

Child Welfare Surge Continues: Family Court Cases, Emergency Child Removals Remain Up

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July 2018

More than a year and a half after a pair of [widely publicized child deaths](#), New York City’s child welfare agency continues to investigate a dramatically higher number of families than in recent years, according to data published by the Administration for Children’s Services (ACS).

Once families are under investigation, ACS has become far more likely to bring them to court, rather than allowing parents to resolve their cases voluntarily. And the number of so-called “emergency removals,” in which ACS takes children out of a home even before the case appears before a Family Court judge, has gone up by 30 percent.¹

Observers inside and outside ACS say the surge of cases is driven by heightened anxiety and caution—both among members of the public, who are calling in more reports of possible child abuse and neglect, and among child welfare staff, who are responding to those reports more aggressively.

But the resulting system overload may have negative consequences for kids, observers say, subjecting vulnerable families to unnecessary surveillance while reducing attention on children who might be in real danger. “The system is logjammed,” says Chris Gottlieb, the co-director of the Family Defense Clinic at New York University.

The increased burden is apparent across the City’s child welfare system: In the past 20 months, caseloads have gone up dramatically among frontline workers responsible for investigating reports of neglect and abuse. Families sit on waitlists—sometimes for months—for services intended to help children stay safe and healthy at home. And attorneys say the influx of cases has overwhelmed Family Courts throughout New York City, exacerbating chronic delays and deferrals that impact every family in the system.

“Hearings are not happening quickly. Judges are struggling with several emergency hearings at a time, half an hour one day, half an hour the next,” says Lauren Shapiro, the director of the Family Defense Project at Brooklyn Defender Services.

The result, attorneys say, is a new level of dysfunction across Family Court—a place where it was already common for a single judge to schedule two or three hearings for the same half-hour timeslot. “We’re seeing so many cases where there’s no court report available, or the ACS case worker isn’t there,” Shapiro says. “The family comes back to court over and over where nothing gets done.”

The surge of activity began in October 2016, after the widely publicized killing of a 6-year-old named Zymere Perkins, who was beaten to death in his home

less than two months after his child welfare case was closed. Three-year-old Jaden Jordan was killed in November of the same year, after an ACS investigator, responding to a report of abuse, failed to find his address.

ACS faced scathing criticism in the news media; then-Commissioner Gladys Carrión resigned from the agency. Under new leadership, ACS reformed its workforce training program, significantly increased funding for preventive services, and established new oversight systems for the most critical cases.

“Commissioner [David] Hansell has made top-to-bottom improvements at ACS, strengthening our child-protective work and expanding the services we provide to support families,” said ACS spokesperson Chanel Caraway in an emailed statement. “Our top priority is protecting the safety and wellbeing of New York City’s children.”

Historically, however, tragic and high-profile child deaths have always led to increased pressure on the child welfare system. In the 20 months after Perkins’s death, the State received more than 118,000 reports of possible neglect and abuse—a nearly 11 percent increase over a corresponding 20-month period before the crisis. (See p.4 for a detailed data analysis of ACS activity.)

Once ACS is investigating a family and finds credible evidence of abuse or neglect, it has a considerable array of options, including offering voluntary services such as family therapy or drug treatment, and then closing the case. Since October 2016, however, the agency has taken a much higher percentage of cases to Family Court, petitioning a judge to order the family to engage in services while ACS monitors children’s safety.

In the 20 months after Zymere Perkins died, ACS filed Family Court petitions involving close to 26,000 children—a 54 percent jump over a corresponding timespan beginning in 2014.

Much of the increase in court petitions has been driven by an evolving approach to families dealing with domestic violence, said Andrew White, a deputy commissioner at ACS, speaking at a public forum. Both Zymere Perkins and Jaden Jordan were allegedly killed by their mothers’ partners, and relationship violence was reported to be a problem in both homes.

“If caseloads are at 14, your caseworkers are just not able to do what they need to do.”

