



**David A. Hansell, Commissioner**

**Testimony to the New York City Council**

**Committee on General Welfare**

**October 28, 2020**

**“Oversight—Racial Disparities in the Child Welfare System”**

Good afternoon, Chair Levin, and members of the Committee on General Welfare. I am David Hansell, Commissioner of the New York City Administration for Children's Services (ACS). With me today are Tyler James, Director of Race Equity Strategies and Dale Joseph, Assistant Commissioner, Office of Community Engagement and Partnerships, both in our Division of Child and Family Well-Being; Dr. Jacqueline Martin, Deputy Commissioner, Division of Prevention Services; William Fletcher, Deputy Commissioner, Division of Child Protection; Alan Sputz, Deputy Commissioner, Division of Family Court Legal Services; Julie Farber, Deputy Commissioner, Division of Family Permanency Services; and Andrew White, Deputy Commissioner, Division of Policy, Planning, and Measurement.

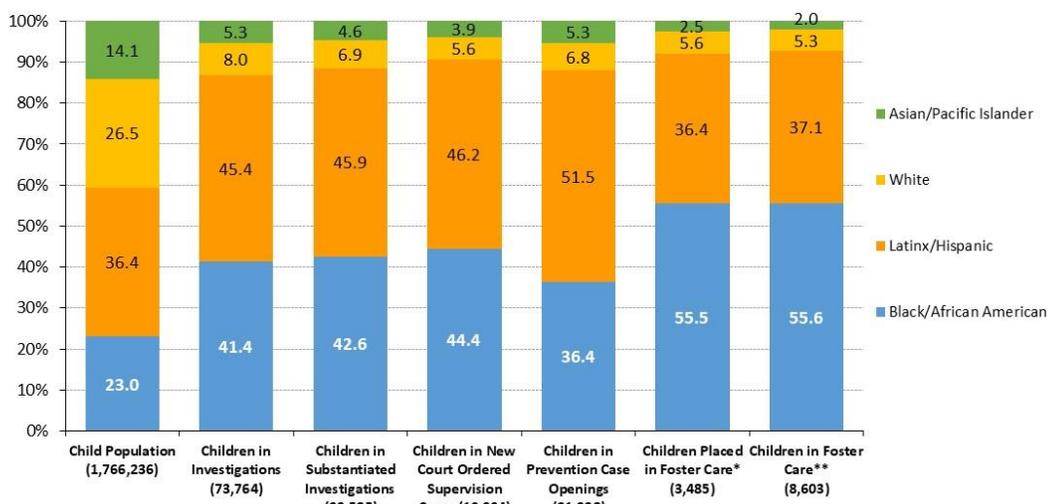
We at ACS are grateful for the opportunity to have this conversation today with the Council and our partners in child welfare. It has been a difficult year, as we grapple with the global COVID-19 pandemic, and as we continue to see and feel the deep-rooted and pernicious effects of racism in our society. Each of these national crises impacts us greatly on personal and professional levels, and I want to acknowledge and offer condolences to so many who have experienced trauma and loss in recent months. As a first step toward healing, it is crucial to have conversations like the one here today, where we take an honest and transparent look at the challenges we face, and how we can respond to them.

ACS seeks to administer equitable child welfare and juvenile justice systems in which a child or family's race, ethnicity, national origin, immigration status, gender, gender identity and sexual orientation do not predict how they fare. Within New York

City and nationally, Black/African American and Latinx/Hispanic families have long been overrepresented at key points along child welfare pathways.

To develop ACS’s Equity Action Plan, we conducted an Equity Assessment that looked at the disparities at key stages in the child welfare system. This written testimony includes an updated chart below that shows how Black/African American and Latinx/Hispanic families experience the child welfare system in NYC differently at every key decision point, as compared with White and Asian families.

Race/Ethnicity and Path through the Child Welfare System, CY 2019



Note: Missing values and other race are excluded from percent calculations.  
 \*Excludes youth placed in Close to Home.  
 \*\*Excludes youth in Close to Home placements.  
 Data sources: Connections, CCRS, PROMIS and U.S. Census Bureau, 2014-2018 American Community Survey

We know that we have essential work to do to address racial inequities within ACS and in the child welfare and juvenile justice systems. We must identify and address structures, policies, and practices that present barriers for families in getting the services they need. While ACS has a commitment to supporting and strengthening families as the best way to keep children safe, we must confront the unintended

negative consequences of our involvement on the experiences of families and communities.

