Decisions concerning whether to
11 interfere with the parent/child relationship,
12 including whether to separate a parent and child
13 present important, sensitive, and complex issues that
14 must consider the needs of the individual child,
15 their parent, the child's immediate safety, and the
16 families' integrity. These factors are usually
17 intertwined. My name is Ronald Richter. I'm the
18 Chief Executive Officer of JCCA. We have nearly 200
19 years of experience in providing an array of services
20 to at-risk children and families including
21 residential and foster home, preventive mental
22 health, educational and vocational services. I also
23 have a unique perspective on the focus of today's
24 hearing. For almost three decades I've worked on
25 behalf of the City's most vulnerable children and

2 families as the ACS Commissioner, a Family Court
3 Judge, and as a lawyer and leader at the Legal Aid
4 Society's Juvenile Rights Practice. I'm experienced
5 working on the complexities involved when families
6 are suspected of providing less than adequate
7 supervision to their children. JCCA believes the
8 children belong with their families whenever
9 possible. We believe that preventive services can
10 help to avoid out-of-home placement. We promote
11 family connections for young people in care, and I
12 want to emphasize the new opportunities provided by
13 the creation of Children and Family Treatment and
14 Support Services. I hope this information will be
15 useful to the Council as well as provide context for
16 today's discussion. JCCA is a pioneer at providing
17 preventive services having developed one of the first
18 preventive programs in New York City in 1979. The
19 agency now offers an array of services including
20 general prevention and family treatment
21 rehabilitation focusing on addressing substance abuse
22 and three evidence based models: Child/parent
23 psychotherapy for families with children between the
24 ages of 0 and five; brief strategic family therapy
25 and functional family therapy, primarily targeted at

2 teenagers. These time-limited evidence-based
3 programs are delivered in the client's home. They're
4 designed to identify challenges families face,
5 provide hope for the possibility of change, and
6 engage in family to make progress toward those
7 necessary changes. The family is the focus of the
8 effort, as it is considered the most important
9 context for our young people. Our experience has
10 shown that families respond positively to the time-
11 limited nature of evidence-based models. There's
12 been better collaboration between ACS and JCCA around
13 high-risk families served by these models, and
14 families are able to achieve the goals they identify
15 at the start of these models. When children are
16 placed in foster care, JCCA's practice reflects the
17 growing awareness in recognition of the importance of
18 lasting connections in a child's life. Our family-
19 centered, strength-based approach is rooted in the
20 fundamental value of recognizing inherent family
21 strength and building on those in order to empower
22 and stabilize families. Our involvement in the ACS
23 Home Away from Home initiative has enabled us to
24 embrace kinship care as an important way to preserve
25 a child's existing relationships. Our partnership

with families is well-illustrated in the agency's commitment to peer models that utilize credible messengers to work with young people and their families. JCCA is one of two agencies delivering parent advocate services to families attending initial safety conferences in Brooklyn and Queens. The early intervention and support of these families can in many cases help to prevent extended child welfare involvement. Additionally, we're participating in a pilot project with Rise, an organizations whose mission is to amplify and strengthen parent voice in planning for their children and decrease the time in out-of-home care. While JCCA is a leader in the delivery of preventive services and our practice incorporates the above-mentioned strategies to keep children and their families attached and engaged in the case of out-of-home placement, we're also fully committed to delivering early support and intervention to children and families in their homes and communities in order to prevent crisis and placements in care. In light of this goal, I want to bring your attention to the unprecedented opportunity to intervene in the lives of vulnerable children and families with a dramatic

2 expansion of behavioral health services to children
3 on Medicaid. New York State is rolling out the
4 implementation of child and family treatment and
5 support services. What distinguishes these services
6 is that they are more inclusive with a lower
7 threshold of medical necessity and can be delivered
8 earlier without child welfare involvement. So, I
9 don't want to take up more time than I've been
10 allotted but I want to say that these CFTSS services,
11 which I'm happy to hand you up a one-page or about,
12 are services that New York City-- New York City's
13 City Council should be aware of and should be
14 promoting. They are actually primary prevention that
15 the State of New York is introducing that have the
16 opportunity to be offered in shelters, outside Family
17 Courts, and are really the first addition to
18 behavioral healthcare since 1984 in New York and can
19 avert child welfare involvement if they are provided
20 the right way, and the state's rates are not great.
21 The state is not providing agencies like ours with
22 what I would say is adequate technical assistance,
23 but at the same time it is money to provide families
24 that are struggling with domestic violence and other
25 potential entries into child welfare a way not to

2 have that happen, and it would be a shame if a few
3 dollars was the reason why families didn't get what
4 is really primary prevention that could avert child
5 welfare involvement. So, I'll hand this up to you in
6 the procedurally correct way, and thank you for your
7 time.

8 CHAIRPERSON LEVIN: Thank you, Mr.
9 Richter. I just-- a quick question. It was
10 mentioned earlier that JCCA has a contract for parent
11 advocates in the child safety conference, to be able
12 to participate in child safety conferences. Just,
13 what's the structure of that contract? It's a
14 contract with ACS?

