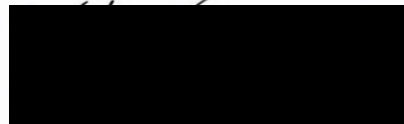


**SUFFOLK COUNTY SUPREME COURT  
SPECIAL GRAND JURY**



**SEPTEMBER 13, 2023 -MARCH 15, 2024  
TERM 10E**

**GRAND JURY REPORT  
CPL § 190.85(1)(c)**



**FOREPERSON  
SUPREME COURT SPECIAL GRAND JURY  
SEPTEMBER 13, 2023 – MARCH 15, 2024**

**DATED: MARCH 12, 2024**

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GRAND JURY REPORT, CPL § 190.85(1)(c)**

**PRELIMINARY STATEMENT**

The Suffolk County Supreme Court Special Grand Jury, Term 10E, was empaneled on September 13, 2023, to investigate, among other things, the customs and practices of the Child Protective Services Investigations Bureau of the Family and Children Services Division of the Suffolk County Department of Social Services.

The Grand Jury heard testimony from 27 witnesses and considered 56 exhibits, many consisting of separate documents and thousands of pages.

As a result of this investigation the following report has been adopted, pursuant to New York State Criminal Procedure Law § 190.85(1)(c), and it is hereby respectfully submitted to the Court.



## FINDINGS OF FACT

### I. INTRODUCTION

In addition to numerous reports of maltreatment to the Child Protective Services Investigations Bureau (“CPS”) of Suffolk County’s Department of Social Services (“SCDSS”), an eight-year-old autistic child (“CHILD A”) died of hypothermia on January 17, 2020, after being forced by the child’s father and the father’s fiancée to sleep in their unheated Suffolk County garage.<sup>1</sup> In the wake of this tragedy, this Grand Jury was empaneled to investigate the conduct and practices of Suffolk County’s CPS for the purpose of (a) identifying any failures or deficiencies in its conduct and practices, particularly as they related to the death of the young child; (b) determining whether anyone associated with CPS or its related agencies should be held criminally liable for any such failures or deficiencies; and (c) potentially making recommendations as to how to improve CPS’s conduct and practices in order to increase protections for young victims of child abuse and maltreatment, in order to enact safeguards to identify similarly at risk children in an attempt to prevent future tragedies from occurring (GJ Ex. 30, OSC, bearing Case# CC-22-990459, dated 7/7/2023, p. 4).<sup>2</sup>

However, as described more fully below, this Grand Jury’s ability to investigate these matters, particularly as they relate to reports of abuse, maltreatment, or neglect prior to the death of CHILD A, has been severely hampered by the law governing the disclosure of records relating

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<sup>1</sup> Pursuant to law and in an attempt to maintain the anonymity of CHILD A’s siblings, this report does not contain any information that would identify the deceased child, his or her siblings, the parent, parents, or other persons legally responsible for the child, and any members of the deceased child’s household.

<sup>2</sup> The parenthetical page references preceded by “GJ Tr.” followed by a date, denote the pages of the grand jury transcripts for that date; the parenthetical page references preceded by “GJ Ex.” followed by a number, denote the grand jury exhibit bearing that number.



to reports declared by CPS to be unfounded.<sup>3</sup> Indeed, under that law, CPS caseworkers are effectively impervious to a Grand Jury investigation into their conduct in connection with such unfounded cases, since the underlying reports, the investigative materials related to those reports, and any discussion of those reports or those investigative materials by CPS employees, are shielded from this, or any, Grand Jury’s investigative review. Because that should not be the case, as will be seen below, we recommend that the law be changed to allow for the disclosure of unfounded files to a Grand Jury investigating CPS employee misconduct, or suspected child abuse or maltreatment, upon a court order finding that justice requires that the information in those reports is necessary for the determination of charges being investigated by that Grand Jury, and/or to a District Attorney upon a court order finding that justice requires that it is necessary for the purpose of prosecuting a violation of the Penal Law. We also recommend other changes, including improving the existing Suffolk County Child Advocacy Center (“CAC”) by co-locating, at the facility, members of CPS, the Suffolk County Police Department (“SCPD”), the Suffolk County District Attorney’s Office (“SCDAO”), and other members of a Multi-Disciplinary Team (“MDT”), to improve communication and enhance future investigations of child abuse and maltreatment.