Notably, the increase in investigations and court filings has not led to an equally drastic growth in the number of children removed from their homes. In the 19 months after Perkins’s death, the City placed approximately 6,250 children in foster care—a rise of about four percent over the previous, corresponding time span. This increase is much smaller than those that have taken place after other, widely publicized child deaths in the past decade.

Even a moderate increase in foster care placements, however, represents the reversal of a longstanding trend. Over the past several decades, the City has drastically shrunk the number of children in foster care—down from more than 45,000 in the mid-1990s (when the union representing caseworkers promoted slogans like, “When in doubt, pull ‘em out,”) to the current, near-record-low of approximately 8,600.

That reduction was made, in large part, due to growing recognition that, for most children, being separated from a parent is a terrifying and deeply traumatic event.

“It’s clear that ACS is trying to ensure that children can stay home safely as much as possible,” says Ronald Richter, who served as the commissioner of ACS from 2011 to 2013, and subsequently as a Family Court judge. “It’s admirable that they’re really trying not to just bring kids into care.”

But the escalation in neglect and abuse investigations has other consequences—starting with the casework-

ers who conduct the investigating. According to ACS data, average caseloads among child protective workers have gone up, citywide, from 11.6 in May 2015 to 13.9 in May 2018. The increase is much starker in the Bronx and Staten Island, where caseworkers carry average reported caseloads of approximately 16.

Those numbers are worrying, Richter says. “A sustainable caseload in New York City is eight. If caseloads are at 14, your caseworkers are just not able to do what they need to do.”

ACS has hired several hundred frontline staff in the past year, but child protective caseworkers are notoriously difficult to retain. “ACS may hire 300 people, but 40 percent are going to be gone,” Richter says.

Caseworkers who stay work long hours, making high-stakes decisions under intense pressure—often based on interactions with people who want nothing to do with them. Higher caseloads mean there’s a greater chance of missing something important or making a wrong call, said one longtime child protective caseworker, who requested anonymity because she’s not authorized by ACS to speak publicly.

A lasting consequence of the crisis surrounding Zymere Perkins’s death, the caseworker said, is that frontline ACS staff are more inclined to recommend that cases be taken to court, rather than allowing families to do voluntary services.

“At this point everybody’s so afraid, they’d rather cover their ass,” the caseworker said. “Take the case to court and let the judge say no. Then we can document we tried. Nobody wants to end up with their face in the *Daily News*. They don’t want to face criminal charges.”

Once ACS decides to file a case, however, it’s unlikely that a judge will dismiss it outright, says Richter, the former ACS commissioner and Family Court judge. “Judges may yell and get frustrated with ACS” for filing a petition without a strong enough cause of

action, Richter says. “But they’re anxious: Maybe there’s something here.”

The most extreme choice child protective staff can make is what’s called an “emergency removal”—in other words, taking a child out of a home before the case even appears before a Family Court judge. ACS data show a sharp increase in such removals: Between October 2016 and May 2018, ACS reported approximately 2,300 emergency removals—a 28 percent jump from a corresponding 20-month span before the crisis.

These numbers are partial, however, since they include only emergency removals that were approved by a judge on the first day that a case appeared in court. ACS does not publicly report emergency removal cases in which a child is reunited with his or her family at the initial court hearing, or in which the judge makes a decision after the first day. (Upon request, ACS did not disclose the total number of emergency removals.)

Lawyers who represent parents in Family Court say that ACS seems, more frequently, to be making emergency removals that aren’t justified by a child’s circumstances. “Those are the removals that are the most traumatic for children,” says Emma Ketteringham, the managing director of the Family Defense Project at The Bronx Defenders. “They’re often done in the middle of the night, without preparation. You find out five minutes before that your child is going to be removed.”

The rise in emergency removals, Ketteringham argues, is the clearest indication that an over-reactive child welfare system can hurt children—especially in the context of the current conversation about children separated from their parents at the U.S.-Mexico border.

“With all of this attention being paid, nationally, to what removing a child from a parent actually looks and sounds like, it’s no different when a child is removed from a parent here in the Bronx,” she says.