15 RONALD RICHTER: Right, so I was a Family
16 Court Judge and left the bench to become the ACS
17 Commissioner, and felt like parents who appeared
18 before me, even with the amazingly able Council of
19 the Center for Family Representation, which made a
20 huge difference were really at a loss when they
21 confronted a child safety conference without anyone
22 that they could actually talk to outside of, you
23 know, the CPS, and they often did not understand what
24 they were doing standing in front of a judge and
25 hadn't really been given an opportunity to fully

2 participate, not because of anyone's ill-intention,
3 but because it's a shocking possibility to be told by
4 a government that someone wants to take your kid
5 away. So, we went about at ACS trying to figure out
6 how to get somebody at that conference who was
7 essentially a parent advocate. As far as I know, it
8 had never been done in the United States before, and
9 the way that we did it was through an RFP through
10 ACS. There has been enormous criticism that it is a
11 contract with ACS. There are institutional providers
12 who would like to be able to provide the service for
13 all the obvious reasons. As you aware, it is many,
14 many years hence, and notwithstanding significant
15 changes in the Administration. There has not been
16 the addition of counsel at child safety conferences
17 for reasons that are beyond my paygrade, but we still
18 have parent advocates at child safety conferences
19 that are providing through this contract, and I think
20 that most parents how have had a parent advocate
21 would say it's an addition--

22 CHAIRPERSON LEVIN: [interposing] Right.

23 RONALD RICHTER: that makes a difference.

24 It is supposed to give voice to a parent in ways that
25 they didn't have before, and in many ways just to

2 give an opportunity for them to be able to confer
3 with someone, be able to get a sense-- it's parents
4 who have been through the system before. So it's
5 parents who have had their children removed or have
6 been confronted with removal. So, so, yeah, JCCA is
7 one of-- having-- obviously, I had not connection
8 with JCCA before--

9 CHAIRPERSON LEVIN: [interposing] Yeah,
10 yeah.

11 RONALD RICHTER: this. You know, it's a
12 way to give parents voice at this very unfortunate
13 time.

14 CHAIRPERSON LEVIN: Maybe as we're
15 exploring how to make it even better or more robust
16 or more fully-funded, or more--

17 RONALD RICHTER: [interposing] I, you
18 know, I agree with the parents' lawyers, that the
19 hand-off is not ideal, that parents only have it at
20 this very stressful time, perhaps the most stressful
21 time in their lives, and that it was not the
22 solution. It was an effort to help parents function
23 in a conference that is probably the most difficult
24 meeting--

25 CHAIRPERSON LEVIN: [interposing] Yeah.

2 RONALD RICHTER: they've ever had.

3 CHAIRPERSON LEVIN: Yeah, I'm-- I would
4 invite you to participate if we're going to explore
5 ways to make it even better.

6 RONALD RICHTER: That would be my
7 pleasure, and I would say that JCCA and other
8 organizations in addition to the other provider have
9 a great deal to say about what works and what doesn't
10 work about it, and we've learned, and we'll continue
11 to learn.

12 CHAIRPERSON LEVIN: Excellent.

13 RONALD RICHTER: Thank you.

14 PAOLA JORDAN: Hi. My name is Paola
15 Jordan. I'm the Co-Director of the Metropolitan
16 Parent Center of Sinergia, and I'm also a parent
17 myself of two kids with developmental disabilities.
18 Sinergia is a community-based organization which has
19 been providing advocacy, housing, and support
20 services to culturally and linguistically diverse
21 individuals with disabilities and their families in
22 New York City for more than four decades. Sinergia,
23 We Are Parents Too program was created in 1988 to
24 support parents with intellectual disabilities to
25 preserve and strengthen the relationship with the

children and develop their parenting skills. Many parents who participate in the program have been referred by Child Protective Services or the Family Court. Some have children who have been removed and placed in foster care. Some are living with their children or are experiencing or at risk of becoming the subject of a child protective investigation. Some single parents with other participants as a couple [sic]. Some are maintaining a relationship with the children who are expected to remain in custody of another parent or a relative, while others are planning to regain custody. Some are or have been homeless and many need secure, stable, adequate housing. The harm and trauma that is suffered by parents with developmental disabilities and the children from separation by the child welfare system is neither greater nor less than the suffer [sic] by families not headed [sic] by parents with a disability. Nevertheless, it is worth highlighting that parents with disabilities because of the heightened risk of prolonged separation often without any demonstration of necessity because of anxiety or bias bigger [sic] by the parents' disability. The need for appropriate services is specifically

2 designed to accommodate parents with intellectual
3 disabilities is well-documented. In a landmark study
4 in 2012, the National Council on Disability noted
5 that parents with intellectual disabilities are over-
6 represented in the child welfare system and once
7 involved face high rates of termination of parental
8 rights. And thus, this high rate of removal reflects
9 greater discrimination and lack of appropriate
10 services for parents with intellectual disabilities
11 and their children. There is a long and shameful
12 history of prejudice going back to the dark days of
13 forced sterilization and institutionalization [sic],
14 explicitly intended to prevent procreation. all too
15 often, the assumption that people with intellectual
16 disabilities cannot be effective parents, even with
17 support [inaudible] more people in the child welfare
18 system and disability service field. And We Are
19 Parents Too, our program, includes both individuals
20 and system-change advocacy. There is a dire need for
21 training for child protective services, Family Court
22 legal system, and other participants in the system.
23 Anecdotal reports for parent advocates attending
24 child safety conference indicate that information
25 provided by CPS show [sic] difficulty [sic]

2 differentiating between disability categories is
3 specifically psychiatry diagnosis and diagnosis of
4 developmental disabilities. For parents with
5 children in foster care, these services geared toward
6 the need of parents with intellectual disabilities
7 are clearly within the menu of services mandated by
8 the social services law and regulations. The
9 American with Disabilities Act also requires that
10 public services including the child welfare system
11 make accommodations for people with disabilities and
12 this includes appropriate support for parents with
13 developmental disabilities. Such supports should
14 include high-quality preventive services and
15 parenting classes available for family headed by non-
16 disabled parents, but with reasonable accommodations
17 to meet [inaudible] learning and communication needs
18 of individuals with intellectual and developmental
19 disabilities and advocacy to help parents access the
20 state and Medicaid-funded services that they are
21 entitled to, but which they often have difficulty
22 accessing if they're seeking to establish or maintain
23 a household with their children. No parent should
24 have to choose between services and support for which
25 they're eligible and being able to parent their

