

July 2018

Under Pressure:

How the City's Child Welfare System Responded to Recent High-Profile Tragedies

Summary

There are two overarching goals for the city's child welfare system: protect children from abuse and maltreatment and keep families together. There is a natural tension between these two goals, one that becomes even more fraught in the wake of the tragic death of a child who had been known to the city's Administration for Children's Services. The deaths of two young children, Zymere Perkins in September 2016 and Jaden Jordan just three months later, put this tension into sharp focus.

IBO has reviewed how the city's child welfare system responded in the wake of these two deaths, looking to see whether there were shifts over the ensuing months in how the Administration for Children's Services and Family Court responded to child welfare cases. Were reports of abuse or maltreatment more likely to be substantiated by investigators? Did Family Court place more children under court supervision or foster care? Among our findings:

- The number of investigations of suspected child abuse or maltreatment, which are triggered by calls to the New York State Central Register of Abuse and Maltreatment, rose by 1,383 in the months of October-December 2016, an increase of 10 percent over the same period in the prior year. The next two quarters also saw smaller but notable increases in the number of investigations compared with the same quarters in the previous year.
- The number of reports of abuse that were substantiated rose by 20 percent in fiscal year 2017 (the two children died in the first half of the fiscal year)—from 19,980 in fiscal year 2016 to 23,981 in 2017. There were 55,337 investigations conducted in fiscal year 2016 and 59,329 investigations in 2017.
- The number of initial hearings at Family Court resulting in court-ordered supervision of children increased substantially, rising from 6,116 in fiscal year 2016 to 9,462 in 2017. The number continued to grow in 2018, reaching 10,010.
- City spending on investigative staff increased in fiscal year 2017. When the budget for fiscal year 2017 was adopted, spending on investigative staff was projected to total \$105.3 million, \$5.6 million less than in 2016. But actual spending for 2017 rose substantially to \$127.8 million.

Despite the increased number of investigations, substantiations, and court petitions, one long-term trend did not change: the number of children in foster care has continued to decline from an annual average of more than 34,350 in fiscal year 2000 to 9,900 in 2016 to 8,765 through April of this year.



A Challenging Balance

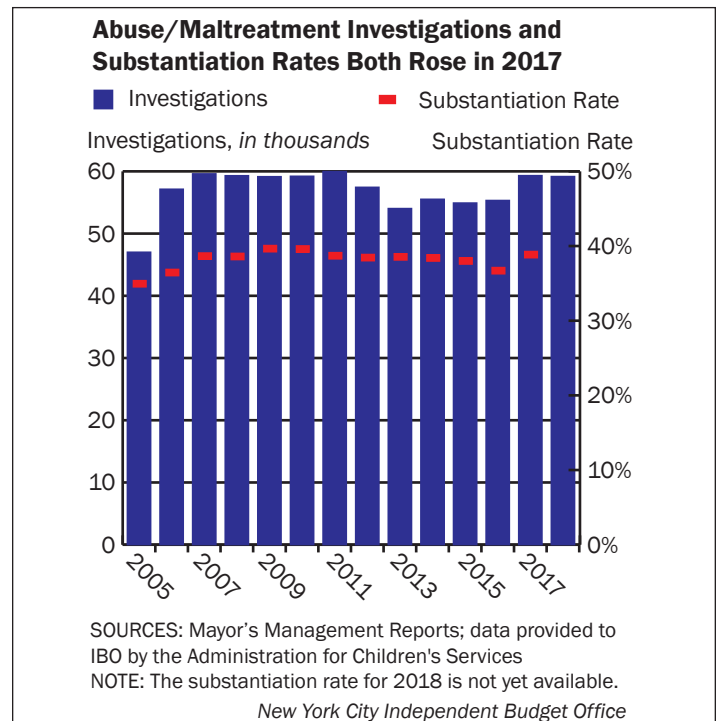
New York City’s child welfare system, which is overseen by the Administration for Children’s Services (ACS), operates under the need to strike a balance between protecting children who are suspected of being the victims of abuse and maltreatment and a long-term policy goal of keeping families together. This need becomes even more acute following the death of a child who had been known to ACS; news coverage of the tragedy often triggers an increase in calls to the hotline from the public and others such as teachers and doctors, who are mandated to report suspected abuse or maltreatment of a child. These calls spur abuse or maltreatment investigations, and ACS staff is acutely aware of the pressure to prevent another tragedy.