Focusing on racial disparities is something I have prioritized since becoming the ACS Commissioner. We've built on ACS's longstanding work in this area, including our Racial Equity and Cultural Competence Committee (RECCC). The RECCC brings together a diverse representation of ACS staff, external stakeholders, and professionals to promote racial equity throughout the child welfare, juvenile justice and early child care systems. The RECCC volunteers contribute invaluable to ACS's work by establishing a racial equity frame for our data analysis, training, policies, and workforce development. Building on this foundation, I created the Office of Equity Strategies in 2017, because I believe it is crucial to have dedicated staff who are focused specifically on addressing inequity, disparities, and systemic racism, both internally at ACS and externally in our work within communities.

As the Council is aware, ACS has since developed and is implementing our Equity Action Plan, to examine and address the ways in which our work disproportionately<sup>1</sup> impacts children and families of color. Today, I will be explaining our findings at each of the key stages in the child welfare system (as shown in the chart) in more detail, and you will hear updates on our strategic responses and actions to achieve and sustain progress on each as we implement our Equity Action Plan. As required by Local Law 174 of 2017, ACS will be submitting our Equity Action Plan update this summer, and we are happy to have the opportunity today to share key highlights of our work. I will then talk about additional strategies and collaborations that

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<sup>1</sup> Disproportionality means the underrepresentation or overrepresentation of a racial or ethnic group compared to its percentage of the total population.

we have in place to move ACS forward as a more racially equitable<sup>2</sup> and antiracist<sup>3</sup> organization.

## **Disparities in Child Welfare and ACS Equity Strategies to Address Them**

### *Disparities Among Children in Investigations (Accepted SCR Reports)*

As you know, ACS is legally required to respond to all reports that the Statewide Central Register (SCR) accepts and assigns to us. In a typical year, the State refers more than 50,000 cases (involving more than 70,000 children) to ACS for investigation. After investigation, ACS child protective staff find some credible evidence of abuse or maltreatment and indicate about one-third of those reports, and the remaining two-thirds are “unfounded.”

It is deeply concerning to us that year after year, there are dramatic racial and ethnic disparities in the reports ACS receives from the State and is required to investigate; most notably, that we see Black/African American children and Latinx/Hispanic children overrepresented in reports. In calendar year (CY) 2019, 41.4% of SCR reports involved children in families who identified as Black/African American, even though these children only make up about 23% of the NYC child population, and 45.4% of reports involved children in families who identified as Latinx/Hispanic, even though these children comprise 36.4% of the NYC child population. On the other hand, while 26.5% of NYC children are White and 14.1% of NYC children are Asian/Pacific Islander, these families make up 8% and 5.3% respectively of reports to the SCR that

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<sup>2</sup> Racial equity is a condition that would be achieved if one’s racial identity no longer predicted, in a statistical sense, how one fares.

<sup>3</sup> Antiracist means supporting antiracist policies through action or expressing antiracist ideas.

are accepted for investigation. While the SCR may be an essential lifeline for children when they are being seriously harmed or at imminent risk of harm, the child protective response and investigation by its nature can be intrusive and traumatic for families. We have a collective duty to make sure this government intervention is sought and used only when there is true concern for the safety of a child or imminent risk to a child, and that it is not used inappropriately or disproportionately, resulting in further marginalization and trauma for families of color.

While ACS does not have control over reports that are called in and that the State accepts and refers, we are taking numerous steps toward addressing disparities among families that are reported to the SCR, given that the largest racial and ethnic disparity we see is at this initial critical point. Key strategies include (1) using a primary prevention approach to reduce the number of reports in communities with historically high reporting levels, (2) collaborating with mandated reporter agencies and organizations to reinforce alternate ways of connecting families with help when needed, and (3) advocating for policy changes to reduce unnecessary and discriminatory utilization of the SCR process. I will talk about each of these strategies in more detail.

First, our primary prevention efforts are focused on strengthening families and communities with resources and supports, with the goal of reducing families' interaction with the traditional child welfare system. This work includes child safety campaigns on important topics for parents like safe sleep practices, ensuring homes are equipped with window guards, medication safety, and reminders to keep common hazards like hand sanitizer out of the reach of young children. In addition to our safety campaigns, we support eleven Community Partnerships throughout the City and three Family

Enrichment Centers (FECs). Both the FECs and the Community Partnerships provide a space for local organizations to network with each other and share critical information and resources to support children and their families. They also give parents/caregivers and community leaders the opportunity to get to know each other in a safe and nurturing environment, provide positive outlets for children and youth, and notably—they have adapted to provide concrete resources to families throughout the COVID-19 pandemic. Through these community hubs that families have come to rely upon and trust, we have been able to provide families with groceries, clothing, and even emergency grants, so that they could remain stable, supported, and safe during this challenging time.