Data Analysis: Increased Child Welfare Activity Since October 2016

As the Center for New York City Affairs reported in our 2017 brief, “[ACS in Overdrive](#),” there was a surge in activity, across the child welfare system, immediately following a highly publicized child death in late September 2016. Now, more than a year and a half later, child welfare activity remains significantly higher than in the period preceding the 2016 surge. For example, the number of children involved in court cases filed by ACS has jumped by 54 percent. Average monthly caseloads among frontline ACS child protective workers have increased significantly since 2014, in some boroughs by more than 60 percent.

Below we present data, compiled from monthly ACS Flash reports, on a number of indicators of the system’s activity and its impact on families. Child welfare activity fluctuates throughout the year, rising and falling in response to regular events, particularly the school calendar. For this reason, we compare corre-

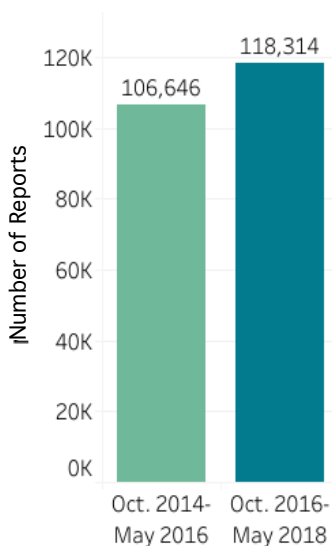
sponding months of different years, including the most recent month for which ACS has published data. (In most cases, data run through May 2018; in a few cases the most recent month available is March or April).

To assess the recent trends for these key indicators, we present the data in two formats. The first is a bar chart that presents a before-and-after look at each indicator, comparing the months from October 2016 to the present with a corresponding, prior interval. That is, these data generally compare October 2014 - May 2016 with October 2016 - May 2018. The second format is a line graph showing monthly data from 2015 into 2018. In general, the data show that child welfare activity has been consistently higher since October 2016 than in prior recent years.

All data come from ACS Flash reports.

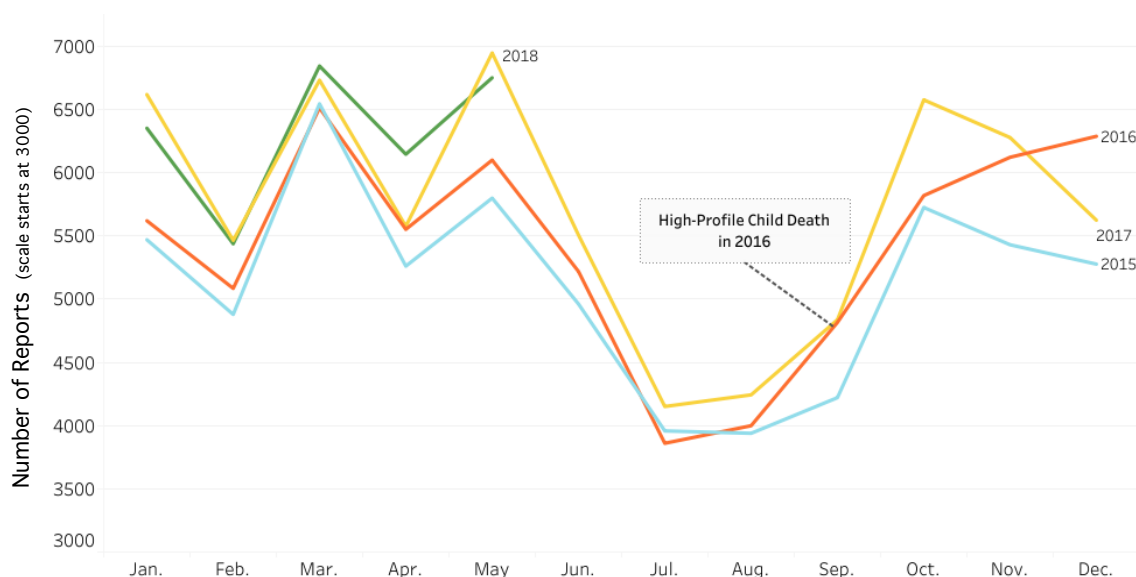
Reports of Abuse and Neglect to the State Central Register