That challenge of maintaining a balance between protecting children who may be at risk and keeping families together has played out many times over the years, most recently in the wake of two tragedies: the deaths of 6-year-old Zymere Perkins in September 2016 and 3-year-old Jaden Jordan in December 2016—both within city fiscal year 2017 (unless a specific date is being cited, years refer to city fiscal years). Their deaths came as the city has achieved a sharp drop in the number of children in foster care, declining from an annual average of 34,354 in 2000 to 9,906 in 2016.¹ IBO has examined how the child welfare system responded to these two tragedies, detailing the increase in abuse and maltreatment investigations and whether there were shifts in how ACS and the courts dealt with children whom investigators found to be abused or maltreated.

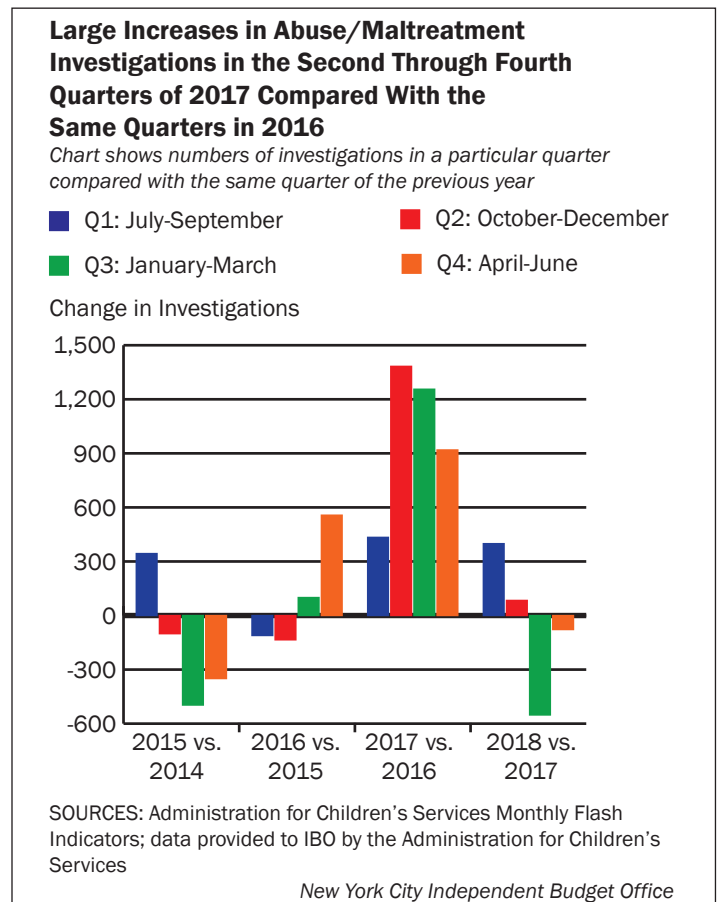
Abuse and Maltreatment Investigations

As happened immediately after the Nixmary Brown tragedy in January 2006, the number of ACS abuse and maltreatment investigations also increased after the two deaths in 2017. ACS conducted 59,329 investigations in 2017, a 7 percent increase over 2016. The 55,337 investigations conducted in 2016 were on par with the numbers from 2014 and 2015, while 2017 had the highest number of investigations since 2011, as the media focus on the cases of Zymere and Jaden triggered more reports of suspected abuse and neglect, particularly by mandated reporters, according to ACS. In 2018, ACS conducted 59,182 investigations, only a very slight decrease from 2017.

By comparing the number of abuse and maltreatment investigations in a particular quarter with investigations in the same quarter of the previous year, we can take a closer look at how investigations were affected by the tragedy. Zymere Perkins died on September 26, 2016—just



days before the end of the first quarter (July-September) of fiscal year 2017. Therefore it is not surprising that the biggest increase in investigations occurred during the second quarter (October-December), a rise of 1,383 investigations (10 percent) compared with the second



Investigation and Family Court Processes

An abuse or maltreatment investigation begins when ACS receives a report of alleged child maltreatment forwarded from the New York Statewide Central Register of Abuse and Maltreatment hotline. Reports about multiple children in the same family are consolidated into one investigation. A child protective specialist (CPS) on ACS's staff is assigned to the case and given up to 60 days to determine whether there is credible evidence of abuse or maltreatment by the parent or caretaker (the investigation is "substantiated") or not ("unsubstantiated").

