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# Is Reform Finally Coming to New York City Family Court?

By Abigail Kramer

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# Is Reform Finally Coming to New York City Family Court?

While delay and dysfunction plague Family Court child protective cases, a combination of factors has opened a window for reform.

They include:

- A 20% decline in the number of child protective cases coming to the Court;
- The recent long-sought expansion of the number of New York City Family judges;
- The rollout of a new Family Court strategic plan designed to streamline child protective fact-findings;
- A City commitment, spurred in-part by a Federal court lawsuit, to faster resolutions of cases;
- A new pilot program in the Bronx also focuses on crafting faster, and better, outcomes in cases involving infants and toddlers in child protective cases.

Nevertheless, other reforms, including improving often poorly designed and executed service plans for families, are needed to lower the continued crushing human costs in child protective cases.

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# Is There Hope for the 'Saddest Place in New York?'



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# Is There Hope for the ‘Saddest Place in New York?’

In 2009, the State Senate began a report on court financing with the quote, "Family Court is perhaps the saddest place in New York." The quote is unattributed. But when you step off the elevator into the 8th floor waiting room of the Bronx Family Court building, its truth becomes self-evident. Here and on the floor below (accessible by a slow and usually crowded elevator—stairwells are off-limits in Family Court) are where people wait to be heard in cases against parents and guardians accused of neglecting or abusing their children.

At 10 am on a recent Friday morning, about 30 people sat on benches, wearing the vaguely taxidermied look of those who expect to wait for a very long time. In a corner, a woman rocked a baby back and forth in a stroller. Down the hall and behind a closed door, a toddler screamed, "I want mommy, I want mommy." Two people dozed.

Most were still in their places at 11 am, and at 1 pm when the court broke for lunch.

When waiting-room occupants are finally called into courtrooms, their family tragedies play out in 30-minute episodes, strangely leached of drama by the florescent lights and the business-as-usual nature of a bureaucracy that deals in crisis every day. In one, a father with a criminal court conviction for assaulting his wife waives his right to a Family Court trial. Through his lawyer, he says he'll do whatever the court asks in order to be allowed time with his son and daughter.

Another morning, in Manhattan, two parents surrender rights to their children. They've been fighting the case for four years, but now they sign papers that might mean they never see their kids again.

Even the wins in Family Court are sad. Back in the Bronx, a mother reluctantly accepts a suspended judgment in an educational neglect case. As long as her kids go to school and follow their special education plans, the allegations against her will be dropped—but that doesn't mean she'll be declared innocent. She leaves the court in tears, saying, "I just don't want to be blamed for something I didn't do."

At an end-of-day emergency hearing in Brooklyn, it's decided that two toddlers can stay with their parents—as long as they immediately leave the apartment they've been living in, where the primary tenant faces more serious neglect charges. Each parent takes a very small hand as the family leaves the courthouse, headed to find a spot in a homeless shelter.

## JUSTICE DELAYED: THE SLOW GRIND OF FAMILY COURT

New York City's Family Courts are charged with deciding nearly all legal matters involving children and families—from juvenile delinquency arrests to custody battles to paternity suits.



**Each parent takes a very small hand as the family leaves the courthouse, headed to find a spot in a homeless shelter.**





**This level of delay would never happen if the litigants were people who garnered respect.**



In child protective courtrooms, judges hear petitions filed by the City’s Administration for Children’s Services (ACS) seeking that kids be sent into foster care or—as is now far more often the case—remain with their families under the court-ordered supervision of ACS and its preventive service agencies, which monitor children’s safety at home.

For parents and kids, the stakes couldn’t be much higher. Yet the city’s Family Courts are chronically overburdened and under-resourced, plagued by high caseloads, overworked staff, and a stubborn legacy of dysfunction and delay.

Getting from the start to the end of a case is almost never straightforward. Only a small percentage of child protective cases involve clear instances of abuse; many more revolve around murkier issues of poverty and neglect, often involving behavior—like using marijuana during pregnancy—that would likely go unnoticed in middle-class families that have little contact with public institutions.

Once a case lands in court, allegations tend to cascade. Unlike in criminal courts, where it’s the burden of the State to prove a specific accusation (“Did you or did you not possess 10 grams of PCP on a particular Wednesday?”), a Family Court case might start with the investigation of a parent who leaves her child unsupervised in a homeless shelter, and pick up allegations of educational neglect or drug use along the way. Cases often last for months, or even years, as parents attempt to demonstrate that they’ve resolved the circumstances that brought them to the attention of child welfare in the first place—usually by participating in a range of prescribed social service programs like parenting classes or psychotherapy.

Even then, the notion of ‘resolution’ can be tenuous. Child protective courtrooms deal in people’s most profound and intimate failings—parents failing their kids; spouses and partners failing each other—entangled in all the ways that public systems fail poor families. Their daily fare is homelessness, addiction, unemployment, mental illness, domestic violence, and grinding, intergenerational poverty.

Judges are required to make supremely important decisions (“Will you ever go home to your mother?”) under extraordinarily difficult conditions: According to data reported by the court, child protective judges carry average pending caseloads ranging from 409 at any given time in the Bronx to 520 in Staten Island. In the busiest boroughs, judges frequently have two or three hearings scheduled for the same half-hour time slot.

Inevitably, untenable caseloads lead to inefficient hearings, held in brief increments spaced by months of delay. Judges and lawyers waste hours reviewing old testimony. Facts get forgotten and must be repeated. City and foster care caseworkers quit, taking their knowledge of cases with them. Meanwhile, families are dragged through a prolonged and terrifying process, and kids are left in limbo, with no certain way to know where they’ll sleep after the next decision is made. Critics call the process “trial by teaspoon.”



“We have taken delay to a new level that other courts don’t have,” says Chris Gottlieb, co-director of the Family Defense Clinic at the New York University School of Law, which represents parents in Family Court. “This level of delay would never happen if the litigants were people who garnered respect.”

## MAKING A CASE FOR HOPE IN FAMILY COURT

This month, the City’s Family Court administration is expected to release a package of reforms and strategies aimed at making the court process work better and faster for all its participants.

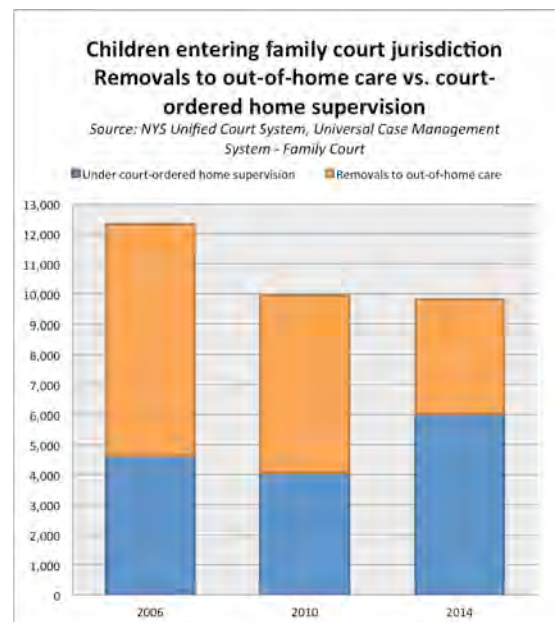
Longtime court veterans tend to be skeptical about the prospects of reform. (So many attempts have been made to fix Family Court in the past 20 years that it’s sometimes described as a place where pilot projects go to die.) But court administrators say that if there has ever been a time for positive change, it’s now.