2 children. Instead, we should warranty fair access to
3 those support and services and use them to support
4 their parenting goals in the same manner that we are
5 supporting their goals for independent living,
6 employment and community integration. In addition to
7 parents with developmental disabilities, Sinergia
8 frequently assist in cases where children with
9 intellectual and developmental disabilities have been
10 placed in foster care, because their parents are not
11 able to adequately address their needs. What is
12 frequently found, however, is that the system which
13 is assumed responsibility for them is not able to
14 address the disabilities-related need either, and
15 those needs are aggravated by the trauma of
16 separation and the circumstances of foster care
17 placement? You have the rest of my testimony, but I
18 want to say thank you very much for the Council
19 Member who specifically asked about parents with
20 developmental disabilities. And I have a personal
21 request for members of the Council. I hope that in
22 future reports you guys include in your report this
23 specific population. I think it's going to create a
24 different approach and understanding of parents who

2 themselves have developmental disabilities and want
3 to be parents. Thank you.

4 CHAIRPERSON LEVIN: Thank you very much
5 for your testimony.

6 JOYCE MCMILLAN: You did well. So, this
7 is my new colleague. I'm here with Sinergia, too.
8 So, before I get stated, I would be remiss if I just
9 did not address some of the outrageous things that
10 ACS said while here testifying. Twenty-eight years,
11 I'll start with that. Half the time, without any
12 court intervention, just an indication by a
13 caseworker, that's it, that's all. If drug use or
14 substance use alone did not matter, then why does ACS
15 bother doing drug tests? We would only assess the
16 risk of a child. We wouldn't concern ourself [sic]
17 with whether or not a parent is using a substance.
18 So, don't believe the hype. Families get attorneys
19 after ACS has investigated and terrorized a family
20 for up to 90 days-- not appropriate. If I could get
21 funding from my lovely City Council people, I would
22 advocate or teach advocacy in Staten Island.
23 Families who refuse advocates at ACS conferences
24 refuse them because the advocates come from JCCA.
25 Sorry, Ron. Because that money is trickled down from

ACS, and families just don't trust ACS. They haven't shown to be trustworthy in our communities. They are trained and they align themselves with the police, and everyone knows the police are not friendly in communities of color. So how do you expect for families to trust you or any monies that you spend in our community to contract with people that are "there to support us." during conferences ACS access to police and interrogation fashion. I've had families request a break in a conference because they became overwhelmed or because they wanted to use the restroom and they were denied that. They said if they left the room that they would make a decision without them, and that the conference would end right then and there, and I've been in the room with advocates who were not independent of ACS, and I feel that they are trained by people who have worked in the system and who are then concretely related to the system and the system's way of thinking, and so they're not much of help. ACS builds relationships with all other governmental agencies so that they can gather more families to surveil. November is adoption month, and I've been quite appalled by all the celebrations on social media by foster care

2 agencies and ACS, because even if-- even if in
3 extreme circumstances that child needed to be
4 adopted, it's still not a real reason to celebrate in
5 a fashion that I have witnessed because they are also
6 celebrating that that child will be forever severed
7 from their family, and I don't see any reason to
8 celebrate that. Most judges is not the answer. I
9 mean, more judges are not the answer. Less removals
10 are the answer and how to help fix this problem. I
11 will begin my testimony. Good afternoon. I'm Joyce
12 McMillan, and thank you guys for having me today to
13 testify. When I think of families being separated by
14 child welfare, I think of irreversible harm done to a
15 child and the family. Most often, children are
16 removed unnecessarily, as workers work with the
17 mantra, "When in doubt, pull them out," referring to
18 the children. Doubt is not a standard for removal,
19 but has become the accepted status quo. ACS' mantra
20 does not speak to the protection of a child, although
21 they rave it does. ACS' actively-- ACS actively
22 recruits children into foster care without regard to
23 trauma, possible delays in milestones, emotional
24 torment, shattered bond, and the damaging of a
25 child's ability to form relationships. They recruit

by using media irresponsibly, creating a type of subdued hysteria in the general public without any balance in their messaging, just a city filled with people judging parents because their style of parenting looks different than theirs. Different does not equate to wrong. In the true fashion of being one-sided and irresponsible, on Tuesday, November 20th, Commissioner Hansell held a media release at the 125th Street location in Harlem. The framing was neglectful and completely irresponsible. The media release read as follows: During the holiday season with kids out of school, ACS doubles down on children-- on child safety by launching digital campaign to educate New Yorkers on how to call in suspected cases of abuse and neglect. Where does it talk about what abuse or neglect really looks like? The campaign further stated, "New York City Administration for Children's Services' Commissioner Hansell today announces new public awareness campaign that will be seen by more than 10 million viewers on social media feeds in New York. The digital campaign will educate adults and teens on how to call in suspected cases of abuse and neglect. It does not talk about warning signs, implicit biases,

2 responsible reporting, not using a number as a
3 weapon, etcetera. The campaign further reads: it
4 will run through Thanksgiving and December, since
5 many adults like extend family members, neighbors,
6 and friends may come into contact with children
7 during the holiday festivities. School personnel
8 usually makes up a quarter of all allegations of
9 child abuse and neglect in New York City, but with
10 kids being out during the holidays, Commissioner
11 Hansell says that New Yorkers should speak up if they
12 suspect a child is unsafe. After seeing this, I held
13 a focus group and showed the campaign to many of the
14 participants, and they all interpret it the same.
15 ACS is hunting for more children to keep the numbers
16 up during the time that their mandated reporters
17 don't have access to the children. We have to create
18 a campaign to engage and encourage everyone,
19 including angry teenagers, to call and report as we
20 have been giving them nothing other than "call if you
21 suspect" which is so vague and irresponsible and
22 leaves lots of room for anonymous reporting by an ex,
23 a family member who is pissed off, or anyone that may
24 have an ax to grind against a parent. Commissioner
25 Hansell, change yourself, charge yourself with