## **II. PURPOSE AND AUTHORITY OF CHILD PROTECTIVE SERVICES**

CPS is the sole public entity responsible for receiving and investigating all reports of suspected child abuse and maltreatment by a parent, guardian, custodian, or other person legally

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<sup>3</sup> An “unfounded report” of abuse or maltreatment means any such report that a CPS investigation: (i) commenced on or before December thirty-first, two thousand twenty-one determines that some credible evidence of the alleged abuse or maltreatment does not exist; or (ii) commenced on or after January first, two thousand twenty-two determines that a fair preponderance of the evidence of the alleged abuse or maltreatment does not exist (GJ Ex. 6, SSL § 412[6]).

An “indicated report” means a report that a CPS investigation: (i) commenced on or before December thirty-first, two thousand twenty-one determines that some credible evidence of the alleged abuse or maltreatment does exist; or (ii) commenced on or after January first, two thousand twenty-two determines that a fair preponderance of the evidence of the alleged abuse or maltreatment does exist (GJ Ex. 6, SSL § 412[7]).



responsible for the care of the child (GJ Ex. 1, CPS Manual, Chapt. 1, p. D-1; GJ Ex. 10, 18 NYCRR § 432.2 [b][1]; GJ Ex. 39, SSL § 423). CPS is also responsible for providing for or arranging and coordinating any services necessary to ensure the wellbeing and development of an abused or maltreated child and to preserve and stabilize that child's family life whenever appropriate and to the extent possible (GJ Ex. 1, Chapt. 1, p. D-1; GJ Ex. 10, 18 NYCRR § 432.2 [b][1]; GJ Ex. 39, SSL § 423). CPS is heavily regulated not only by the Social Services Law Article Six, Title Six, Sections 411-428, but also by the Family Court Act, Article Ten, which provides the legal authority for it to act (GJ Ex. 1, CPS Manual, Chapt. 1, p. G-1; GJ Tr. 9/14/2023, pp. 22-23), and by Title 18 of the Compilation of Codes, Rules and Regulation of the State of New York, which contains numerous regulations governing all aspects of CPS activities (GJ Tr. 9/14/2023, pp. 22-23; GJ Ex. 1, CPS Manual, Chapt. 1, p. G-1). Each county is required to have a CPS within its Department of Social Services, and each CPS is locally administered, although its activities are overseen by the New York State Office of Children and Family Services ("OCFS") (GJ Tr. 9/14/2023, pp. 22, 42-43; GJ Ex. 1, CPS Manual, Chapt. 1, pp. E-1 and G1, Chapt 10, pp. A1-E1; GJ Ex. 2, SSL § 411). OCFS also provides a several-hundred-page, 15-chapter, CPS Program Manual, which is intended for use by staff of each local CPS. The CPS Program Manual provides a comprehensive guide to caseworkers incorporating all the laws, regulations, policies, and procedures governing CPS activities, and which includes instructions to caseworkers about how to conduct CPS investigations (GJ Tr. 9/14/2023, pp. 23-25; GJ Tr. 2/16/2024, pp. 30, 35, 88-89; GJ Ex. 1, CPS Manual, Chapt. 1 through 15). The CPS Program Manual is also available to the public on the OCFS website at <http://ocfs.ny.gov> (GJ Ex. 1, CPS Manual, Chapt. 1, A-1).