The FECs operate in neighborhoods that have historically experienced high rates of reported child abuse and neglect: East New York in Brooklyn, and Highbridge and Hunts Point in the Bronx. FECs are open to all community residents, and as members they participate in community-designed offerings that are intended to bolster a range of protective factors. The FECs operate with a keen focus on parents' voices, and it is these parents who have co-designed the centers, including everything from the name of the site, to the color of the walls, to the programming offered. This past summer, ACS released a report of the first evaluation of the FECs, which found that the FEC offerings are having a positive effect on members' social supports (from family, friends and neighbors), family functioning, emotional connection with their children, and outlook on life. Additionally, those surveyed reported significant increases in their access to advice and resources in addressing several life challenges including: parenting, financial issues, relationships, food and nutrition issues, and stress management.

As another strategy to make sure that families are not overreported, we are working closely with the State and mandated reporters so that professionals working with children and families understand the many ways to assist families and connect them with resources, without the need for a report to the SCR. For example, prior to the pandemic, ACS child protection borough offices were working closely with schools in their local communities that were high reporters, to create strategies to reduce unnecessary reports. Since the start of the pandemic, ACS has collaborated with the Department of Education (DOE) to develop guidance that DOE issued to its staff to help them make decisions about reporting. This guidance makes clear that if a family is struggling with technology or other COVID-19 related challenges, the DOE should work with the family to provide assistance, without calling the SCR. Guidance was initially distributed in April and then updated in September to account for the addition of hybrid learning. Just last week, after the advocacy of ACS and others, the State Office of Children and Family Services (OCFS), which administers the SCR, announced that the State is taking steps to curb unwarranted educational neglect reports by implementing stronger screening procedures and training for the SCR hotline operators when educational neglect reports are called in. Their guidance is also aimed at ensuring schools have assisted students with technology and other resources to remediate remote or hybrid learning challenges before the State accepts a report for a county to investigate. We are extremely pleased to see the State adopt this approach, which is consistent with what we have been doing in NYC throughout the pandemic.

Similarly, ACS has been working very closely with the Department of Health and Mental Hygiene (DOHMH) and Health + Hospitals (H+H) so that hospital and other

medical staff understand the impact SCR reporting has on families, and that calls should be made only when there is a concern about the child's safety. ACS and our sister agencies have been reiterating to the health professionals that if a parent or child tests positive for a substance when the child is born, public or voluntary hospital staff should not call the SCR solely based on a positive test if there is no impact on child safety or well-being, and that they can make service referrals without contacting the SCR.

In addition to our collaborations with mandated reporter entities, we are advocating for three statewide reforms. First, we are urging the State to require implicit bias training for mandated reporters, like the requirement that we have in place for all ACS staff. We know that every person holds attitudes and beliefs that are shaped by upbringing, culture, and life experiences. Especially when making important decisions that affect children and families, it is crucial to guard against implicit biases that may influence our perceptions and interpretations and to make sure that reports are objective. Second, we are urging the State to enhance its screening procedures to make sure its SCR hotline only accepts allegations that clearly articulate harm or risk of harm to a child. The recently announced changes in handling educational neglect reports is a step in the right direction, and we hope the State will continue to build on this approach. Third, we are encouraging the State to implement stronger mechanisms to screen out reports that are clearly fraudulent or harassing. Given the data showing that Black/African American and Latinx/Hispanic families are disproportionately reported to the SCR, we believe these reforms are necessary to reduce intrusion into families

when it is not necessary to protect the safety of a child, and that these reforms will help reduce the racial inequities in reporting and investigations.

### *Disparities in Children with Substantiated Allegations*

While not as dramatic as the initial disparity we see in reporting, there are also modest disparities in substantiated allegations (those where CPS investigate and find some credible evidence that the allegation occurred). In CY 2019, 41.4% of the reports ACS investigated involved Black/African American families and 42.6% of indicated reports involved Black/African American families; 45.4% of investigations involved Latinx/Hispanic families and 45.9% of indicated reports involved Latinx/Hispanic families.