2 neglect. This media campaign is neglectful and
3 irresponsible. You mention the ads will be on
4 Snapchat as well as other social media outlets. Do
5 you know that Snapchat has 186 million users and the
6 average age of a snapchat user is only 19? Teenagers
7 have one of the highest removal rates, yet you claim
8 they can't be a parent to their own children, but
9 you're looking to them to judge other parents and
10 make calls into your state central registry. You and
11 your team thought this was a good idea, but it's not.
12 Shame on you. It's simply hazardous and
13 irresponsible. If we can all agree there are no
14 prefect people, then why-- then we must also agree
15 there are no perfect parents, and if there's no
16 perfect parent, why does ACS use their resources to
17 punish, surveil and separate families of color
18 disproportionately. We have to hold ACS accountable
19 to actually protect families by working to keep
20 families intact. We have to hold ACS accountable to
21 changing their culture of when in doubt pull them out
22 attitude, which is a fancy way of saying I don't want
23 to do real work, so I will instead do what is easy
24 and just cover my ass and ignore the needs of a
25 family. ACS is sending a clear message that family

2 preservation is not a top priority, because if it
3 were they would spend less time being trained by
4 police and start being trained by social workers.

5 Every new training and training site mimics policing,
6 all while continuously claiming to protect children
7 with outcomes that prove the extreme opposite. When
8 has the police protected communities of color? ACS
9 gets their training from the police, then they want
10 us to believe their surveillance is support, poverty
11 is neglect, and kidnapping our children is

12 protection. The schools and communities of color may
13 not be up to par, and they may not have the expensive
14 computer equipment schools that other districts have,
15 but trust me, we are not stupid. We know when we are
16 being negatively impacted and targeted. We have to
17 re-imagine foster care and hold ACS and the Family
18 Court system responsible. I imagine families having
19 an opportunity to dispute an ACS worker's claim in
20 court. I imagine due process. I imagine those who
21 claim to support and protect actually do so by
22 engaging families and treating each families' needs
23 individually and not as a blanket service where all
24 the professionals have caseloads and not families as
25 clients. Shame on judges for not taking the time to

2 see through the things I hear and have heard in
3 Family Court that just do not make any sense at all.
4 Judges stop ignoring the lies you catch ACS telling
5 and moving it along with the case in a business as
6 usual fashion. Business is changing. Be a part of
7 the system that respects family preservation by not
8 allowing ACS to tell you anything and having you
9 accept it. Judges should balance-- should have
10 balance, but in Family Court the scale is tipped and
11 families are weighed down with stress, fear, anxiety,
12 frustration, etcetera, all because there is a team of
13 case managers, lawyers and judges and others who
14 don't respect the history of colored people in
15 America and who do not challenge themselves to do
16 better. I can't create this change in this system
17 alone. I need each of you to understand and respect
18 our family history is important to us and to the
19 future of this country. Stop the generational
20 trauma. Be a part of the solution, not part of the
21 cover your ass team and the status quo committee that
22 we operate without accountability to family
23 preservation. Thank you.

24 CHAIRPERSON LEVIN: Thank you, Ms.
25 McMillan.

2 DIONNA KING: Thank you, Joyce. Good
3 evening now, Council Member Levin and Council. I stop
4 putting times in my testimony. It's because they
5 don't matter anymore. So, my name is Dionna King.
6 I'm the Policy Manager with the Drug Policy Alliance.
7 Thank you for the opportunity to submit testimony to
8 the Committee on General Welfare. The Drug Policy
9 Alliance is the nation's leading organization working
10 to advance policies and attitudes to best reduce the
11 harms of both drug use and drug prohibition, and to
12 promote the sovereignty [sic] of individuals over
13 their minds and bodies. As advocates, the crux of
14 DPA's work is centered on illuminating and
15 eliminating the harms of the war on drugs.
16 Historically, any amount of drug use was considered
17 to deviant or criminal, leaving individuals
18 vulnerable to arrange of punishments. The ethos of
19 criminalizing substance us in people who use drugs
20 has influenced the policies and practices of most
21 service-oriented administrative systems in New York
22 which are overwhelmingly punitive towards people who
23 use drugs, and doubly harmful to those who are black
24 and Latinx. No place this is more evident than in
25 New York's Administration for Children and Family

2 Services and the Family Court System. ACS and New
3 York's Family Court systems negatively impact
4 caregivers and children under the guise of providing
5 services that promote family stability. The
6 potential for administrative and judicial overreach
7 is hypothetically mediated by New York State's fairly
8 stringent legal definition of caregiver neglect when
9 substance use is a factor. A caregiver can only be
10 deemed negligent when there is a repetitive substance
11 misuse that results in a loss of control and there's
12 evidence that demonstrates that the child's physical,
13 mental and emotional condition has been impaired or
14 is in imminent danger. This definition of neglect is
15 intended to protect caregivers from judicial caprice
16 in Family Court; however, there is a lack of system
17 wide fidelity to this legal standard of neglect. The
18 subjective interpretation of substance misuse by ACS
19 in Family Courts is harmful to caregivers who in
20 order to maintain custody of their children must
21 submit to conditions determined by both ACS and a
22 judge. Further, the conditions by which caregivers
23 are accused of neglect are often decontextualized,
24 meeting mitigating factors like poverty and
25 homelessness aren't considered by ACS or the judicial