Crucially, child protective cases are at their lowest point in decades. Since a peak in 2006, ACS has cut the number of abuse and neglect petitions it files with the court by more than 20 percent. And at the beginning of 2015, City Family Courts received funding for adding nine new judges, many of whom are hearing child protective cases—the first such increase in more than 20 years.

The court’s new strategic plan will capitalize on the new judges and lower caseloads, says Judge Jeanette Ruiz, who took over as the New York City Family Court’s administrative judge in October 2015. The major goal is to make hearings happen more quickly and efficiently.

One significant piece of the plan is already in action. Last summer, the Family Court in Brooklyn—which has been, for many years, slower than Family Courts in the other boroughs to complete child protective fact-finding hearings—rearranged the way cases are heard, assigning particular judges and courtrooms to oversee different aspects of cases. Designated intake judges handle the flow of cases coming into the court, for example, while specialized trial courtrooms are reserved for hearing testimony and deciding case outcomes. While the downside of such an arrangement is that parents must switch judges mid-case, it also means that hearings can be held in much longer sessions, with fewer adjournments in between.

It’s too early to measure whether the changes in Brooklyn will move cases more quickly—or whether speed will lead to better long-term outcomes for kids. But advocates of the plan point out hopeful evidence from Queens County, where a similar strategy was launched in 2010. According to court data from 2014, the average time it takes child protective cases in Queens to reach disposition dropped by nearly a month, compared to court times prior to the 2010 change in court assignments.





**If it takes two years to get the child home, well ‘them’s the breaks.’**



“There’s a real vision to move cases more quickly and to do more continuous trials,” Ruiz says. “I’m committed to everyone having their day in court sooner rather than later, so families can go on with life.” Along with attempting to instill a sense of urgency in permanency for children and families, the strategic plan also aims to promote “respect for all those who come into contact with our court.”

At the same time, ACS is in the midst of a broad-based effort to resolve cases faster by improving services offered by its contracted preventive service and foster care agencies. ACS has already changed the way it evaluates agencies it contracts with, shifting the emphasis from procedural requirements to measuring good outcomes for families. And it is working with attorneys and advocates to identify and trouble-shoot the most common places where cases go bad.

Those efforts are spurred in part by litigation. Last July, New York City Public Advocate Letitia James filed a lawsuit, along with 10 foster kids, charging that the City’s child welfare system does irreparable harm to children by leaving them in foster care far longer than necessary. (New York City takes longer to return foster kids to their parents than all but five U.S. states and territories, according to Federal data cited by the plaintiffs. And since at least 2007, foster children in New York City have spent more time waiting to be adopted than kids anywhere else in the country.)

Delay and dysfunction in Family Court account for a significant piece of the problem, says Marcia Robinson Lowry, the attorney representing foster children in the lawsuit. “Courts were meant to be a check on the system not functioning well. Instead, they further the malfunctioning. There’s no sense of urgency. If it takes two years to get the child home, well ‘them’s the breaks.’”

**ENDING ‘TRIAL BY TEASPOON’ – BUT IS FASTER NECESSARILY BETTER?**

In the push for speed and efficiency, many lawyers for families add a warning: Quick legal resolutions, they say, shouldn’t take priority over reaching good outcomes for children and families.

“Speed is not the entire measure,” says Tamara Steckler, the attorney-in-charge of the Juvenile Rights Practice at The Legal Aid Society, which represents most kids involved in New York City Family Court cases. “It cannot be important to the exclusion of due process, or of resolving issues so families can live together and kids can be safe.”

It’s often unfair, Steckler argues, to compare court timeframes in New York City to those of other jurisdictions where, unlike New York, neither parents nor children may be entitled to legal representation. While that may make it simpler to move cases to the finish line, it also makes it easier to steamroll the interests of the most vulnerable people in the room.

Often, it’s worth taking the time to settle a case, rather than pushing for a quick, negative finding against a parent, says Hal Silverman, the attorney-in-charge of litigation at Legal Services for

Children. “I have many children who want to go home. If we can put the case off and get monitoring for the parent, that’s a good thing,” he says. “You might want to delay to give the parent time to receive services and work through the issues that brought the family to court.”

The trick, says Chris Gottlieb of NYU Law School, is to distinguish between delays caused by caution and those caused by inefficiency. “Every institutional player—all the law offices—ask for too many adjournments. Like every lawyer, I occasionally have clients where it’s in their interest to push for delay, but judges should not give me an adjournment unless I have a damn good reason. Judges have to make it unacceptable to come to court unprepared. They need to make it clear that if lawyers aren’t ready, they’re going to be in trouble.”

Gottlieb suggests that, ideally, courts should have the power to impose sanctions that benefit families. “In criminal court, a lot of the discipline comes from the fact that when the State isn’t ready to prosecute, the case can be thrown out,” Gottlieb says. “We can’t do that in Family Court. But you could say to ACS, every time we’re on for fact-finding and you’re not ready, you have to put \$100 per day into a trust fund for the children. You could set it up so there’s an enforcement mechanism that’s good for kids.”

## **LOWERING THE HUMAN COSTS OF DYSFUNCTION AND DELAY**

Meanwhile, notwithstanding efforts to speed the pace of fact-findings, the snarl-ups and snafus of the child protective process take their own toll on the families involved.

On a gray afternoon last October, for example, ACS offered to settle a case against a Bronx mother raising four kids in a homeless shelter. The mother arrived at court pushing her two youngest—a big-eyed 1-year-old and a baby with a drooling grin—in a double stroller. Her 4- and 7-year-olds walked alongside, each wearing neat braids and matching button-downs, though mice at the shelter had chewed holes in their jackets.

The case against their mother had been opened while she was pregnant. She’d developed health complications, in part due to obesity, and stopped taking the oldest child to school. When ACS investigated, they found that the shelter apartment was in poor condition, and that the 4-year-old showed evidence of behavior problems. A service plan was put in place, including what’s known as a “homemaking” provider, to help the mother cook and clean, as well as mental health evaluations for the entire family. The mother was also instructed to get her 7-year-old to school every day and enroll the 4-year-old in pre-kindergarten.