The CPS will also assess the family's need for supports to keep the child safe at home. These supports could include preventive services provided by nonprofits contracting with ACS and specifically designed to help stabilize families and keep children out of foster care, and/or referrals to other community-based services such as child care or assistance accessing food. In some cases ACS staff decides that although there is evidence of abuse or maltreatment, the child may remain in the home safely without court intervention, usually with a voluntary referral to services.

If the CPS and their supervisor believe that a child is at risk of harm, they will hold a Family Team Conference to try to address safety concerns and keep the family together—unless the risk to the child is imminent, in which case the child will be immediately temporarily removed from the home and placed either in foster care or with another suitable adult.

If ACS determines that a child's current home situation is unsafe, child protective staff work with an ACS attorney to file a child abuse or maltreatment petition in Family Court. During the petition process, ACS may

ask the Family Court judge either to approve a removal of the child to foster care (this can include asking for approval of a removal that has already occurred on an emergency basis) or to place the family under court-ordered supervision. The judge makes the ultimate decision after hearing the facts presented by ACS. In court-ordered supervision, which occurs when the child is not at immediate risk of harm but the family's instability and/or resistance to services present a possibility of continued maltreatment, the child stays in the home or with another family member or protective adult. An ACS worker monitors the family to ensure their compliance with all conditions deemed necessary by the judge. Depending on the specifics of the findings of the abuse or maltreatment investigation, conditions may include mandatory attendance at programs run by preventive services agencies, such as parenting or anger management classes; finding adequate housing; or ensuring that a child attends school. Court-ordered supervision may also be used to enforce an order of protection put in place against an abuser or substance user who has been in the home.

The initial hearing of an abuse or maltreatment petition is not the only time that a judge can order supervision or foster care placement; this can also happen in later hearings. In addition, a single case could potentially result in both placement and court-ordered supervision. For example, a family could be placed under court-ordered supervision after a child comes home from care, or a family could be initially placed under supervision but the child later taken into foster care if ACS and the judge determine that supervision is not working. While placing a family under court-ordered supervision is not as disruptive as removing a child to foster care, it still means that ACS is involved in the family's life on a regular basis.

quarter of 2016. The third and fourth quarters of 2017 (January-March and April-June) saw somewhat smaller but still notable increases in investigations over the corresponding quarters of 2016: 1,256 (8 percent) and 919 (6 percent), respectively. Not until the third quarter of 2018 were there fewer investigations than in the same quarter of the preceding year, indicating that the increase in investigations has only recently begun to slow.

On average, 40 percent of investigations were substantiated in 2014, 39 percent in 2015, 36 percent in 2016, and 40 percent in 2017. The higher substantiation rate in 2017 over 2016, combined with the larger number

of investigations, resulted in a 20 percent increase in substantiated investigations from 2016 to 2017, from 19,980 to 23,981. This also represented a 9 percent increase over 2014, the year with the second-highest number of substantiated investigations at 22,042.