2 systems. Attorneys providing legal support to
3 parents within Family Court proceedings routinely
4 highlight the ways in which race and poverty
5 determine who comes to contact with ACS and Family
6 Court and the determination is made by the system.
7 Neglect accusations raised at Family Court are
8 largely a byproduct of poverty and resource scarcity
9 compounded by benign substance use such as marijuana
10 use or problematic substance use that should be
11 addressed compassionately and through non-punitive
12 forms of substance use disorder treatment. Racism
13 and classism combined to capture caregivers in a
14 cycle of surveillance and mandated unnecessary
15 services that sever families who can't live up to the
16 expectations of the court. Behavior is deeply
17 scrutinized by ACS and Family Court judges in these
18 will largely go unnoticed in more affluent white
19 communities, while the entire child welfare system
20 should be critiqued and reformed to address racial
21 bias and affected and punitive services and
22 surveillance of caregivers. [inaudible] focus on one
23 facet of a problematic system. tragic and high
24 profile incidences involving the death of children
25 whose caregivers were under the supervision of ACS

2 has led to a surge in the number of investigations
3 with a corresponding increase their number of cases
4 brought to Family Court, of course, the system that
5 is marked by dysfunction and deficiencies. A report
6 on Family Court reform produced by the Center of New
7 York City Affairs highlighted judicial gridlock in
8 Family Court. Data supplied to them by Family Court
9 revealed that child protective judges carry an
10 average caseload ranging from 409 in the Bronx and
11 520 in Staten Island. Hearings are characterized by
12 frequent delays and repetitive fact-finding
13 impositions and criticism of the Family Court system
14 inefficiencies have led to calls for reform.

15 However, the most recent data on the time it takes
16 for a case to move to disposition from fact-finding
17 showed that most cases take from three months up to
18 two years. During this time period, caregivers are
19 still subject to court-ordered supervision and must
20 comply with unannounced visits from ACS or the child
21 can be removed from the caregiver and remanded to
22 kinship care, foster care which is destabilizing for
23 both the caregiver and the child. And I want to
24 focus on just the inefficiencies of the court alone,
25 because it's not the whole problem. The problem is

2 we have a systemic problem where we are giving
3 licenses to judges to make determinations about
4 families and what is effective treatment when it
5 comes to substance use. No-- I mean, this is
6 especially clear when it comes to medication-assisted
7 treatment. The Department of Justice issued guidance
8 on Family Court and the use of medication for the
9 treatment of opioid dependency. In some cases in
10 Family Court caregivers are ordered to stop
11 participating in medication-assisted treatment for
12 substance use disorder in order to regain custody of
13 their children. Not only is this a violation of the
14 ADA and this is also a complete disregard of
15 effective treatment modalities. Abrupt cessation of
16 MAT can lead to fatal overdose if the caregiver
17 resumes opioid use, and although some drug courts
18 have a statutes that forbids judges from requiring
19 cessation of MAT, caregivers in Family Court are not
20 legally protected from superiors [sic] court
21 decisions. Family Court judges have been given
22 latitude to make medical and treatment decisions for
23 those who have few options and little power to push
24 back. At worse, this can lead to health risks such
25 as pre-mature labor and miscarriages. At minimum,

2 judicial intervention can force caregivers into
3 treatment studies that are unnecessary. It can
4 negatively interfere with other areas of their life
5 such as employment responsibilities. I'm going to hop
6 to my recommendations. We recommend that ACS
7 integrate harm reduction services into the slew of
8 interventions that they provide. Not everyone is
9 going to one need substance use disorder treatment
10 and the substance use disorder treatment that is
11 promoted by ACS or Family Court is largely punitive
12 and doesn't recognize the spectrum of substance use.
13 We also agree with the attorneys here that parents
14 should be given parent advocates that are outside of
15 the realm of ACS for all the reasons that that has
16 been made plainly clear; it's a conflict there, and
17 they can't come honestly and get the services they
18 need if they fear that ACS is going to remove their
19 children. Most importantly for us as policy
20 advocates as it relates to drug use is that Family
21 Court judges should not be making decisions about
22 what treatment is. They don't-- they're not doctors.
23 And however they're able to dictate what kind of
24 training-- what kind of treatment a person goes to.
25 They can dictate whether or not a person can stay on

2 a MAT program which is dangerous, and they do not
3 understand harm reduction as a way to address
4 substance use. Further, we want to make it clear that
5 relapse is a part of substance use, if you have a
6 substance use disorder, and that a caregiver should
7 not lose their child if they relapse. And also,
8 judges should be mindful of the conditions of
9 relapsing whether or not the relapse in and of itself
10 is problematic or less it's like a one-time substance
11 use. And I'll end there. Thank you for allowing us
12 to testify.

13 CHAIRPERSON LEVIN: Thank you very much.

14 MARTIN GUGGENHEIM: Thank you, Chairman
15 Levin and the Council. I'm pleased to be here today.
16 I'm Martin Guggenheim, a professor of law at NYU and
17 Co-Director of the Family Defense Clinic. I'm pleased
18 to provide testimony at a hearing on parent/child
19 separation in Family Court. I consider the topic,
20 the government's power to remove children from
21 families with the possibility of the permanent
22 destruction of the parent/child ties to be the most
23 important civil rights issue, the fewest people know.
24 We are talking about one of the most significant
25 interventions imaginable, and although we celebrate

2 and pay great attention to criminal justice as the
3 example of the gravest intervention by government,
4 really child welfare rivals it, and one might even
5 suggest surpasses it in its importance, and when we
6 compare its importance with the little energy and
7 attention we give it, it's a stunning contrast. The
8 Council's attention today to the subject of removing
9 children from families should be put in context.
10 About 18 years ago advocates filed a federal lawsuit
11 challenging lawless behavior in New York, illegal
12 removal of children from their families without
13 lawful basis. The case went through the Federal
14 Government. Jack Weinstein heard a trial that lasted
15 six months. He was shocked to hear the testimony,
16 had grave difficulty believing what New York City
17 officials were doing was even compatible with state
18 law, though the only question for him was whether it
19 violated federal law. He held it did, and the second
20 circuit in reviewing the case thought it made sense
21 to ask the New York Court of Appeals to interpret New
22 York Law. So it asked in Nicholson versus Scoppetta
23 the simple question, "Is the removal of children from
24 their families without a court order lawful?" Chief
25 Judge Kay was disappointed and surprised to learn