At each step, the plan fell into some variety of bureaucratic rabbit hole. First, the family was given a referral to a homemaking service that works only with the elderly—a situation that still hadn’t been resolved half a year later. Over the summer, the Department of Education assigned the 4-year-old to a school several miles from his older brother’s. The mother’s lawyer asked ACS to provide a letter in August requesting a transfer, but by October it still hadn’t materialized. Meanwhile, the family’s preventive service agency hadn’t given them MetroCards to get to their mandatory appointments. The morning of the hearing, the mother had walked all four kids the two miles from her homeless shelter to the court.



At the hearing, it was agreed that the mother would stay under ACS supervision for eight months. If she fails to comply with the court orders and the service plan, the consequences could be severe: A trial, a possible finding of neglect and, always looming, the threat of losing her kids.

There is very little accountability, on the other hand, when things don't get done by ACS or its contracted agencies—or when parent's or children's attorneys show up for hearings unprepared. Bad service plans and referrals slow down cases all the time, says Judge Sarah Cooper, who presides over child protective hearings in the Bronx. It can take months, for example, to get an appointment with a psychotherapist who takes Medicaid—and even longer if you have no medical coverage at all, or if you need a provider who speaks a language other than English.

“We have such a large number of undocumented litigants with no insurance,” Cooper says. “We can wait three months to find out the [foster care or preventive service] agency sent the parent to a place that couldn't serve them. Then they come in and say the parent is not compliant. That's three months wasted.”

The cumulative effects of delay can leave participants with the dispiriting sense that Family Court is more concerned with its own calendar than with kids. On her blog ‘Fosterhood in NYC,’ a foster mother writes about sitting through court dates for her foster daughter, Sandy, who's been in care for most of the three years of her life. In a post last September, the foster mother wrote:

*Aside from my attorney, I don't think Sandy's name has even been said out loud in court in more than a year.*

*It's always about the attorneys' and judge's schedules and staying in compliance of what is apparently having more court about more scheduling. Quite literally.*

*I'm so sick of hearing the judge say “I can't do this day” and the attorneys say “I can't do that day” – what about what Sandy needs? How about “Sandy can't have a normal childhood until you guys sit in a room for a few hours and make a decision?”*

*Nobody cares. She's invisible.*



**Can a New 'Strong Starts' Initiative Make a Difference for Babies in the Bronx?**

# Can a New ‘Strong Starts’ Initiative Make a Difference for Babies in the Bronx?

Since 2012, Judge Sarah Cooper has sat in the Bronx County Family Court, presiding over cases involving parents and guardians accused of abusing or neglecting their kids.

On a given day, she might decide whether a toddler should be removed from his mother, send a teenager home from foster care, settle an argument over whose fault it is, exactly, that a father hasn’t found a spot in a drug treatment program, or terminate a parent’s rights to her child forever. On some days, she might have three of those decisions scheduled for the same half-hour time slot.

Last summer, Cooper took on an additional challenge. Her courtroom became host to a pilot project charged with the daunting task of improving life outcomes for some of Family Court’s most vulnerable subjects: babies and toddlers, 3 years old and younger, involved in child protective cases.

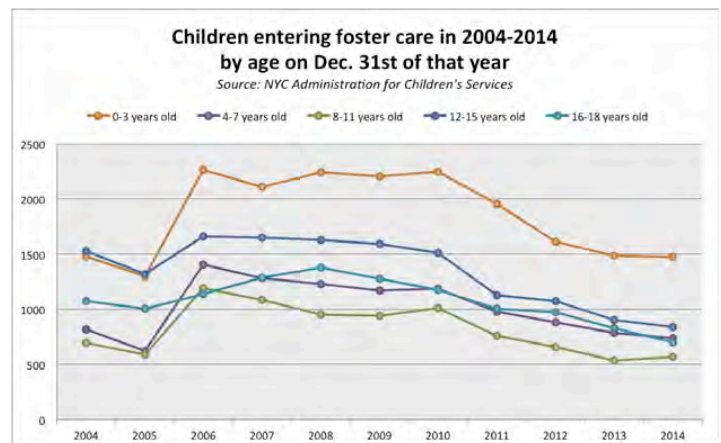
While the project, called the Strong Starts Court Initiative, resembles programs elsewhere in the state and nation, it casts a wider net. Like other programs, it takes in cases involving foster care placements; unlike others, it also engages families where children stay with their parents but remain under court supervision. And despite a modest launch in just one courtroom in one borough, its backers hope eventually to take it system-wide in the biggest city in the nation.

## WHAT’S BEST FOR BABIES

Strong Starts rests on a strong foundation of early childhood research. In recent decades, there’s been a growing consensus that chaos and babies are a very bad mix. Experiences that harm children in general—trauma, upheaval, deep poverty, broken relationships—seem to do a particular kind of damage to the developing brains of infants and toddlers, potentially leading to cognitive or emotional problems that may persist for their entire lives.

Babies involved in Family Court cases are already likelier than other infants to have experienced crisis. Once they come to the attention of the child welfare system, the instability often continues: Babies under age 1 are removed from their parents in greater numbers, move more frequently between foster homes, and stay in care longer than children in any other age group.

The cumulative upheaval can have severe developmental consequences. In a pair of national studies involving about 12,000 kids, researchers found that approximately one-third of children 3 years old and younger involved in the child welfare system showed evidence of delays in cognition, language, and/or adaptive behavior.





**I want to know not just did a mother show up for a session with her child. But what was the visit like? How were the reunion and separation? Was the parent able to read the child's cues?**



The quicker those kids can get intervention (a stable place to live, for example, or therapy to address developmental deficits), the better the results. But speed is not typically a strength of child welfare systems—especially in New York City, where overburdened Family Courts contribute to chronic deferral and delay.

“Babies can’t afford to be left in limbo for six months,” says Lynne Katz, the director of the Miami Child-Wellbeing Court (CWBC) in Miami-Dade County, Florida. Even when their cases do move forward, Katz says, traditional child welfare services aren’t designed to give babies what researchers say they

need most: secure, responsive attachments with nurturing adults.

Nationally, various groups have come up with strategies to get Family Court to work better for babies and toddlers—in part by infusing research on child development into the courtroom process.

In the world of early childhood specialists, Katz’s CWBC model is often described as a prototype. For 10 years, it has worked with children under age 6 that courts have removed from their homes, but with a goal of eventually reunifying them with their parents. Judges refer eligible families to clinicians at the University of Miami, who provide a special kind of “dyadic” therapy, in which parent-child pairs attend sessions together. As the child attempts to interact—babbling, for example, or showing his mother a toy—the therapist speaks for him, interpreting his behavior and encouraging empathetic, nurturing parental reactions. Throughout, the therapist takes opportunities to explain the child’s development, with the goal of helping parents better understand how to respond to their kids.

Clinicians then report on the sessions in court, providing information on the developmental progress of the child, the parent’s compliance with and engagement in therapy, and the therapist’s perception of the quality of the relationship. Often, they also make recommendations about whether a child and parent should reunify.