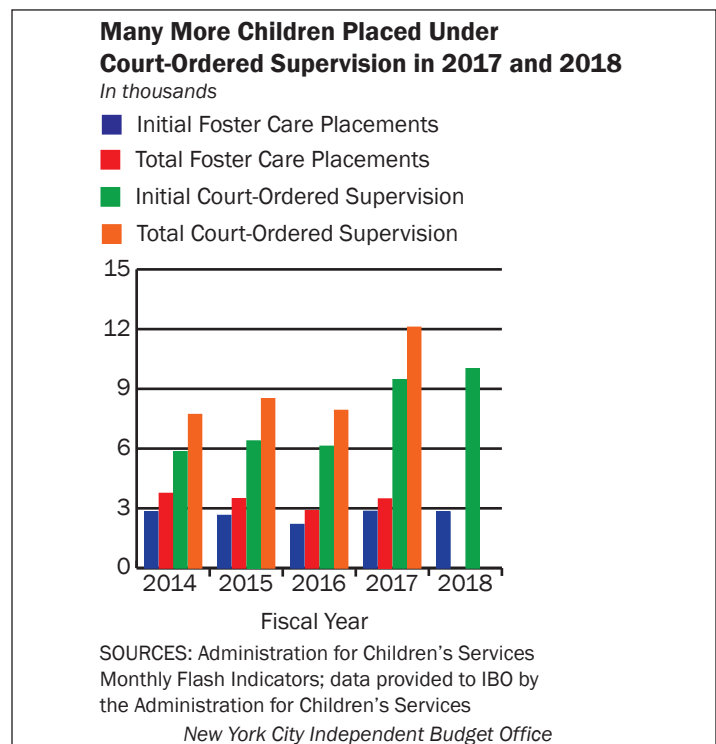
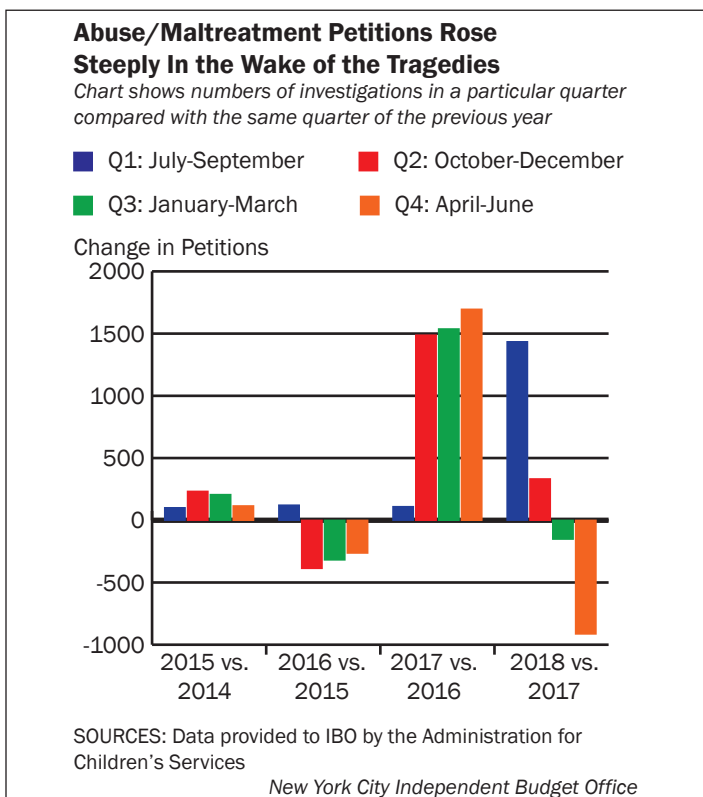
Family Court Filings

ACS filings of abuse and maltreatment petitions in Family Court increased from 9,566 in 2014 to 10,223 in 2015 before dropping to 9,375 in 2016. Petitions then rose sharply to 14,207 in 2017—a 52 percent increase, and a 39 percent increase over 2015. There was another increase in

2018, though this was much smaller: growing by 5 percent to 14,909 petitions.

Another way to look at ACS’s Family Court activity is to examine the number of cases with petitions filed as a percentage of substantiated cases.² In 2014 through 2016 between 23 and 25 percent of substantiated cases resulted in cases with petitions filed. In 2017 this increased to 30 percent of substantiated cases ending in cases with petitions filed. In the first eight months of 2018, the share jumped even higher, to 36 percent.³ ACS has been increasingly inclined to bring cases to Family Court, likely in part because of the greater scrutiny the agency has been under. ACS, however, has attributed at least some of the increase in petitions to improved protocols around oversight of its highest-risk cases and to greater work by the agency to address the issue of domestic violence.

The increase in abuse and maltreatment petitions began immediately after Zymere’s death, as there were 1,488 more petitions, or 67 percent, brought during the second quarter of 2017 (October-December 2016) than during the same quarter in the preceding year. Similar increases occurred over the next three quarters. The second quarter of 2018 (October-December 2017) saw 333 more petitions than the already-elevated level of the year before. As with investigations, it was not until the third quarter of 2018 that there were fewer petitions than in the same quarter of the previous year.



More Petitions, Little Impact on Foster Care Placements.

At the initial hearing of an abuse or maltreatment petition, the judge may either order the child temporarily placed in foster care (known as “remand”) or under supervision. In a relatively small share of cases, roughly 13 percent to 15 percent per month in the time period studied, the outcome is instead “released with no supervision,” “no order issued” (an order may be issued at a later date in these cases), or “no outcome specified.”

Judges may also make decisions about child welfare cases at hearings that take place after the initial hearing of an abuse or maltreatment petition. The chart above shows not only the results of those initial hearings, but also total foster care placements and total children assigned to court-ordered supervision—either at the initial hearing or at a later date. Although these placements into foster care or supervision may actually occur in subsequent fiscal years, in the chart all outcomes appear under the fiscal year in which the corresponding petition was filed.