### **III. ORGANIZATION OF CHILD PROTECTIVE SERVICES**

The SCDSS employs over 1300 people (GJ Tr. 1/17/2024, pp. 17-18). The division of SCDSS titled Family and Children Services Administration (“FCSA”) encompasses the Child Protective Services Investigations Bureau (“CPS”), which conducts investigations; the Child Protective/Preventive Services Bureau (“CPPS”), which provides or arranges for services; and the Child Placement Bureau (“CPB”), which handles foster care and adoptions (GJ Tr. 9/14/2023, pp. 26-27, and GJ Tr. 1/17/2024, pp. 17-18). This Grand Jury investigation has focused primarily on the Investigations Bureau of CPS, which currently employs approximately 220 people, including caseworkers, supervisors and support staff (GJ Tr. 2/28/2024, p. 89; GJ Ex. 50, FCS Org. Chart, 1/15/2024, p. 1).

CPS Investigations had previously been one bureau, but as of January 2024, it is now divided geographically into two bureaus, one titled CPS Investigations West (the “West Bureau”), and the other CPS Investigations East (the “East Bureau”). The West Bureau has a Bureau Director, four Assistant Bureau Directors, two Abuse Teams, a Court-Ordered Investigations (“COI”) Team, an Intake Unit, two Family Assessment Response (“FAR”) Teams,<sup>4</sup> and eight Investigative Teams. The East Bureau has a Bureau Director, four Assistant Bureau Directors, a Special Needs Team, and 12 Investigative Teams. As will be more fully discussed below, the Intake Unit receives child abuse and maltreatment allegations for both bureaus from the State Central Register (“SCR”); the Abuse Teams handle the child abuse allegations; the FAR Teams handle the Family Assessment

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<sup>4</sup> Under a FAR, CPS connects families with services as opposed to having them go through the usual investigative process. “FAR is defined as an alternative child protective response to reports of child abuse and maltreatment in which no formal determination is made as to whether a child was abused or maltreated and is based on principles of family involvement and support consistent with maintaining the safety of the child. In FAR, the family and CPS jointly participate in a comprehensive assessment of the family’s strengths, concerns, and needs, and plan for the provision of services that are responsive to the family’s needs and promote family stabilization, for the purpose of reducing risks to children in the family” (GJ Ex. 1, CPS Manual, Chapt. 5, p. A-2; see GJ Tr. 9/14/2024, pp. 87-89; GJ Tr. 1/17/2024, pp. 46-47, 92). SSL § 427-A; 18 NYCRR § 432.13(a)(1). Only certain cases are eligible for FAR treatment (GJ Ex. 1, CPS Manual, Chapt. 5, pp. A-1 to K-1; GJ Ex. 8, SSL § 427-a; GJ Ex. 54, 18 NYCRR § 432.13).



Response cases; the COI Team handles court-ordered investigations; the Special Needs Team handles cases involving children with special needs, such as autism; and the Investigative Teams handle the maltreatment allegations. There is also an Emergency Services Unit that serves both bureaus by doing intake during non-business hours (i.e., evenings, weekends, and holidays), a Court Unit that services both bureaus by assisting with applications for various forms of court-ordered relief, and several Training Units. The Abuse Teams have one supervisor and several senior caseworkers. Each of the other bureaus or units has one supervisor, a senior caseworker, who will act as a supervisor when the supervisor is unavailable, and several non-senior caseworkers or caseworker-trainees (GJ Tr. 2/28/2024, pp. 85-90; GJ Ex. 50, FCS Org. Chart, 1/15/2024, pp. 1-2, 4-5).