ACS is also taking a number of steps to try to address disparities in indication rates, and to address the collateral consequences that are associated with having an indicated report. In addition to requiring implicit bias training for all ACS staff to aid in critical decision-making, which I will talk more about shortly, two other key strategies are supporting SCR reform and expanding the use of CARES (Collaborative Assessment, Response, Engagement and Support), ACS's State-authorized alternative to child protective investigations.

We believe that any child protective response must have an outcome that both promotes child safety and provides fairness and equity for the family. ACS was proud and eager to support the recently passed state SCR reform bill. The law will help protect children while minimizing undue hardships for families, and ACS is hard at work planning for implementation. Starting with investigations that commence on January 1,

2022, the standard of evidence required to indicate a case will be changed from New York's very low standard of "some credible evidence" to "a fair preponderance of the evidence," which is more consistent with the indication burden of proof requirements used throughout the country. ACS believes that this higher standard is fairer and will help address some of the implicit biases that we see in the child welfare system. The new law also reduces the length of time an indicated case for maltreatment would be accessible to potential employers. Under pre-existing law, an indicated case for abuse or maltreatment remains on a person's record for ten years after their youngest child turns 18, regardless of the severity of the incident, which can have long-term destabilizing effects on a family. Under the new law, neglect records (not abuse) will be sealed from employers if the record is 8 years or older, which provides more economic pathways for parents and caregivers. We are thrilled to see New York State take these important steps forward in addressing equity in child protective investigations.

For those families who come to ACS's attention through SCR reports, we seek to make sure that our response is strength-based and led by the family's needs. By state statute, Family Assessment Response (FAR) is an alternative child protective response to reports where there is no immediate or impending danger to children and where there are no allegations of child abuse. The response does not include an investigation and does not result in a determination (of indicated or unfounded). Often referred to as dual track, this alternative response enables ACS to work with families to identify services they may need, without subjecting the family to an investigation. Throughout the COVID-19 pandemic, as the number of overall reports and investigations has decreased, ACS is increasing the use of this alternative child protective response, with

5% of cases on this track so far in 2020, as compared with 3.3% of cases during the same period in 2019.

As you may know, we recently announced that we are expanding our program in two ways: it will be citywide with units in all five boroughs by January 2021, and we are doubling the total number of units by December 2021. We are also renaming our program to be called CARES (Collaborative Assessment, Response, Engagement and Support). We have long felt that the acronym “FAR” did not adequately describe the program’s approach and encourage parental engagement. ACS sought input from ACS staff, the Parent Advisory Council, and parents who participated in FAR, to generate ideas for a new name. The name we ultimately chose—CARES—was suggested by a father who participated in the FAR program, as a reflection of what the program meant to his family when working with ACS.

In CARES, child protective specialists partner with the family to identify their needs, educate the family about resources, empower the family to make decisions that address their needs, and connect families to appropriate services. The CARES approach is family-centered, family-driven, and solution-focused. At ACS, CARES is a core strategy for combating racial disparity and promoting social justice for two reasons. First, the partnering approach is a less intrusive response for families, and it helps enable the family to drive solutions and service plans for themselves. Second, CARES offers an alternative to the traditional CPS investigation that ends with a determination of “indicated” or “unfounded.” This acknowledges that we can promote child safety in these cases by promoting stronger family and community connections and wraparound supports, rather than the traditional focus of making a determination about allegations or

individual culpability. While child safety is always at the forefront of ACS's work, we are confident that we can maintain safety while better serving many families across the City through the use and expansion of CARES.

### *Disparities in Accessing Prevention Services*

A close look at the data shows that while Black/African American families are overall the most likely racial or ethnic group to participate in prevention services, the subset of Black/African American families with an indicated investigation are slightly less likely to participate in prevention services than Latinx/Hispanic families with an indicated investigation. Though this disparity is small, it is important that all NYC families have equitable access to and can benefit from prevention services. This is why we identified it as a concern in our Equity Action Plan, and why we have employed strategies to address it.

ACS is always working to ensure that families have the services and supports they need to keep children safe and families supported, and to reduce the need for foster care. Our nationally recognized prevention services continuum has safely reduced the utilization of foster care in New York City. There were nearly 50,000 New York City children in foster care 25 years ago, and 17,000 just a decade ago. Today there are fewer than 8,000 NYC children in foster care. Additionally, there is strong evidence that ACS prevention services reduce repeated involvement of families in the child welfare system. Families that successfully complete prevention services (and more than 80% do) are five times less likely to have another "substantiated" investigation (one in which there is evidence of child abuse or neglect) in the following six months than

families that do not complete services. And we know that families feel that they are benefiting from the services. Earlier this year, ACS released the results of its first-ever “Prevention Services: Family Experience Survey,” which asked families receiving prevention services about their experiences. Approximately 94% of survey participants said they are happy with the prevention services their families received; and 71% of participants said that they would recommend these services to a friend and/or family member. Overall, 86% of the parents participating in the survey said prevention services helped them reach their parenting goals.