Before and Since October 2016



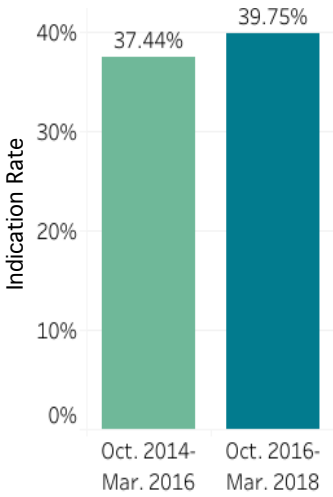
Starting in October 2016, there was a spike in reports of abuse and neglect to the State Central Register (SCR). Overall, there has been a nearly 11 percent increase in reports over the 20 months since October 2016, as compared to the corresponding 20 months from October 2014 to May 2016.

Reports of Abuse and Neglect, by Year



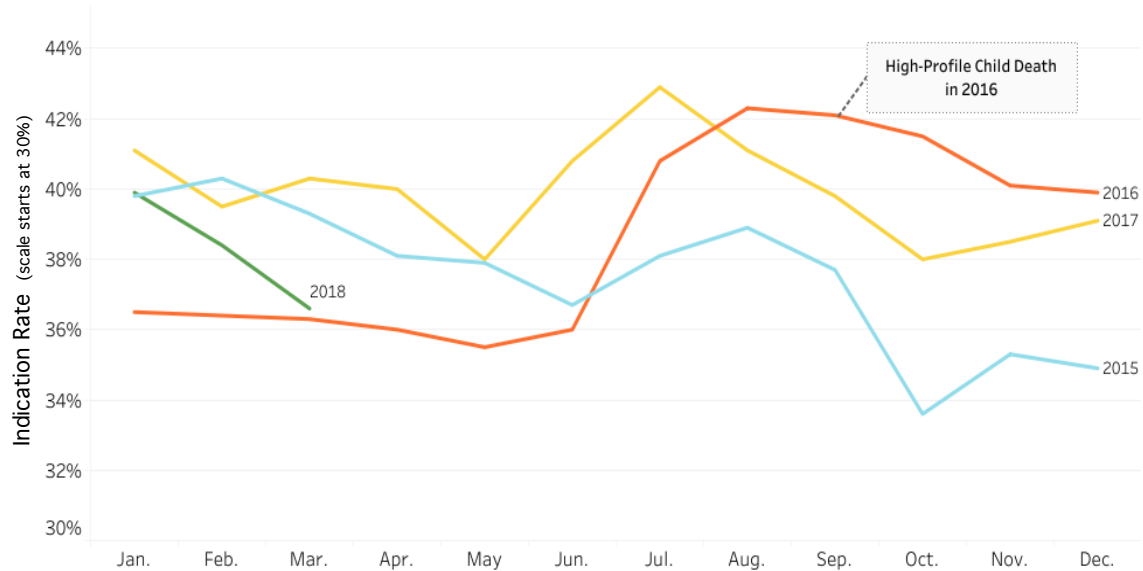
Rate at Which ACS Found Reports to be Indicated

Before and Since October 2016



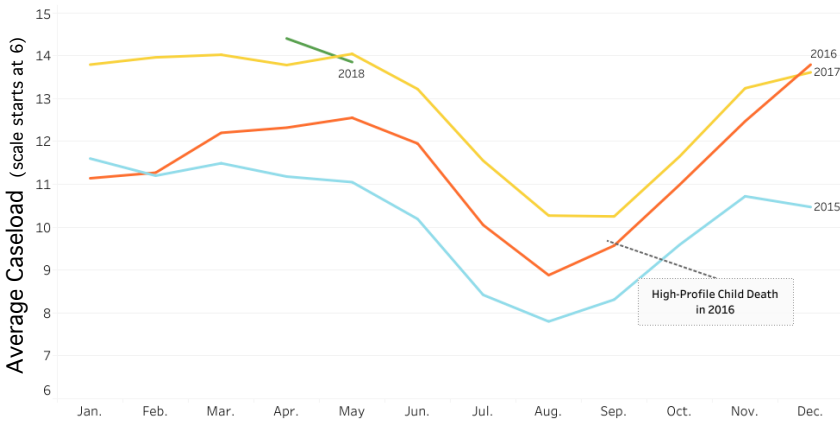
Once a report is made to the SCR, it is investigated by the child protective arm of ACS to determine whether or not it is “indicated,” meaning ACS found some credible evidence that a child has experienced abuse or neglect. While the number of investigations has gone up significantly, indication rates have not drastically changed. The slightly higher indication rate for the most recent 18 months represents an additional 4,000 indicated reports.