The big-picture goal is not only to provide clinical treatment, Katz says, but to reorient the entire courtroom conversation around the wellbeing of children. “The judge calls on the clinician first, not the attorney for the parent or the child. We start with, ‘Ok Dr. Katz, tell me about what’s happening with Zoe. What’s happening in the relationship with her mother? Is it healing? Is it going to diminish the risk factors?’”

Other players in the courtroom are expected to follow that lead, prioritizing discussion of the parent-child relationship rather than arguing over the rights of their individual clients. “We can do more if we support each other rather than being adversarial,” Katz says.

Various courts in New York have replicated pieces of this child wellbeing model. In Nassau County, for example, children 5 years old and younger who are in foster care are referred for clinical assessments and mental health services at Adelphi University’s Institute for Parenting, and may receive dyadic therapy involving either their birth or foster parents.



In Manhattan, the Court Team for Babies at the Jewish Board of Family and Children’s Services provides dyadic therapy and other mental health treatment to families with kids in foster care under age 4, reporting on their progress to the New York County Family Court. A primary goal, says Dorothy Henderson, the director of Early Childhood Trauma Services at JBFCS, is to get beyond questions of “compliance” and help parents feel supported and competent.

“These mothers go a lot of places that are not respectful or nonjudgmental or empathetic about what they’ve gone through in their own lives. The more positive a working relationship a parent has with us, the more likely we are to be effective,” Henderson says.

### **A BRONX PILOT PROJECT SEEKS TO MAKE THE SYSTEM WORK FOR FAMILIES – ONE BABY AT A TIME**

In Judge Cooper’s courtroom in the Bronx, early childhood specialists are attempting a broader kind of reform. Long-term, the goal is to identify policies and practices that can ultimately be implemented in all five boroughs, harnessing the power of the Family Court to minimize chaos in kids’ lives.

For now, the Strong Starts project, which operates under the auspices of the Center for Court Innovation, is small. It works only with kids age 3 and younger whose cases come in through Cooper’s courtroom—likely no more than two or three new families each month.

Unlike most infant court programs, Strong Starts works with children who stay at home on court-ordered supervision—not just those who are put in foster care—and it doesn’t automatically steer families to any particular kind of therapy or clinic. Instead, Cooper sends eligible parents just down the courthouse hall to the office of Kiran Malpe, a social worker with a specialty in infants’ and toddlers’ mental health.

With the parents’ consent, Malpe conducts clinical assessments on everyone involved in the case, screening parents and sometimes foster parents for issues like depression and anxiety, and assessing kids for any signs of developmental delay. She then works with a family’s case planner to identify specialized resources, such as Early Head Start or home visiting programs, that may not be on the standard menu of child welfare referrals. Her goal is to inject a mental health perspective into the management of the case—a shift that, in many cases, asks child welfare practitioners to think of parents as victims of their own traumatic experiences.

“It’s not always obvious to a case planner what a family’s mental health issues might be,” says Susan Chinitz, who coordinated planning for Strong Starts when she was director of the Einstein College of Medicine’s Early Childhood Center, and now serves as a consultant on the project. “A mother might come across as noncompliant, rather than the case planner seeing that she’s so immobilized by depression that she can’t get out of bed in the morning. Or if you have a parent who’s considered highly explosive, instead of sending them to anger management, a mental health clinician might appreciate that behavior as being related to severe trauma.”

Meanwhile, Malpe works to eliminate delays in the cases. Once families are in the program, she convenes monthly conferences, inviting parents, lawyers, and any service providers working with the family. The idea is that, outside the adversarial atmosphere of the courtroom, each player can report on the progress of the family's plan, identify obstacles, and—ideally—agree on a path forward to present to the judge.

Because Cooper has agreed to see the Strong Starts families after each conference, their cases aren't subject to the multi-month adjournments and procedural snafus that often slow Family Court down.

In October, for example, Cooper convened a hearing to discuss the case against a mother who'd been charged with neglecting her toddler. Malpe had found the little girl to be severely delayed. At nearly 3 years old, she had almost no speech and couldn't dress or undress herself. Having spent much of her life in homeless shelters, she'd been cleaned with baby wipes and was terrified of baths and showers.

The mother and daughter were permitted to stay together, under the conditions that they move in with the little girl's grandmother and the mother attend a drug treatment program. The toddler was referred to services to work on her speech and cognitive development.

Within weeks, each service referral had fallen through. The mother's drug treatment clinic had shut down—one of several casualties after the clinic chain's owners were indicted for running a kickback scheme. And the little girl, it turned out, had been given a referral for an early intervention program that works with the wrong age group of kids.

In a typical case, the family might have lost months of potential progress in court—as well as unrecoverable development time for the toddler. Instead, Malpe was able to work with the case planner to get the referrals fixed. Once the mother and daughter are attending services, she'll collect information from each provider to combine into a report for the court.

Her focus, she says, will largely be clinical: Where a typical court report might focus on compliance (“Is the parent doing what she's told?”) Malpe says she'll try to determine whether the family is making progress that benefits the child's development. “I want to know not just did a mother show up [for a session with her child],” Malpe says. “But what was the visit like? How were the reunion and the separation? Was the parent able to read the child's cues?”

There are, of course, downsides to an approach that's so resolutely clinical in emphasis. Courts are adversarial for a reason, says Matthew Fraidin, a professor at the University of the District of Columbia School of Law and a nationally recognized expert in the areas of child abuse, neglect, and custody. Parents rely on attorneys to help them, presenting a different view of the family than the story told by the child welfare agency.

And in order to make the best decisions for kids, Fraidin says, judges need to hear arguments. Everyone is not supposed to agree. “Judges absolutely benefit from the opinions of experts, and they should also have the benefit of differing perspectives. A judge is going to understand the

expert's presentation better if the parent has a lawyer who is listening for inaccuracies or inconsistencies, and who's asking questions that will fill out the story."

By putting a mental health perspective so front and center, family courts run the risk of letting a clinician's point of view dominate every other way of looking at a parent and child—a dilemma that raises questions of both ethics and efficacy.

In most contexts, mental health services are voluntary and confidential. Few of us would want our therapists talking about us in court, and we might be far less inclined to disclose the extent of our problems if we knew they might be used against us.

Some participants in the Strong Starts initiative also question why help for families and their small children has to be linked to the child protective system in the first place.

All parents could benefit from meaningful support, combined with education about child development, says Emma Ketteringham, the managing director of the Family Defense Practice at The Bronx Defenders, which represents parents in child protective cases. And those services are far more helpful when they're voluntary.

"I think expecting and new parents in the Bronx would be better served by community-based resources that offer support that includes information about child development and attachment as well as information about benefits, education, job opportunities and child care," Ketteringham says. "Court is an entirely involuntary process that uses child apprehension and parent-child separation to get parents to comply with services that are aimed to address therapeutic deficiency, rather than provide the support and information parents need."