#### **IV. EMPLOYMENT REQUIREMENTS, DISCIPLINE AND PROTECTIONS**

##### **A. HIRING**

To become an entry-level CPS caseworker an applicant is required to have a Bachelor's degree, take a civil service examination, and receive a score high enough to be reached on the civil service list (GJ Tr. 9/14/2023, pp. 27-28, 133-134; GJ Tr. 1/17/2024, pp. 75-77, 89-91, 120-122; GJ Tr. 2/28/2024, 82-83; GJ Ex. 10, 18 NYCRR § 432.2[e][5][iii], [e][6][i]). The applicant must also have been cleared by the State Central Register ("SCR"), which ensures that the applicant has never been the subject of an indicated report of child abuse or maltreatment (GJ Tr. 1/17/2024, pp. 75-77, 89-91, 120-122; GJ Ex. 10, 18 NYCRR § 432.2[e][6][iii]). During the COVID-19 pandemic, however, New York State waived the civil service examination requirement for new hires, which enabled the SCDSS to hire more caseworkers as part of a plan to reduce caseloads and thereby improve the quality of CPS investigations (GJ Tr. 1/17/2024, pp. 75-77, 89-91, 120-122; GJ Tr. 2/28/2024, pp. 75-76). This waiver, however, expires in December 2024. This Grand



Jury has heard testimony that the waiver should be renewed so that the SCDSS can continue to work to reduce caseloads, and that, alternatively, the test should be eliminated altogether because it does not affect the job responsibilities of a caseworker (GJ Tr. 1/17/2024, 75-77; GJ Tr. 2/16/2024, pp. 100-102; GJ Tr. 2/28/2024, pp. 75-76).

**B. DISCIPLINE/TERMINATION**

According to the 2019 version of the SCDSS Employee Manual, which is the latest version of the manual, a written evaluation by a supervisor is required for all employees as follows: (1) eight weeks after the employee is hired; (2) two weeks prior to the completion of probationary status; and (3) on an annual basis (GJ Tr. 2/16/2024, pp. 80-81, GJ Tr. 2/28/2024, pp. 45-46; GJ Ex. 45, the SCDSS Employee Manual, p. 9).

An unsatisfactory evaluation in any job factor or as an overall assessment may require a follow-up evaluation. If the unsatisfactory rating is not corrected, SCDSS may initiate disciplinary procedures. An employee may submit a written rebuttal to an evaluation to his/her supervisor, which shall be placed in the employee's personnel file (GJ Ex. 45, the SCDSS Employee Manual, pp. 9-10). Verbal reprimands by a supervisor are not to be placed in an employee's personnel file, and written reprimands by a supervisor should be removed and destroyed after six months if there are no further disciplinary actions during that period (GJ Ex. 45, the SCDSS Employee Manual, p. 10).

Management staff are supposed to review evaluations when considering promotions, and an evaluation can be completed at any time a supervisor deems necessary (GJ Ex. 45, the SCDSS Employee Manual, p. 10), but despite the requirements of the SCDSS Employee Manual, annual written evaluations for full-fledged caseworkers have not been done on a regular basis for several years, with evaluations now only occurring currently when a specific problem has been identified



(GJ Tr. 2/16/2024, pp. 80-85, GJ Tr. 2/28/2024, pp. 129-130). This Grand Jury has heard testimony that yearly evaluations should be occurring, and that supervisors should be trained on how to conduct such yearly evaluations (GJ Tr. 2/28/2024, pp. 129-130). This Grand Jury has also heard testimony that the SCDSS should have a better-defined disciplinary process because, currently, the process is based on one person making decisions, resulting in delays in addressing disciplinary issues, and also in what could be a very subjective manner of making decisions based on one person's opinion (GJ 2/16/2024, p. 87; GJ Tr. 2/28/2024, pp. 129-130). Accordingly, there should be a better-defined Human Resources Department addressing such matters (GJ Tr. 2/28/2024, pp. 129-131).

It should also be noted that caseworkers are unionized and are entitled to union representation during any interview which could reasonably result in a disciplinary proceeding. Before any disciplinary action can be taken by SCDSS, a caseworker is entitled to a hearing pursuant to Section 75 of the New York State Civil Service Law. After any such hearing, the hearing officer will make a recommendation to the SCDSS Commissioner, who will then decide whether to follow that recommendation (GJ Tr. 9/14/2023, pp. 34-39; GJ Tr. 1/17/2024, pp. 75-77, 89-91, 120-122; GJ Ex. 45, the SCDSS Employee Manual, pp. 9-10).