Indication Rate, by Year



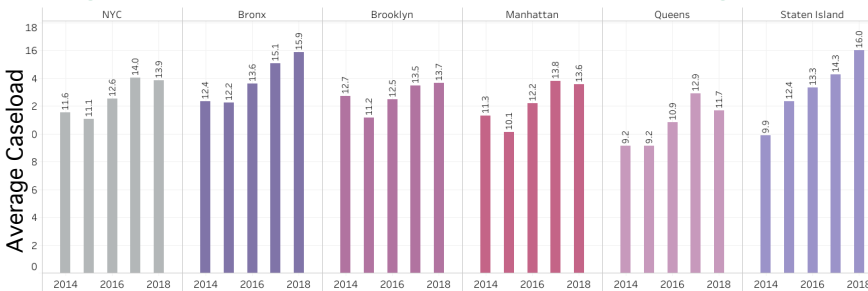
Average Caseload Among ACS Caseworkers

Average Monthly Caseload



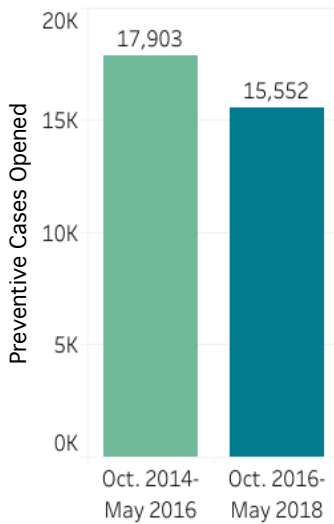
As the number of families in the child welfare system has increased, caseloads among ACS child protective workers have gone up. ACS did not report caseloads for the first three months of 2018. However, a cross-year comparison of caseloads in May (the most recent month for which data are available) shows that caseloads have generally been increasing since 2015 across New York City, rising from 11.6 to 13.9. Some boroughs had caseloads significantly above the citywide average in May 2018—including the Bronx, at 15.9 and Staten Island at 16.

Average Caseload at ACS for Month of May, by Borough



Preventive Cases Opened

Before and Since October 2016

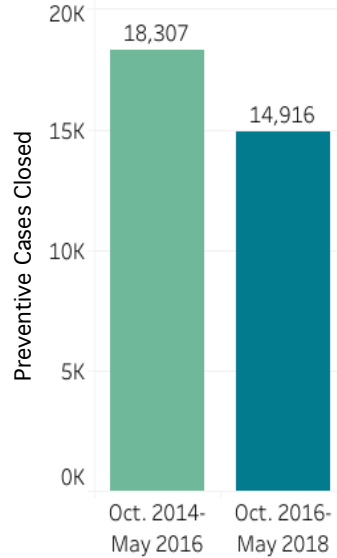


Since the high-profile child death in September 2016, there has been a significant slowdown in opening new preventive service cases, with the result that families may wait for months to participate in programs that have been required of them by Family Court judges.