Such a strategy would recognize that the problems that bring families to the attention of child welfare agencies often have more to do with poverty than pathology. "Therapy doesn't really work when you're hungry or when you're worried about where you're going to sleep at night," Ketteringham says.

Nor, ultimately, is there any guarantee that even a successful Strong Starts program will take root or thrive in the Family Court system. For now, Strong Starts is funded solely through the non-profit Center for Court Intervention, although the Family Court and legal organizations representing parents and children and the City's child protective agency, the Administration for Children's Services (ACS), support the effort with contributions of staff time.

At this point, however, it's far too soon to say whether public tax dollars will one day be committed to the program. And not-so-ancient history suggests that such consistent funding can be crucial. Nearly two decades ago, the New York State court system launched "Babies Can't Wait," a program designed to move babies through foster care more quickly, and to pay better attention to their developmental health. The project ran workshops for court staff and foster care workers, hired social workers to monitor babies' court cases, and encouraged judges to prioritize babies' existing attachments when making placement decisions. After the initiative lost its funding in 2005, however, it withered away.

For Judge Cooper, nevertheless, the hope is that qualitative information grounded in early childhood expertise will help her make better decisions about the long-term safety and wellbeing of kids. "We miss the mark so often," she says, "because we offer cookie-cutter services and solutions. The reports don't tell us anything about whether a parent is gaining insight. So they attended eight out of 12 appointments. Is that beneficial? Is it even an appropriate referral to begin with? So often the people making referrals are sending folks to places they don't know anything about."

The goal of Strong Starts, Cooper says, "is partly to try to change the culture away from mistrust. If we can demonstrate success, people will see there's another way to do this."

## How Child Protective Hearings Work

Typical child protective cases go through several kinds of hearings—starting with either an emergency “1027” or “1028” hearing if ACS decides a child faces imminent risk in the home, or a less-hurried intake hearing, if the agency isn’t looking to make a removal.

Later, there may be a “fact-finding” hearing (the equivalent of a trial) and, if a judge determines that the allegations of neglect or abuse are true, a “dispositional” hearing, to decide what happens next. If a child is placed in foster care, the court is legally required to hold a “permanency” hearing within eight months, and every six months thereafter, to discuss the family’s progress and determine the best long-term plan for the child. And if a child has been in care for 15 of the last 22 months, the foster care agency is required to file for a “termination of parental rights,” or TPR, hearing.

The court may hold any number of conferences or hearings to settle interim issues like visitation schedules and service plans. Kids’ and parents’ attorneys might file motions to get their clients anything from therapy to eyeglasses, or to push a foster care agency to explore placing a child with a particular relative.

By law, only emergency removal, permanency, and TPR hearings must start within certain time frames. Fact-finding can happen any time, with the confusing and legally ambiguous result that parents may be participating in services—and kids may be in foster care—long before a judge has found anyone guilty. The time it takes to get to fact-finding and disposition hearings are often used as proxy measures of court efficiency.

Citywide, Family Courts have reduced the time in which cases reach disposition by close to 25% in recent years—down from 10.5 months in 2006 to 8 months in 2014. The Kings County Family Court remains an outlier, with median time to disposition at 11 months.





**By the Numbers:  
A Statistical Portrait of the  
Court's Child Protective Cases**

By Nicole Mader

# **By the Numbers:**

## **A Statistical Portrait of the Court's Child Protective Cases**

In 2006, at the height of a surge in child welfare investigations and removals, the Administration for Children's Services (ACS) filed more than 12,000 abuse and neglect petitions with the court. By 2014, that number had gone down to just over 9,800—a decrease of over 20 percent.

Among those filings, the proportion that result in kids being placed in foster care has fallen even more dramatically. Ten years ago, more than 60 percent of abuse and neglect petitions involved children who were removed from their homes, while families on court-ordered supervision made up just under 40 percent. By 2014, that ratio had flipped.

Much of that reduction is due to City investment in preventive services designed to help families at risk of foster care get on their feet and keep kids at home. ACS also credits the drop, in part, to improved efforts to work with families right at the start of the court process. Since 2009, it has required child protective workers to convene “child safety conferences” with families before filing abuse or neglect petitions, in order to discuss safety concerns and direct families to preventive services.

About half of conferences result in a petition for court-ordered supervision, rather than removal to foster care. In approximately 15 percent of cases, the conferences avert the need to file court petitions at all, according to ACS officials.

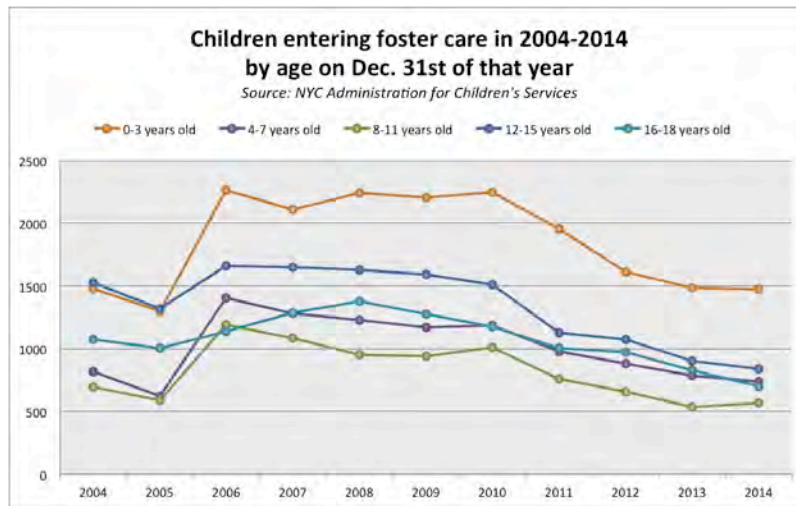
The ACS data shows the number of children placed in foster care and the length of time they stay in care by age. Court data charts the numbers of petitions, dispositions, and time to court action over time and by borough.