We redesigned and strengthened our prevention services continuum with an equity frame in mind because prevention services belong to all NYC families who may need support—regardless of identity or background—and we want all families to view them this way. In our redesigned system, which launched with 119 new contracts on July 1, 2020, all families in NYC now have universal access to every service model, regardless of where they live. We have also infused more parent voice and choice into the service array and services themselves. The services were designed with feedback from parents, and providers are expected to fully incorporate parent’s voice when developing individual service plans. The new system also explicitly addresses racial equity by requiring prevention providers to incorporate efforts to address racial disparity in their organization and service provision, including through the formation of racial equity committees that include all levels of staff representation. We believe that our newly redesigned system will strengthen access to evidence-based supports for families and help us address racial disparities in service access.

### *Disparities in Court Involvement and Foster Care*

One of our paramount goals is to minimize Family Court interaction for families, to keep children safe at home through engaging parents in prevention and other services. We have focused on this among our equity priorities because the data show that Black/African American and Latinx/Hispanic children are disproportionately represented in court-ordered supervision filings (44.4% and 46.2% respectively in CY 2019) and foster care placements (55.5% and 36.4% respectively in CY 2019). We see in particular that the experience of Black/African American children is different from other children. While Black/African American children comprised 42.6% of all substantiated investigations in CY 2019, already a disproportionate amount compared with the overall population, they comprised 55.5% of all foster care placements, and remained at 55.6% of the foster care population in that year. This shows us that we have much more work to do to critically examine decisions at each point in a case; and also to look at how we are supporting Black/African American families and addressing the unique challenges and traumas they face not just in the child welfare system, but in our society at large.

We are committed to limiting court intervention and foster care placement whenever possible. Prior to the current COVID-19 crisis in which the Family Court restricted its operations, only 1 in 10 ACS investigations went to Family Court, and the majority of those involved requests for court-ordered supervision, not placement into foster care. In CY 2019 ACS filed 23% fewer cases seeking court-ordered supervision than in CY 2017. We seek fewer removals as a child safety intervention, with 14% fewer removals in CY 2019 than in CY 2017.

During the COVID-19 period, due to significant limitations in access to the Family Courts, we have expanded our work to focus on movement of children in foster care toward reunification with their families, outside the normal court process. ACS has been closely collaborating with legal advocates who represent parents and children, and our provider agencies, to help expedite safety and permanency outcomes for children despite the limited hearings being held virtually by the Court. We are affirmatively reviewing and identifying cases where steps toward reunification are safe and in the child's best interests, and we have reached consensus decisions to expand visits, lift orders of protection, or reunify children from foster care on a trial or final basis. If all parties agree, we present these resolutions to the Court for approval without the need to wait for court hearings. In this way, we have continued prioritizing safe and timely reunifications, and reducing length of stay in foster care.

Addressing overall court filings and removals is a necessary step, and we must also dig deeper. When foster care is our necessary but last resort as a protective intervention for a child, we must do everything we can to provide more equitable experiences and outcomes for the child and family. Chair Levin and the Council have been great partners in driving our work forward through the Interagency Foster Care Task Force. The important initiatives that originated from that group are being aggressively implemented through our Foster Care Strategic Blueprint. ACS has achieved measurable positive results—all of which tie to more equitable outcomes for children and families, including fewer children in foster care; reduced length of stay in foster care; increased kinship care placements of children, and additional use of kinship guardianship to achieve permanency.

Most recently, I was thrilled to announce that we are launching a new Parent Advocate Initiative, called “Parents Supporting Parents,” to improve reunification and racial equity outcomes, as part of our effort to expand parent voice across all of our programs. These parent advocates will be crucial allies to empower parents and help dismantle bias and oppression in the foster care system, by bringing their lived experience to strengthening parents’ self-advocacy and voice within the process, and shifting organizational culture to more authentic parent engagement approaches. We have raised funds from major national and local foundations to launch a pilot that will lay the groundwork for full implementation with our new foster care contracts on July 1, 2022. In the initial pilot, two foster care agencies will have on staff 10 parent advocates with lived experience of the system, who will be central members of their case planning team, working with parents to achieve reunification.