2 that New York City led the state in this lawless
3 practice. She characterized it as lawless and she
4 scratched her head in the opinion wondering why New
5 York City of all the places in the state routinely
6 removes children without court orders. We heard
7 today ACS continues to do that. ACS characterizes
8 these removals as emergency removals, but the actual
9 characterization is they are non-judicial removals.
10 They are Fourth Amendment interventions requiring
11 exigency. The question when it gets to court is not
12 whether there was a need to remove the child without
13 court order. The only question is whether there are
14 grounds under New York Law to keep the child in
15 foster care. Those are two sharply distinct
16 questions, and it is a fact that ACS continues to
17 violate the Fourth Amendment and family rights by
18 removing children extra judicially when they lack
19 exigent circumstances within the meaning of the
20 constitution. But if New York City is the nation's
21 leader in something good in at least one aspect of
22 child welfare, it surely in the field of providing
23 legal representation for parents. The holistic
24 multi-disciplinary approach employed by offices in
25 New York has done more than any other single thing to

2 contribute to the sharp reduction of children
3 entering foster care since the end of the 1990s, the
4 reduced time children spend in foster care and the
5 relatively smaller percentage of termination of
6 parental rights. The family defenders in New York
7 are known throughout the country as offering the
8 best, most-advanced, and most successful legal
9 representation for parents anywhere. They commonly
10 train other offices around the country. When there
11 are national conferences of family defenders, the New
12 York contingent is disproportionately represented.
13 These offices fight every day to prevent children's
14 placement into foster care. And I am here simply to
15 make a simple request to you, and that is to think of
16 them as the eyes and ears of the community that they
17 serve, and to look for them as the most important
18 resource to protect the communities affected by ACS
19 intervention, and when they come to you to seek
20 grants or financial support for innovative projects
21 they'd like to undertake, but cannot without special
22 resources, consider those requests carefully and know
23 they are made by the professionals most committed to
24 ensuring that child welfare in New York City works in

2 a manner best calculated to preserve the dignity and
3 respect of the community it serves. Thank you.

4 CHAIRPERSON LEVIN: Professor Guggenheim,
5 who brought that suit in the 90s?

6 MARTIN GUGGENHEIM: That suit was brought
7 by domestic violence advocates, Lanser and Kubachek
8 [sp?], in particular, were the public interest law
9 firm that brought it.

10 CHAIRPERSON LEVIN: So you can-- what
11 you're saying is that ACS is currently or now current
12 practices are in violation of whatever decision came
13 out of that suit, or the--

14 MARTIN GUGGENHEIM: [interposing] No, I'm
15 not--

16 CHAIRPERSON LEVIN: [interposing] Or ACS
17 is in violation of Fourth Amendment which was the
18 basis of the decision for the--

19 MARTIN GUGGENHEIM: [interposing] ACS'
20 practices then and now have been the same. About
21 half of the removals take place extra-judicially.

22 CHAIRPERSON LEVIN: Right.

23 MARTIN GUGGENHEIM: Chief Judge Kay said
24 that doesn't happen anywhere else around the state.

2 CHAIRPERSON LEVIN: How come nobody's
3 brought a suit?

4 MARTIN GUGGENHEIM: Because the public
5 defender offices in New York don't have special
6 litigation units like Legal Aid does. They don't get
7 funding like Legal Aid does. Fund the offices. Let
8 them hire special litigation, affirmative action
9 lawyers, and we'll do it. Now we rely on Paul Weissen
10 [sp?] our friends in the big law world, but there are
11 limited-- we need more. We need you to make us a
12 multi-practice office like Legal Aid is in New York.

13 CHAIRPERSON LEVIN: Okay. I'd like to
14 continue this conversation, and you know, see, you
15 know, how there's a way for the Council to play a
16 meaningful role moving forward.

17 MARTIN GUGGENHEIM: Fabulous.

18 CHAIRPERSON LEVIN: Thank you.

19 ANGELINE MONTALBON: My name-- Sorry. My
20 name is Angeline Montalbon [sp?], and I am a parent
21 effected. Thank you for the opportunity to speak
22 today. My son was taken from me from the
23 Administration of Children's Services on September
24 27th, 2013. I am attending this hearing due to the
25 lack of oversight throughout the entire process. My

son was taken from me due to domestic violence. It took ACS two and a half years to begin the fact-finding process due to the fact that they had a weak case. And they had a weak case, and the fact-finding on my case occurred two years after my son entered foster care. Throughout the entire child removal process I can describe ACS and their contracted agency workers as useless. The ACS contracted social workers on my case have lied under oath, made up stories and twisted stories to keep my son in foster care. It is in my personal opinion that their goal was to recruit as many children as possible, minority and low-income parents, and to conjure up reasons to keep them in foster care. Once parents are in contact with the child welfare system in New York City, suddenly their situation go from bad to worse. The system is structurally designed for parents to fail. It has become a very lucrative business model. The separation of children at the border has shown us the billion-dollar business of child separation. This is the new gold rush, a new get rich scam, a scam that demands the removal of children. It has become a very lucrative business model built upon the back of the poor. The poverty industry is very