# Babies and Toddlers in Foster Care

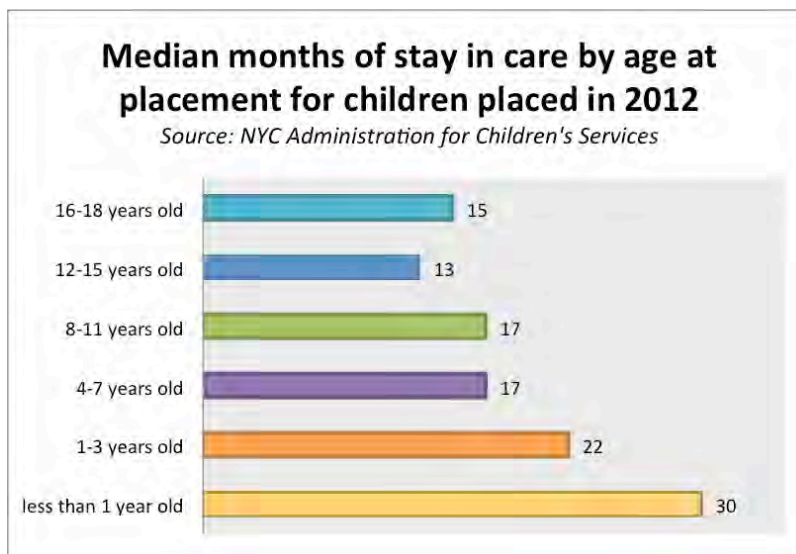
## Children in foster care, by age

The city has drastically reduced the number of children placed in foster care, but the drop has been far less dramatic for babies and toddlers than for older children. This chart shows children entering foster care by age from 2004 – 2014. The number of 0-3 year olds entering foster care declined by 0.3% from 2004-2014 while the number of children 4 years old and above entering foster care declined by 31% over the same period.



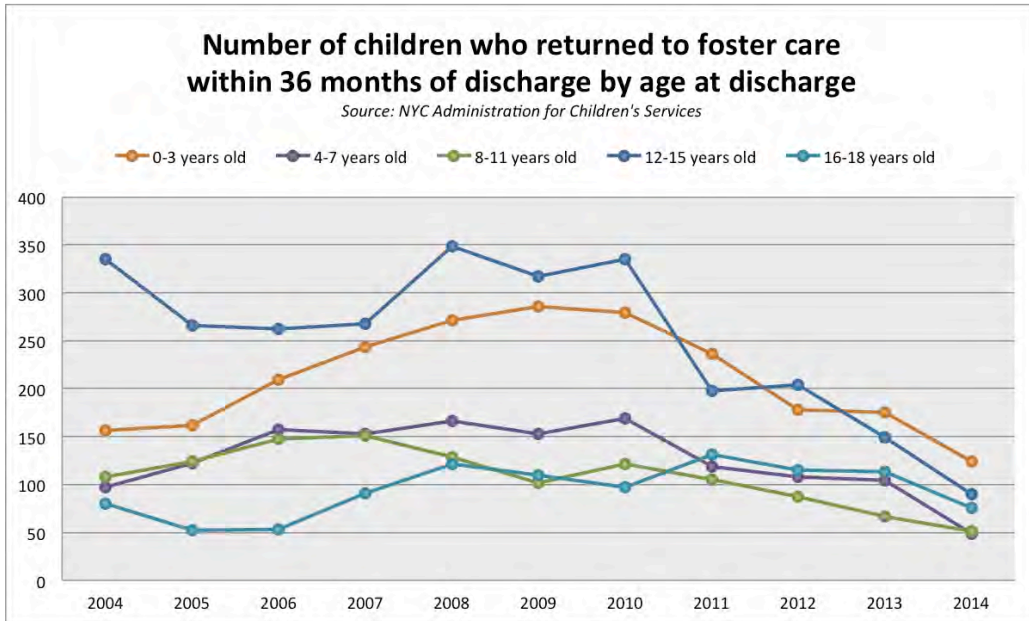
## Median length of stay in foster care, by age

Babies and toddlers stay in foster care longer than kids of other age groups.



## Returns to foster care within three years of discharge, by age

The total number of children who return to foster care within three years of being discharged has dropped by 50% since 2004, but the age group of babies and toddlers dropped by 21% while older children dropped by 57%.





# Court Burden and Function

## Child protective petitions filed in Family Court

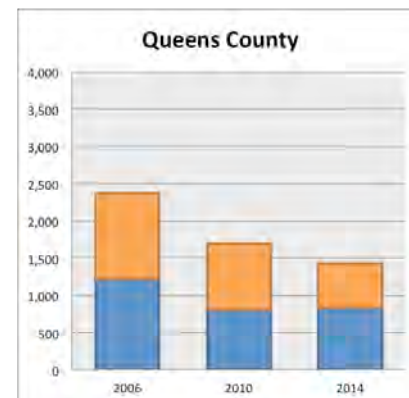
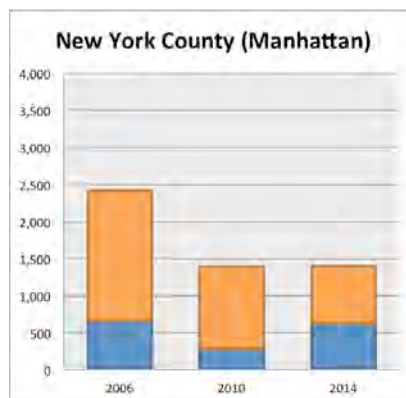
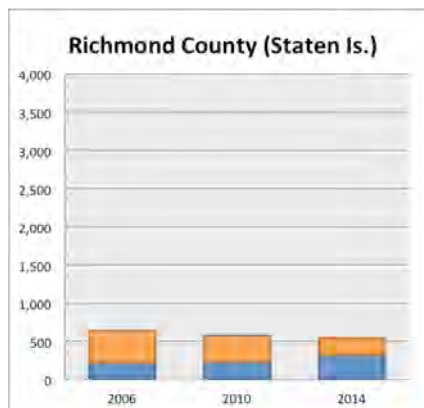
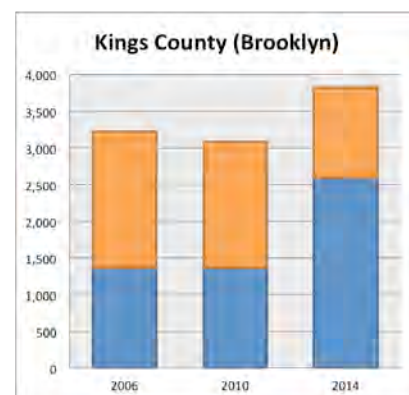
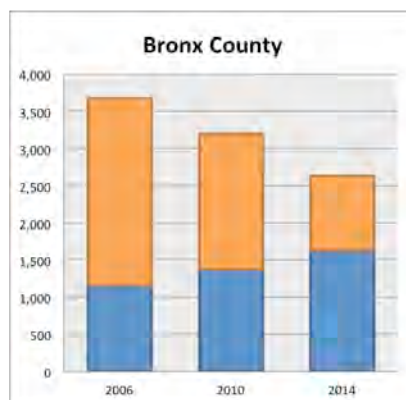
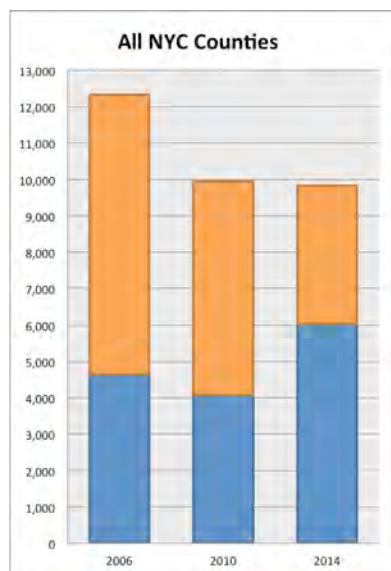
The total number of child abuse and neglect petitions filed in NYC Family Court has dropped by 20% since 2006. The drop is much steeper in cases where children are removed to out-of-home care. Meanwhile, the proportion of cases involving children under court-ordered supervision (where children remain with their parents or caregivers under the supervision of ACS and the court) has increased dramatically.