### **C. IMMUNITY**

Under Social Services Law § 419, CPS caseworkers are provided with immunity from civil and criminal liability for actions taken in the course of their employment unless it can be shown that they engaged in willful misconduct or gross negligence in carrying out their duties. Such immunity does not preclude the initiation of criminal or civil proceedings, but it does provide a legal defense if such proceedings are commenced. The statute essentially establishes a presumption of good faith for actions taken by CPS caseworkers when carrying out their duties (GJ Tr.



9/14/2023, pp. 11, 37-39, 155-156, 133-134; GJ Ex. 1, CPS Manual, Chapt 1, p. F-1, Chapt. 2, p. B-1; GJ Ex. 3, SSL § 419).

However, even though immunity does not preclude a finding of criminal liability for CPS caseworkers who have engaged in willful misconduct or gross negligence, such caseworkers are still effectively impervious to any such liability in cases where reports are deemed unfounded. This is because, except when, as will be described below, unfounded reports and their underlying materials are migrated into a subsequent indicated case, the reports and the investigative materials and information related to those reports, are legally sealed and shielded from review by a Grand Jury or by a District Attorney's Office and may not be disclosed or discussed by CPS employees. Thus, evidence of willful misconduct or gross negligence by caseworkers contained within reports deemed unfounded is effectively impossible to obtain by prosecuting authorities. In this regard, employees of CPS have the unilateral ability to thwart criminal investigations prior to the matter of immunity even becoming relevant, by determining that a case is unfounded, or by deciding not to migrate prior unfounded reports and related materials in a new indicated investigation.

## **V. TRAINING**

### **A. THE BASIC TRAINING**

Every CPS caseworker must participate in a basic training program approved by OCFS within the first three months of their employment (GJ Tr. 1/18/2024, 66-70; GJ Tr. 2/16/2024, pp. 7, 71-73; GJ Tr. 2/28/2024, pp. 77-78; GJ Ex. 10, 18 NYCRR 432.2[e][5][ii][a]). OCFS has contracted with Youth Research Inc. ("YRI") to provide such training. The OCFS training is extensive, and consists of seven weeks of in-person and virtual training spread out over 12 to 13 weeks at the OCFS Human Services Training Center in Rensselaer, New York (GJ Tr. 1/17/2024, pp. 77-79; GJ Tr. 1/18/2024, 69; GJ Tr. 2/16/2024, pp. 6-10, 52; GJ Tr. 2/28/2024, pp. 77-78; GJ



Ex. 43, OCFS Training Calendars; GJ Ex. 44, OCFS Training Center Photos). The facility has several classrooms and computer labs, as well as simulation rooms where trainees can get hands-on experience and practice confronting real-world situations (GJ Tr. 2/16/2024, pp. 9, 18-19, 27, 33, 39-43; GJ Ex. 44, OCFS Training Center Photos). The simulation rooms are designed to resemble an apartment, a day care center, and a juvenile justice facility, and some of the simulation rooms feature one-way glass observation rooms so trainees can gather to observe the training (GJ Tr. 2/16/2024, pp. 9, 18-19, 27, 33, 39-43; GJ Ex. 44, OCFS Training Center Photos). The facility also has a simulated courtroom, where trainees are taught by attorneys about testifying effectively and courtroom procedures (GJ Tr. 2/16/2024, pp. 9, 36, 42-43; GJ Ex. 44, OCFS Training Center Photos).

Prior to attending the state-mandated training, new Suffolk County caseworkers are assigned to a Training Unit and attend an orientation in Suffolk County, where they are introduced to the caseworker role, are instructed about the organization of the bureaus in the Family and Children Services Division and are also given a written “Starter Packet” with further instructions regarding the law and their job responsibilities. They are also supplied with an “Itinerary” for the state-mandated training, are provided with some web-based training, and begin shadowing seasoned caseworkers out in the field (GJ Tr. 1/18/2024, pp. 69-73; GJ Tr. 2/16/2024, pp. 71-73; GJ Ex. 40, the Training Itinerary; GJ Ex. 41, the Starter Packet). After that portion of the training, the trainees begin the state-mandated training referred to above, which usually begins anywhere from two weeks to two months after their starting date, depending on when the state-mandated training is being offered by OCFS (GJ Tr. 1/18/2024, pp. 69-70; GJ Tr. 2/16/2024, pp. 71-73).