This trend began with a slowdown in preventive case closings—a cautious measure aimed at ensuring that families had received services and made the changes ACS deemed necessary to keep children safe. The consequences have persisted: In the 20 months since October 2016, ACS closed 18 percent fewer preven-

Preventive Cases Closed

Before and Since October 2016

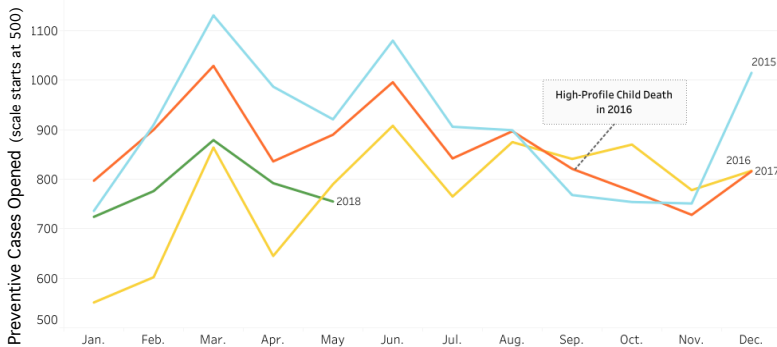


tive cases than in the 20 months from October 2014 to May 2016.

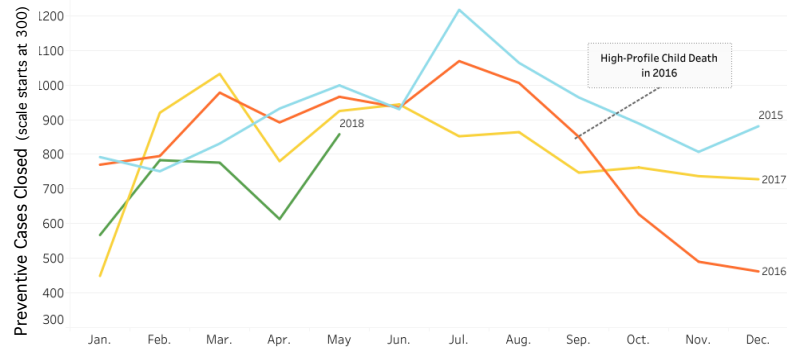
Because preventive service providers have limited capacity, a slowdown in case closings means fewer new cases can be opened. Over the past 20 months, ACS has opened 13 percent fewer new preventive cases than from October 2014 to May 2016.

ACS reports that there are currently close to 27,000 children in preventive service cases.