### **Building a More Equitable and Antiracist Organization**

This work is all essential to transforming our relationships with children and families, but our efforts must start within. To combat systemic racism in the child welfare system, we at ACS need to look internally at our own structures, policies, practices, and implicit biases. We must walk the walk, if we want to build a culture and empower our staff to fight racial disproportionality in our work.

To look critically at our role, ACS developed its “Understanding and Undoing Implicit Bias” learning program. Our courses help staff identify the connection between institutional racism, structural inequity, and implicit bias, and begin to surface and address implicit bias in decision-making and in conversations with co-workers. All child

protective staff now learn about implicit bias as part of the core training they take when they begin their jobs. All direct service employees and supervisors at ACS have been required to take a new full-day, instructor-led program on implicit bias (which we quickly adapted to make virtual in response to COVID-19). ACS also launched a new e-learn course that is mandatory for all ACS employees to complete—including me. To date, more than 6,400 ACS staff have completed the e-learn and 1,559 have completed the all-day implicit bias course. We strongly believe that it is crucial for every member of ACS staff to recognize and be equipped with strategies to deal with implicit bias. A strong critical thinking and learning culture, which includes implicit bias training, will help ACS unpack and address the disparities that we see at crucial points in our child welfare response.

We are also continuing to infuse parent and youth voice into our policies, procedures and service arrays. We created the new role of Parent Engagement Specialist last year, to increase the voice of parents with lived experiences in all aspects of ACS's work around practice, policy and programming. Our Parent Engagement Specialist, Sabra Jackson, supports the Parent Advisory Council, which meets and shares recommendations with ACS leadership, including myself, regularly. We are working tirelessly with the PAC to not only hear their voices, but to listen and learn. The PAC members challenge us to do better, and I want to thank them for their candor, leadership and thoughtfulness.

We also have a Youth Leadership Council (YLC) that includes youth who have experienced the foster care and/or juvenile justice systems, as well as peer mentors with prior system experience. The YLC meets regularly and also coordinates with other

youth councils to identify, prioritize and inform program area leadership about key issues and recommendations for improving services and outcomes for young people.

Finally, in order to advance our vision of establishing an equitable and fair child welfare and juvenile justice system, ACS is committed to working towards becoming an anti-racist organization that rejects all forms of racism and oppression, which requires taking a close look internally. Many ACS divisions have been participating in Race, Diversity and Intersectionality Reflective Process (RDI-RP),<sup>4</sup> which is a framework for collective reflection and discussion about the impact of power, privilege and oppression of individuals, communities, practice and policies. We regularly offer a two-day Undoing Racism® workshop from the People's Institute for Survival and Beyond,<sup>5</sup> to help staff deepen our common language to understand racism, structural racism, and power analysis. This workshop was first piloted for ACS staff in 2006, and it integrates undoing racism principles including: historical content, developing leadership, maintaining accountability in the work, networking, analyzing power, and the child welfare practitioner as gate keeper. Currently, ACS is also partnering with National Innovation Service (NIS)<sup>6</sup> to conduct an evaluation of our systems and activities as they relate to the racial equity experiences, needs, and priorities of frontline staff, families, and communities, and to identify key areas of intervention to drive system-level change. Through a series of facilitated participatory design workshops and strategy sessions, with families, community members and frontline staff, NIS will work with ACS to develop

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<sup>4</sup> This model was developed by Candida Brooks-Harrison of The Village Enrichment Associates.

<sup>5</sup> <https://www.pisab.org/>

<sup>6</sup> <https://www.nis.us/>

implementation plans for recommended strategies, and to help develop the capacity of agency leadership and staff to support and execute on those plans.

## **Conclusion**

Racial disparity has been the legacy of the child welfare system, but it does not have to be its future. ACS is focused on placing equity at the center of every decision, policy, and initiative. I have described in great detail the specific initiatives we are implementing to address racial disparities, because I believe we must go beyond platitudes toward concrete, measurable action. But as we build the capacity of our staff at all levels to respond effectively to structural racism and individual bias, and promote culturally competent policy and practice, we must also engage differently with youth, parents, families and communities. We must listen, even when it is difficult. We must collaborate, even when it is complicated. And we must look critically at our own attitudes, even when it is painful.

As we continue to move forward and implement our Equity Action Plan, I welcome our continuing conversations and partnerships with the City Council, the child welfare community, and the families that we serve—all of which makes our work more transparent, reflective of community voices and needs, and ultimately more successful.