2 lucrative, providing million-dollar contracts to
3 foster care agencies who have realized it is more
4 financially profitable for them to keep children in
5 foster care than to make reasonable efforts to
6 reunify children with their families. ACS undue
7 influence in Family Court has played a major role in
8 the denial of due process in Family Court. I've been
9 in contact with the Family Court system since 2013. I
10 can assure you that I am a real-life expert on this
11 topic. I have lived it. ACS prosecutorial approach
12 in dealing with parents naturally make them unfit to
13 make decisions that are in the best interest of
14 families. In my community ACS is considered bad
15 news. Their role in monitoring and their
16 surveillance of parents treat parents as if they are
17 in contact with the criminal justice system. There
18 is a great mistrust of ACS by the people they are
19 supposed to serve. Think about what happens to
20 children in the system. They have lost contacts with
21 their families. They are forced to live with foster
22 parents whose only interest is a paycheck, and once
23 they age out of the foster care system, the only
24 option left to them is the street and homeless
25 shelters. These children have been used and abused,

2 and when our children are physically abused in foster
3 care, parents are denied their rights to obtain
4 reports of the investigation. There is a constant
5 relationship between foster care and mass
6 incarceration, since 85 percent of former foster care
7 children end up in prison. Most of the so-called ACS
8 initiative set up in addressing these issues are
9 publicity stunts where ACS workers pose as actors
10 claiming, "ACS helped my family," when 90-- when in
11 reality, 90 percent of the times ACS poor
12 recommendations and services have been found to be
13 useless to families. Families are scared to enroll
14 their children in public schools because they're
15 afraid that school personnel are trained to target
16 certain demographics. Women are afraid to called Safe
17 Horizon and domestic violence hotlines due to the
18 fact those agencies receive training and funding from
19 the Administration of Children's Services. Parents
20 who rely in New York City homeless shelters for
21 housing are aware that they are under surveillance
22 and at any time because of bogus accusation they can
23 lose custody. Us parents, we are fully aware that
24 all of these social service agencies don't exist to
25 assist us, but it's part of the larger system that

2 failed poor people in New York City every day. I
3 would like to respond to some of the comments made by
4 the Commissioner. The-- I think he said something to
5 the nature-- well, I just want to add that the
6 experiences of children and families are very
7 different from what we heard from Commissioner David
8 Hansell. By the time of the child safety conference
9 ACS has already made a decision to remove the child
10 from the care of their parents. ACS contracted
11 parent advocate work for ACS and are contracted to
12 support the best interest of ACS. ACS is an agency
13 that aggressively prosecutes parents, which makes in
14 direct conflict-- which is a direct conflict for them
15 to also be in the business of helping parents. ACS--
16 the Commissioner stated that ACS' first
17 responsibility is to save New York City children.
18 Children don't exist outside of their families. Their
19 goal should be to protect and support families. And
20 I know that Professor Guggenheim mentioned the
21 Nicholson case, and my case started because I called
22 Safe Horizon, which is the domestic violence hotline.
23 That's how I got into contact with the child welfare
24 system. I will say that ACS might argue now that they
25 do not remove children from their parents because of

2 domestic violence due to that case, but what they're
3 doing in Family Court right now is requiring for
4 parents to undergo mental health evaluations. That's
5 the next step that they're taking, forcing parents to
6 undergo mental health evaluation and then arguing in
7 some way that those parents are not fit to be
8 parents. Okay, thank you.

9 CHAIRPERSON LEVIN: Thank you very much
10 for your testimony. I do want to call up Miriam and
11 Israel Schwimmer as well, and--

12 LISA GITELSON: So, good afternoon to
13 all. I want to thank Council persons Lancman and
14 Levin for convening this hearing. I'm Lisa Gitelson.
15 I'm the Associate Executive Director of the Council
16 of Family and Child-caring Agency, also known as
17 COFCCA. We represent the over 50 New York City
18 agencies providing child welfare services and the
19 over 100 agencies providing child welfare services
20 throughout the state. These agencies provide foster
21 care, adoption, preventive services, juvenile
22 justice, and special education services to our
23 families and children throughout the city and state.
24 On behalf of our agencies, the thousands of
25 employees, and the tens of thousands of families that

we work with, I want to thank you for this opportunity. As the City engages in this important conversation about parent and child separation, it's vital that the Council know of the work being done by the social service agencies partnering with and supporting the needs of these families. To this end, the agencies provide strong preventive work aimed at keeping children in their homes and meaningful foster care when safety requires the removal of children. With regard to the preventive work, there's over 50 agencies in New York City providing these kinds of services. This is the front line work done by staff where every effort is made to keep families together. We know of no other state or community in the nation that has invested in preventive programs to the extent that New York City does. The preventive services reduce trauma to families and children. They aim at strengthening families and perhaps most importantly, often negate the need for foster care. The preventive workers regularly conduct ongoing safety checks, deliver emergency services and make referrals to risk reduction services. With regard to foster care I want to be very clear that the primary goal of the agencies providing care is the safe

return of children to the families as soon as is possible. While agencies vary slightly, all engage in work to bring meaningful change to the families. They provide ongoing and regular family time and they make certain that the children are safe and have all their needs met while in care. Upon assignment to a child-- of a child in a family to an agency several steps are taken, and while again, every agency is slightly different, all of them engage in the following different steps. There's an initial assessment and meet-in where the family is met with by the team to begin the process of engagement and assessment. There's the plan for safe return. This is the development of a plan for the safe return of the child and it will be developed in partnership with the parents and any other resources that they wish to include. For some agencies, a family agreement will be created. All necessary referrals to support the safety plan will be made at this time. Family time is arranged. A plan for time will be put in place with all the parties being advised as to when and where family time will take place. There will be a documentation share so that the families have all the documents that are needed at this time.