The number of temporary foster care placements (remands) as a result of initial hearings of abuse and maltreatment petitions rose from 2,189 in 2016 to 2,849 in 2017 before dropping slightly to 2,819 in 2018. This increase in 2017, while substantial, was still in line with a continued decline in the share of petitions resulting in placement at the initial hearing: from 30 percent in 2014 to 26 percent in 2015, 23 percent in 2016, 20 percent in 2017, and 19 percent in 2018.

Court-ordered supervision cases as a result of initial petition hearings increased at a much faster pace than placements, from 6,116 in 2016 to 9,462 in 2017 and 10,010 in 2018. And, as the share of foster care placements has declined, there has been a corresponding increase in court-ordered supervision at the initial hearing as a share of petitions: from 61 percent in 2014 to 62 percent in 2015, 65 percent in 2016, and 67 percent in both 2017 and 2018. According to ACS, much of the increase in court-ordered supervision can be attributed to an increase in children being released to the parent not named in the abuse or maltreatment petition. An example would be a domestic violence case in which the child is released to the non-perpetrating parent, who is provided with relevant social services under court-ordered supervision. Or if one parent struggles with substance use or homelessness, Family Court may release the child to the other parent, under supervision.

Total foster care placements resulting from an abuse or maltreatment petition—including those occurring at initial hearings as well as those occurring later in the process—declined from 2014 through 2016, falling from 3,750 to 2,870.⁴ ACS and child welfare advocates have attributed this decline to a continued focus on preventive services to support families and keep children safe at home, including the increased use of evidence-based preventive services in the past few years.⁵ The surge in investigations and petitions in 2017 in the wake of the two tragedies led foster care placements to jump to 3,470 in 2017, an increase of 21 percent over 2016. But even as the *number* of foster care placements rose, the *share* of petitions ultimately resulting in placement continued to decline steadily, from 38 percent in 2014 to 33 percent in 2016 and 28 percent in 2017.

The total number of children placed under court-ordered supervision as the result of an abuse or maltreatment petition—at any point in the process—was much higher in 2017 than any other year in the span studied: 12,094, compared with the second-highest total of 8,505 children placed under supervision in 2015.⁶ The 2017 figure was up 53 percent from 2016, although the share of petitions ultimately resulting in children under court supervision has only increased from 81 percent in 2014 to 85 percent in both 2016 and 2017, indicating that judges did not change their behavior in response to the increase in abuse or maltreatment petitions. Court-ordered supervision has consistently been the tool that Family Court relies on in a large majority of cases. (The share of petitions ultimately resulting in foster care placement and children under court-ordered supervision has totaled over

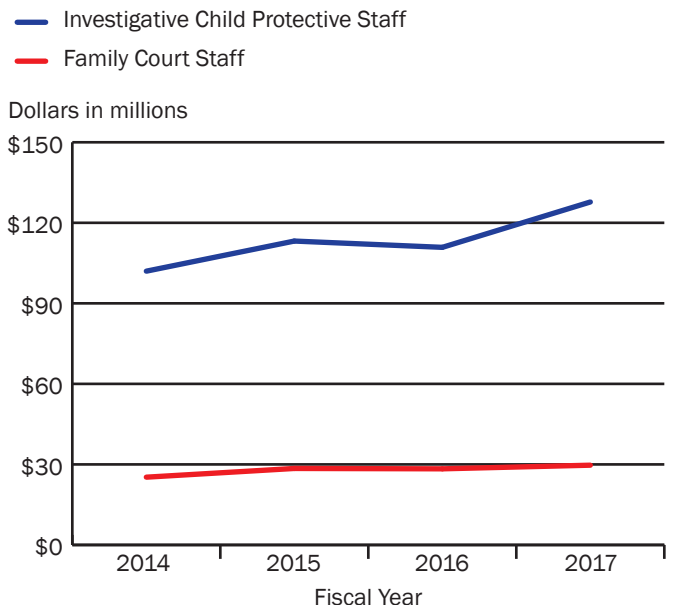
100 percent each year because, as noted earlier, some children experience both outcomes at different times, as the result of a single petition.)

Spending

ACS's increasing use of abuse and maltreatment petitions is not the only evidence that it may have reacted to the deaths of Zymere and Jaden and the resulting media coverage in concrete ways. Looking at the agency's spending is also a way to gauge its priorities, and ACS devoted more resources to child abuse or maltreatment investigations in 2017 than in the prior years.