Preventive Cases Opened, by Year

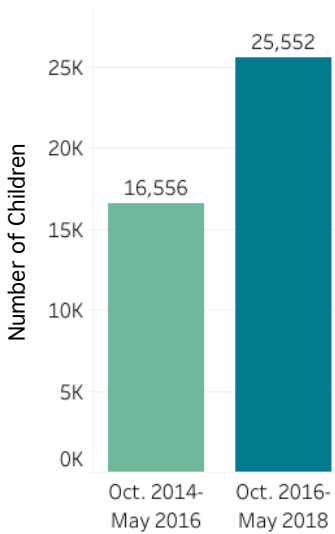


Preventive Cases Closed, by Year



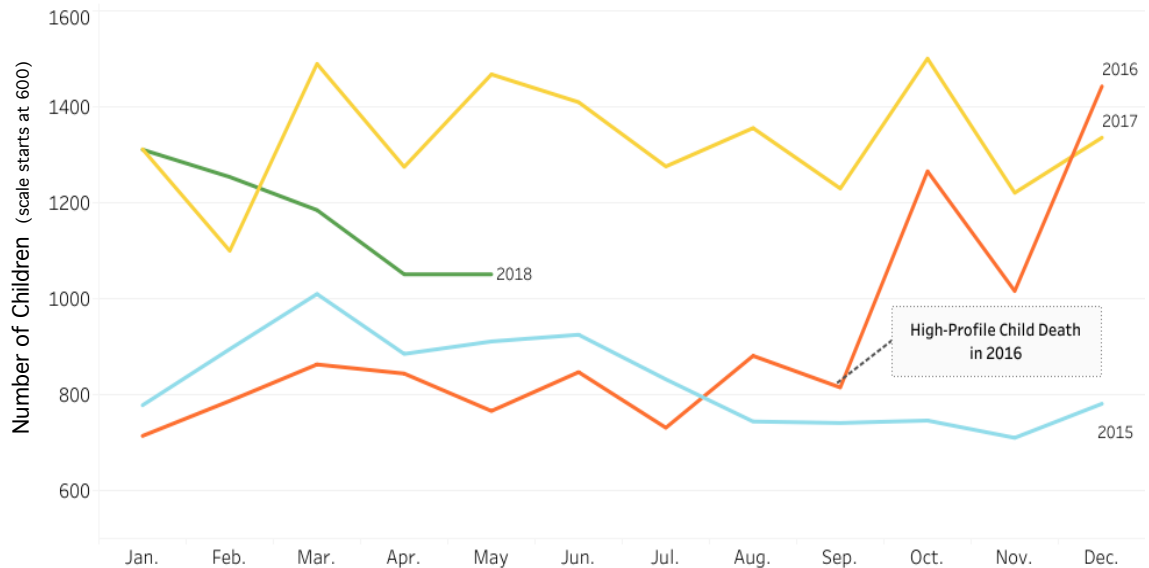
Children with Court Cases Filed by ACS

Before and Since October 2016



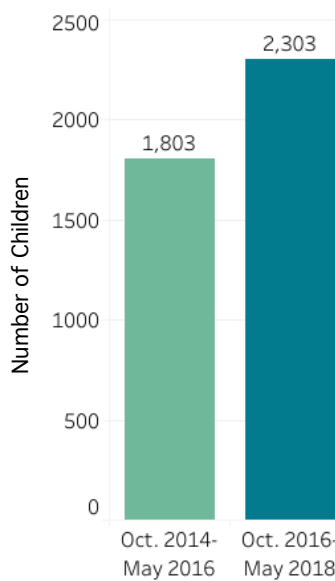
ACS has become far more likely to bring investigated families to Family Court. Following a steep increase after September 2016, the number of children with court cases filed by ACS remained high throughout 2017 and, despite a decrease in the beginning of 2018, remains higher than at any point in 2015. Over the past 20 months, close to 26,000 children had court cases filed by ACS, an increase of 54 percent compared to the 20 months from October 2014 to May 2016.

Children with Court Cases Filed by ACS, by Year



Emergency Removals Confirmed at Initial Hearing

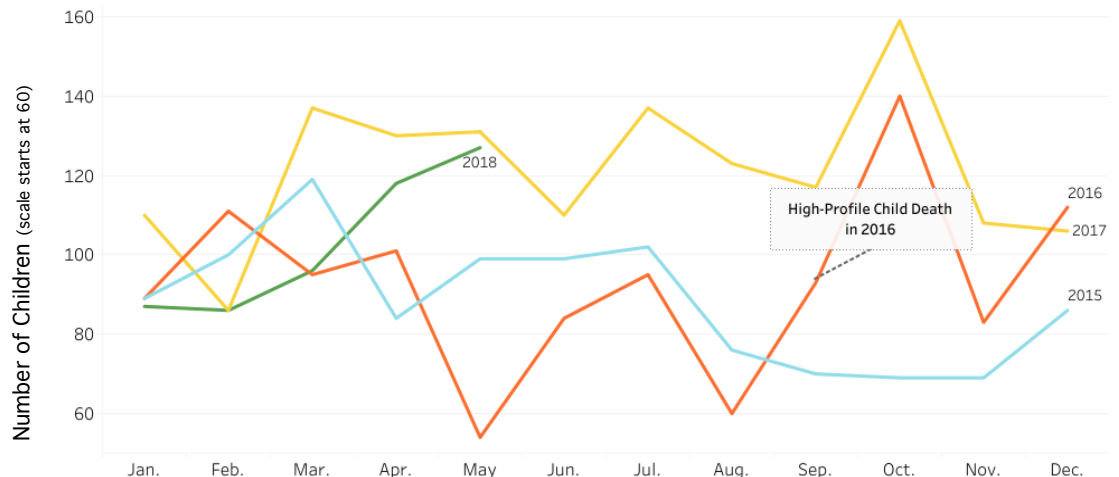
Before and Since October 2016



If, while investigating a report of abuse or neglect, ACS determines that a child is not safe at home, ACS may conduct an emergency removal, taking children out of a home prior to a court hearing. Over the past 20 months, emergency removals that were approved at the initial hearing went up by 28 percent, compared to the 20 months from October 2014 to May 2016.