The Kings County Family Court in Brooklyn continues to oversee far more cases than that of any other borough. Brooklyn also runs counter to the citywide trend of declining cases and saw a 19% increase in the number of petitions from 2006 to 2014.

## Children entering family court jurisdiction Removals to out-of-home care vs. court-ordered home supervision

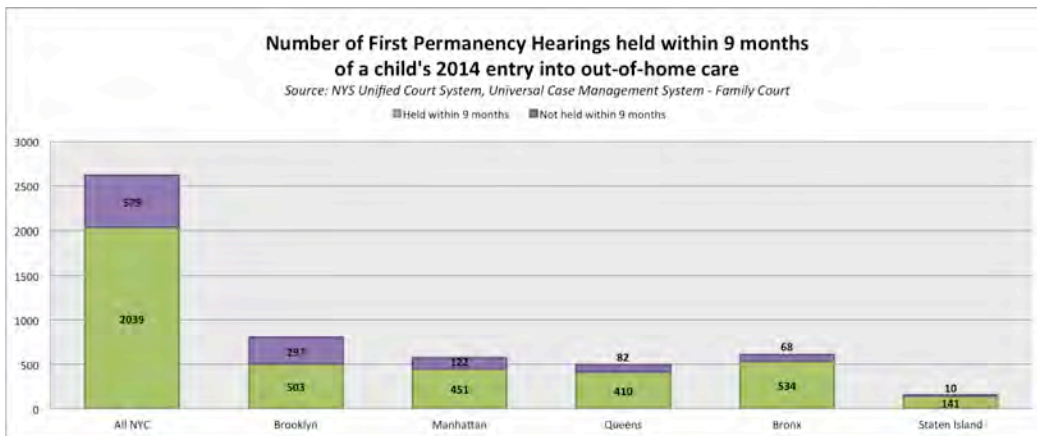
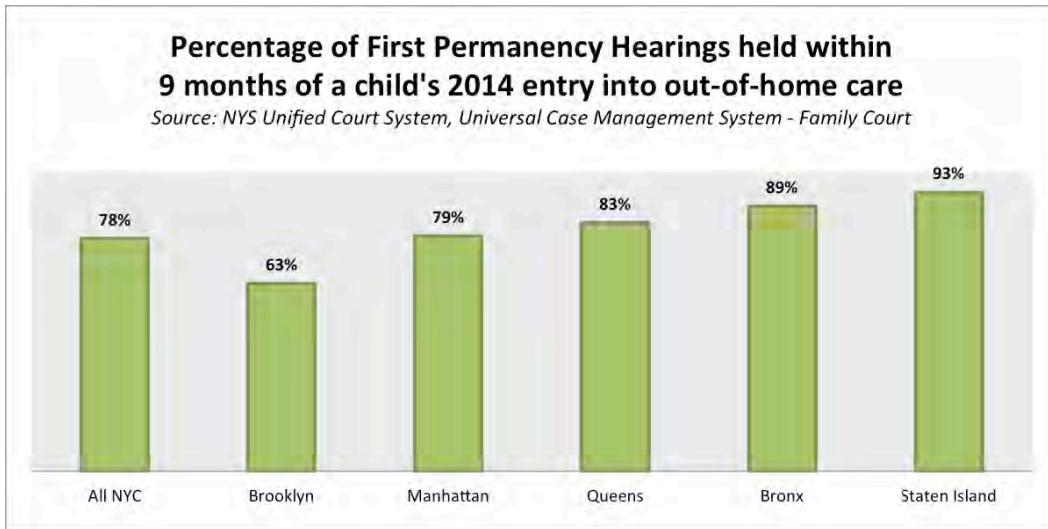
Source: NYS Unified Court System, Universal Case Management System - Family Court

■ Under court-ordered home supervision   ■ Removals to out-of-home care



## Percentage of first permanency hearings held within nine months of a child's placement in out-of-home care

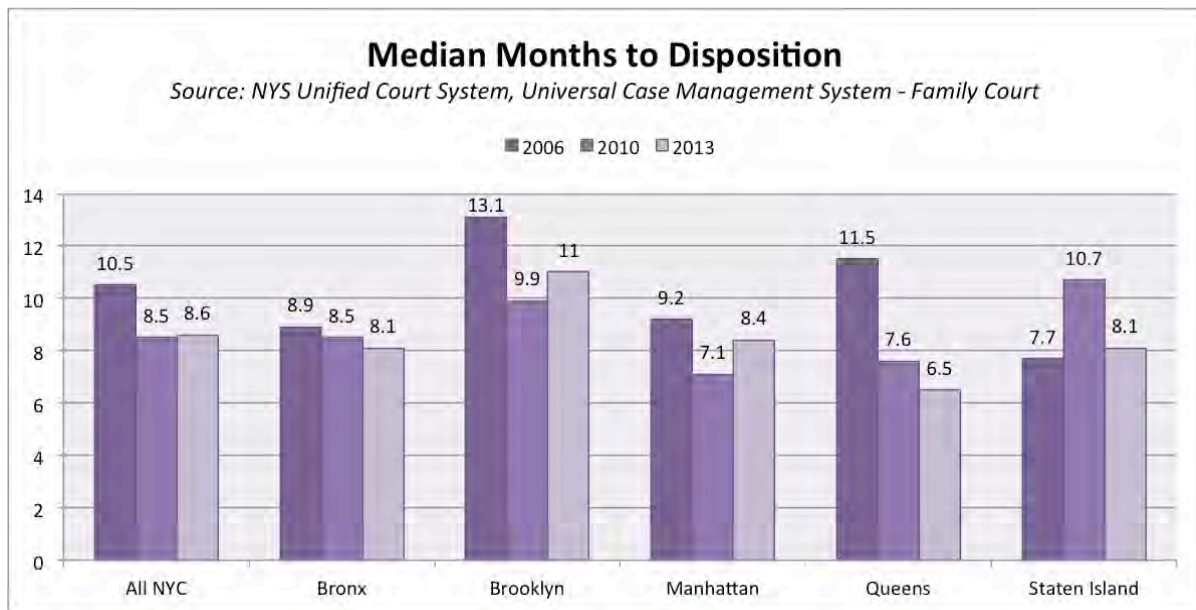
By law, Family Courts are required to hold a first permanency hearing nine months after a child is placed in out-of-home care. Their success in doing so is often used as a proxy measure of court efficiency. As of 2014, the Kings County Family Court continued to be much slower to hold permanency hearings than other borough courts. The second chart shows the total number of permanency hearings handled by borough, in addition to the timeliness.