ACS spending on the child protective specialists who conduct abuse/maltreatment investigations along with their supervisors and managers totaled \$102.0 million in 2014 and \$110.9 million in 2016, an increase of nearly 9 percent over the two-year period. When the 2017 budget was adopted, 2017 spending on investigative child protective staff was projected to total \$105.3 million, \$5.6 million less than in 2016. But expenditures in 2017 eventually rose to \$127.8 million (an increase of 15 percent), due mostly to increases in salaries and overtime as ACS hired more child protective specialists and moved specialists from other units into the investigative unit in response to the increase in investigations. Despite the additional hires, the Center for New York City Affairs recently reported that average caseloads for child protective staff have grown from 11.6 in May 2015 to 13.9 in May 2018.

Child Protective Spending Rose in 2017, While Family Court Spending Remained Roughly Constant



SOURCE: Mayor's Office of Management and Budget
New York City Independent Budget Office

There has also been an uptick in spending on ACS Family Court staff, primarily lawyers, which rose from \$25.2 million in 2014 to \$29.7 million in 2017. The biggest increase over this period occurred in 2015, when spending was \$28.5 million; it then stayed relatively flat, despite the rise in Family Court activity in 2017.

Foster Care Population Declining

Over the past two decades, New York City's foster care census has dropped much more sharply than has the nation's as a whole. Despite the increase in foster care placements in 2017, the number of children in care has continued to decline, as children in foster care who have achieved permanency have been doing so more quickly. (Permanency occurs when a child is reunified with parents or another permanent caregiver, released to custody with a guardian, discharged to Kinship Guardianship, or adopted.)

In 2014 the average daily foster care population was 11,750; this decreased to 9,906 in 2016 and 8,921 in 2017. Despite changes in investigative and Family Court activity, the most notable long-term trend in child welfare in New York City—a decreasing foster care population—has on the whole not yet been affected. The rate of decline, however, slowed last year. Through April 2018, the most recent month for which data are available, the population of children in foster care has averaged 8,765 a day, a decline of 1.7 percent. In contrast, the average daily population of children in foster care fell by a much steeper 9.9 percent in 2017.

Summing Up the Changes

As has happened after prior deaths of children known to ACS, Zymere Perkins' and Jaden Jordan's deaths in September and December of 2016 led to more abuse and maltreatment investigations, in part because of a spike in reports from mandated reporters. Their reports are also more likely to be substantiated. ACS's filings of abuse and maltreatment petitions in Family Court also jumped sharply in both number and as a share of substantiated cases. As a result, the total number of children placed under court-ordered supervision or into foster care has increased—the former much more than the latter.

It is also important to stress that the share of abuse or maltreatment petitions that results in foster care placement have declined over the years, while the share of petitions that results in court-ordered supervision have remained relatively constant. This implies that Family Court judges have not changed how they handle abuse and maltreatment petitions in response to the public pressure that follows high-profile deaths of children known to the child welfare system. ACS does appear, though, to have reacted to these factors, by spending more money on investigating abuse and maltreatment allegations and bringing a larger share of cases to Family Court than before. Despite this reaction, the most notable long-term trend in child welfare in New York City—the move away from foster care—has not been affected.

Report prepared by Katie Hanna

Endnotes

¹Mayor's Management Reports.

²Multiple investigations involving the same alleged incident of maltreatment in a given family will be consolidated into one case. A case may involve more than one child, while a petition involves only one child. Therefore it is not possible to simply divide the number of abuse and neglect petitions by the number of substantiated investigations in order to determine whether ACS has been filing petitions for a higher percentage of children involved in substantiated investigations.

The methodology used in this brief is also not an exact measure. According to

ACS, it is not certain that all of the cases with petitions filed in a given fiscal year are a subset of the substantiated cases in that same fiscal year, because the filing in some cases may have occurred in a different year from their substantiation. But this methodology does provide a rough way to identify an upward trend in the likelihood of ACS filing in Family Court.

³Data provided to IBO by ACS.

⁴These total placements into foster care include a small number of children who left and then re-entered care.

⁵See e.g. the March 2018 [Report from the Foster Care Interagency Task Force](#), pp. 10-12.

⁶Represents unique children. Some children experience more than one round of court-ordered supervision as the result of a single abuse or neglect petition.

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