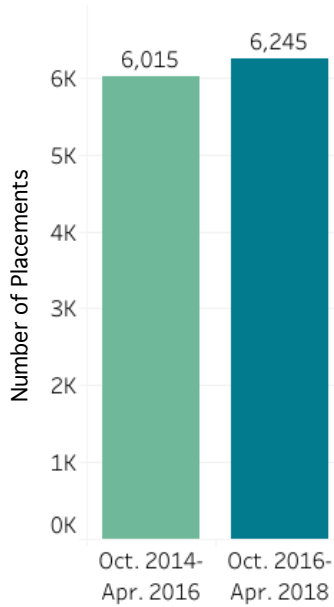
ACS reports only the number of removals that were approved by a judge on the first day of the the initial hearing. CNYCA's requests to ACS for the total number of emergency removals were denied.

Emergency Removals (Confirmed at Initial Hearing), by Year



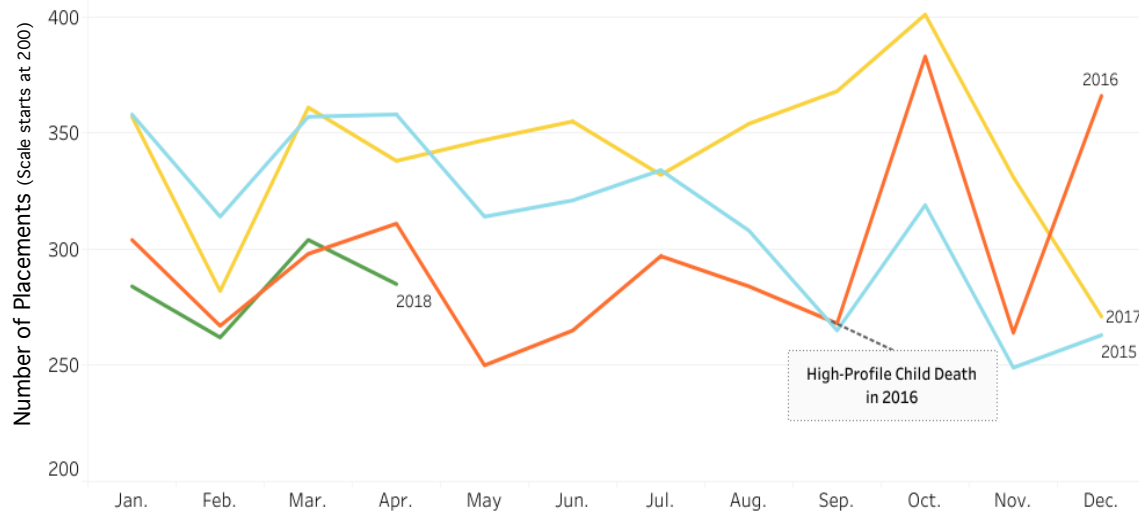
New Foster Care Placements

Before and Since October 2016



New foster care placements, which have been on a downward trend for years, went up moderately in 2017 and have come back down in 2018. The overall increase is not proportional to the increase in reports of abuse and neglect or the increase in court cases filed by ACS. From October 2016 to April 2018, new foster care placements were 3.8 percent higher than during the period from October 2014 to April 2016, which meant 230 more foster care placements.

New Foster Care Placements, by Year



Endnote

¹ Child welfare activity fluctuates according to annual patterns. For this reason, we select corresponding months when making comparisons between different years. (For example, most of our bar charts compare October 2016-May 2018 to October 2014-May 2016, rather than simply 20 months before and after October 2016). In all cases, we include data through the most recent month for which they are available.

All data come from ACS monthly Flash reports.

This brief is made possible thanks to the generous support of the Ira W. DeCamp Foundation, the Child Welfare Fund, and the Sirius Fund.