### Time from when petition is filed to disposition

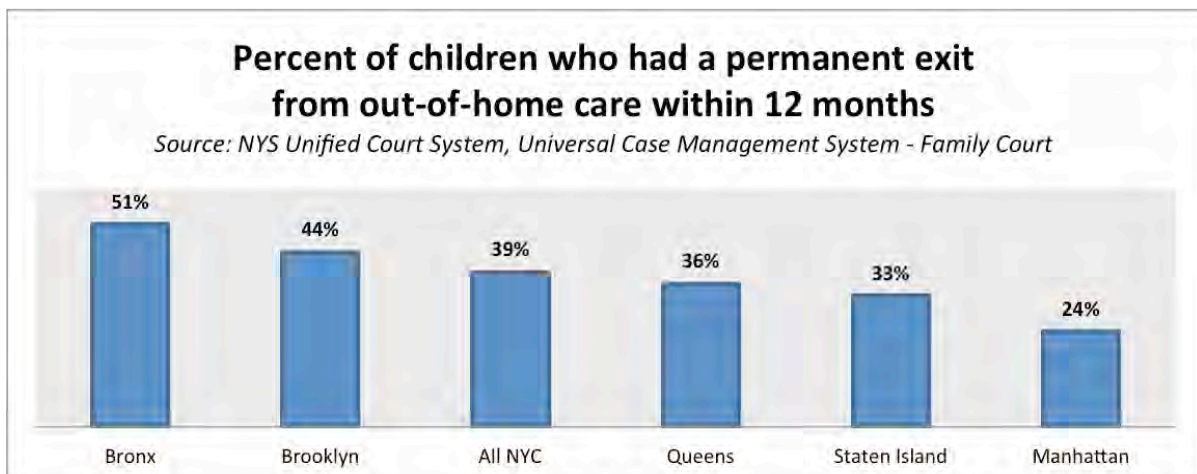
There is no legal time limit in which NYC Family Courts must hold a trial—or "fact-finding" hearing—to determine whether allegations of abuse or neglect are true. It's common for cases to appear before the court (and sometimes for children to be in foster care) for months before a judge has decided whether the abuse or neglect actually happened. In fact, the majority of cases are settled, never going to trial at all.

If a judge does decide the allegations are true, he or she will enter a "dispositional order" saying what should happen to the family next. Time to disposition is another common proxy measure for court efficiency.



### Time to permanent exit from out-of-home care

Among children who entered out-of-home care in 2013, more than 60% were still in care 12 months later.





# Appendix

<b>Children entering foster care in 2004-2014 by age on Dec. 31st of that year</b>											
<i>Source: NYC Administration for Children's Services</i>											
Age Group	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
0-3 years old	1,476	1,298	2,265	2,107	2,242	2,206	2,246	1,953	1,611	1,484	1,472
4-7 years old	818	622	1,404	1,282	1,226	1,169	1,186	977	882	783	738
8-11 years old	696	586	1,190	1,084	952	940	1,007	760	657	535	564
12-15 years old	1,528	1,319	1,662	1,648	1,627	1,588	1,513	1,129	1,071	903	837
16-18 years old	1,074	1,003	1,137	1,288	1,378	1,276	1,172	1,004	971	830	701

<b>Median months of stay in care by year of placement and age at placement</b>									
<i>Source: NYC Administration for Children's Services</i>									
Age Group	2004	2005	2006	2007	2008	2009	2010	2011	2012
less than 1 year old	36	33	36	30	29.5	30	29	32	30
1-3 years old	30	33	24	21	20	17	14	19	22
4-7 years old	23	35	21.5	21	14	14	12	18	17
8-11 years old	23.5	33	21	18	13	14	11	16	17
12-15 years old	13	13.5	15	13	10	10	9	13	13
16-18 years old	12	11	14	12	11	11	12	13.5	15

<b>Number of children who returned to foster care within 36 months of discharge by age at discharge</b>											
<i>Source: NYC Administration for Children's Services</i>											
Age Group	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
0-3 years old	156	162	209	243	271	286	279	236	178	175	124
4-7 years old	97	122	157	153	166	153	169	119	108	104	49
8-11 years old	108	124	147	151	129	102	121	105	87	67	51
12-15 years old	335	266	262	268	348	317	335	198	204	149	90
16-18 years old	80	52	53	91	121	110	97	131	115	113	76

<b>Children entering family court jurisdiction Removals to out-of-home care vs. court-ordered home supervision</b>									
<i>Source: NYS Unified Court System, Universal Case Management System - Family Court</i>									
Borough	2006			2010			2014		
	Under home supervision	Removals to out-of-home care	Total children	Under home supervision	Removals to out-of-home care	Total children	Under home supervision	Removals to out-of-home care	Total children
All NYC	4,640	7,692	12,332	4,067	5,876	9,943	6,025	3,796	9,821
Bronx	1,167	2,514	3,681	1,376	1,821	3,197	1,636	1,003	2,639
Brooklyn	1,367	1,854	3,221	1,368	1,712	3,080	2,597	1,221	3,818
Manhattan	667	1,755	2,422	279	1,112	1,391	630	769	1,399
Queens	1,219	1,152	2,371	816	882	1,698	840	590	1,430
Staten Island	220	417	637	228	349	577	322	213	535



**Percentage of First Permanency Hearings  
held within 9 months of a child's entry into  
out-of-home care**

*Source: NYS Unified Court System, Universal Case Management System - Family Court*

Borough	Total hearings	Held within 9 months	Not held within 9 months
All NYC	2618	2039	579
Brooklyn	800	503	297
Manhattan	573	451	122
Queens	492	410	82
Bronx	602	534	68
Staten Island	151	141	10

**Median Months to Disposition**

*Source: NYS Unified Court System, Universal Case Management System - Family Court*

Borough	2006	2010	2013
All NYC	10.5	8.5	8.6
Bronx	8.9	8.5	8.1
Brooklyn	13.1	9.9	11
Manhattan	9.2	7.1	8.4
Queens	11.5	7.6	6.5
Staten Island	7.7	10.7	8.1

**Children who had a permanent exit  
from out-of-home care within 12 months**

*Source: NYS Unified Court System, Universal Case Management System - Family Court*

Borough	Total children in 2013 entry cohort	Percent of 2013 cohort who had a permanent exit by 12 months	Number in 2013 cohort who had a permanent exit by 12 months
Bronx	1005	51%	513
Brooklyn	1169	44%	514
All NYC	3980	39%	1552
Queens	544	36%	196
Staten Island	268	33%	88
Manhattan	994	24%	239

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