2 All consents will be signed so that services can be
3 provided and information can be shared. A clothing
4 assessment will take place, and when appropriate,
5 needed clothing will be purchased for the family.
6 Medical and mental health intakes will be completed
7 for the children, and from that appropriate referrals
8 will be made. If appropriate early interventions and
9 CPD referrals will be made. The CANS, which is a
10 comprehensive evaluation of the child, will be
11 completed, and this is done for all children that
12 enter into care within the first 30 days of care and
13 then at certain time marks after they've entered into
14 care. This is used as a national tool for supporting
15 Children's Services staff to make decisions regarding
16 the needs of the children and support service
17 planning. A family assessment will be done to decide
18 if there's any family members or kinship resources
19 that are available either to care for the child or as
20 visiting resources. A tribal affiliation assessment
21 will be done, and if appropriate referrals will be
22 made to the appropriate tribe. Domestic violence and
23 trafficking screenings will be done if deemed
24 appropriate, and all referrals will be made as well.
25 A psycho-social assessment of the family will be

2 completed. Home visits will begin to the parents'
3 home. Birth certificates, if needed, will be
4 requested. Information regarding family members that
5 would be legally required is requested, and if
6 necessary, diligent search for any family members
7 will begin. In short, every effort will be made to
8 support the most expeditious safe return of the child
9 to their family. It is only when absolutely necessary
10 that children are removed and the agencies recognize
11 how important it is that the children are returned
12 safely as quickly as possible. I'd be happy to answer
13 any questions that you members may have, and I thank
14 you for allowing me to present and submit testimony.

15 CHAIRPERSON LEVIN: Thank you very much.

16 Ms. Gitelson, thank you. Hello.

17 MIRIAM SCHWIMMER: Hi, my name is Miriam
18 Schwimmer. I'm a mother of seven children. I have
19 five married children, and 12 grandchildren. While
20 everyone is focusing on the borders, here in our own
21 backyard I'm watching mothers, fathers and little
22 children standing in long lines continuously to enter
23 the Family Court to battle New York City ACS' illegal
24 removals. I and many other mothers and fathers are
25 going through confusion, pain, sadness, and suffering

with no oversight. Our New York City ACS caseworker's manipulations and untrue statements causing destruction for New York families. This is not an American dream and a shame for New York City. Family unity is the bedrock of American society, and separating children from parents is not in the best interest of a child. We as parents have been ambushed by New York City ACS into Family Court with no reasonable efforts done prior to removal or post-removal. New York City ACS is punishing us for protecting our child and in fact New York City ACS violated Supreme Court Justices Thomas' orders and an order [inaudible] habeas corpus. New York City ACS is creating havoc, destruction, irreparable harm to our family. Based on our experience what we are going through and seeing now other parents suffering, the goal for New York City ACS reunification is rarely carried out. We are good and fit parents, and our due process rights are severely violated. Who oversees the caseworkers for New York City ACS? Who oversees the attorneys for New York City ACS? They continuously misstate facts in order to illegally remove children. It is almost two years where we are continuously been battling going to Family Court for

2 fact fishing finding hearings, and nothing is being
3 done towards reunification, and we cannot see the
4 light at the end of this nightmare. We parents have
5 adequate support system. We have experts that are
6 willing and ready and continuously coming to court on
7 our behalf in order to testify, and New York City ACS
8 is placing blocking stones toward our beloved child.
9 New York City ACS assisting in separating our
10 children. The siblings where they're not doing
11 anything towards having the siblings seeing each
12 other. We are denied visitation. We have no
13 parenting or holiday time. I as a mother have been
14 gagged by the Family Court system, and just recently
15 I was been allowed to send one letter per week to my
16 daughter, and it has to be delivered to the ACS
17 office upon when I go to the ACS office, the
18 caseworker is most of the time never there. She's
19 continuously always on vacation. I've realized New
20 York City ACS is actually-- they don't follow through
21 court orders. I have a lot to say, but I'll leave
22 that for another time, and I won't, you know, I won't
23 take up your time, but I would be forever grateful
24 for this council to help and assist us in reversing
25 the unjust behavior created by New York City ACS and

2 the destruction they are hoisting upon our family.

3 Thank you so much.

4 CHAIRPERSON LEVIN: Thank you. Mr.
5 Schwimmer?

6 ISRAEL SCHWIMMER: Yeah, good afternoon.
7 Thank you, Council, for allowing me to talk. I'm
8 just want to say I'm supporting what my wife say, and
9 I'm supporting the other panels and what they said,
10 that ACS doesn't do nothing, no reunification or
11 visitation. They only over here to break apart
12 family. They doing trauma for my child all the time.
13 They're breaking it apart, and I haven't been seeing
14 my daughter for two years for no reason, and I'm
15 asking you, Council, to look into this case. And I
16 know you have a lot of cases going on in your
17 district. I'm asking you please personal if you
18 could take care of this case to help us out and to
19 get back our child re-unified. That's exactly what
20 I'm asking. Appreciate it. Thank you.

21 CHAIRPERSON LEVIN: We can follow up with
22 you to the best that we can.

23 ISRAEL SCHWIMMER: Thank you.

24 CHAIRPERSON LEVIN: Does anybody else
25 wish to testify at this hearing? Well, seeing none,

I want to thank everybody that was here to testify.

I want to thank Commissioner Hansell and his team. I

want to thank all the members of the public who were

here to testify. I want to thank and acknowledge

Justice System Committee Staff Maxwell, Camper

Williams, Keeshawn [sic] Dennie [sic]; General

Welfare Committee staff, Amenta Killawon [sp?],

Crystal Pond, Tanya Cyrus, and Daniel Krup [sp?], as

well as my Legislative Director Elizabeth Adams and

Council Member and Chair Rory Lancman, his staff as

well, and I want to thank our Sergeant at Arms who

have been here diligently keeping this hearing

running properly. So thanks to our Sergeants at

Arms. And with that at 5:21, this hearing is

adjourned.

[gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date December 15, 2018