The state-mandated training program, which can be attended either virtually or in person by trainees, is comprised of three parts: (1) the Child Welfare Foundations Program (“CWFP”);



(2) the CPS Bridge Program (“CPSBP”); and (3) CPS Response Training (“CPSRT”) (GJ Tr. 1/18/2024, pp. 69-70, 75-86; GJ Tr. 2/16/2024, pp. 6-63; GJ Ex. 43, OCFS Training Calendars). This training alternates weekly with the local on-the-job learning that the CPS caseworkers receive in Suffolk County (GJ Tr. 1/18/2024, pp. 75-78; GJ Tr. 2/16/2024, pp. 7-8, 11-37; GJ Tr. 2/28/2024, pp. 77-78; GJ Ex. 43, OCFS Training Calendar). Thus, there will be a week of OCFS basic training, followed by a week of local on-the-job learning in Suffolk County, and so on, until the basic course is completed, which takes approximately three to four months (GJ Tr. 1/18/2024, pp. 75-78; GJ Tr. 2/16/2024, pp. 7-8, 11-37; GJ Tr. 2/28/2024, pp. 77-78; GJ Ex. 43, OCFS Training Calendar). Once the basic program is completed, the caseworker-trainee returns to Suffolk County full time and receives additional on-the-job learning for the remainder of that trainee’s 12-month probationary period (GJ Tr. 1/17/2024, pp. 77-79; GJ Tr. 1/18/2024, 69-73, 87-90; GJ Tr. 2/16/2024, pp. 37, 71-73). If the caseworker-trainee successfully completes probation, then he/she becomes a full-fledged caseworker and gets a salary increase along with a full caseload and an assignment to an Investigative Team (GJ Tr. 1/17/2024, pp. 77-79; GJ Tr. 1/18/2024, 69-73, 87-90; GJ Tr. 2/16/2024, pp. 37, 71-73; GJ Tr. 2/28/2024, pp. 77-78).

#### **1. The Child Welfare Foundations Program**

The CWFP is the first part of the basic training program covering four weeks spread out over two months and alternating with the on-the-job learning in Suffolk County (GJ Tr. 2/16/2024, pp. 12-27; GJ Ex. 43, OCFS Training Calendars). It is a combination of classroom instruction, web-based training, and skills clinics (GJ Tr. 2/16/2024, pp. 12-28; GJ Ex. 43, OCFS Training Calendars). The skills clinics occur at the end of each topic covered and provide the caseworker-trainees with an opportunity to practice what they have learned in simulated situations utilizing the simulation rooms at the training facility (GJ Tr. 2/16/2024, pp. 12-28; GJ Ex. 43, OCFS Training



Calendars). The CWFP covers areas entitled Cultural Competence; Critical Thinking; Strength-based Family Engagement; Safety Assessments; Interviewing; Interventions; Domestic Violence; and Service Planning (GJ Tr. 2/16/2024, pp. 12-28; GJ Ex. 43, OCFS Training Calendars). After the caseworker-trainee has completed each of these segments, her/his instruction culminates in an Integrative Skills Clinic in the simulation rooms, in which the caseworker-trainees practice incorporating everything they have learned up to that point in the program (GJ Tr. 1/18/2024, pp. 75-81; GJ Tr. 2/16/2024, pp. 12-28; GJ Ex. 43, OCFS Training Calendars). After each skills clinic trainees are given an evaluation of their skills by their trainers, who expect the trainees to share those evaluations with their supervisors when they return to their local agencies for the purpose of assisting in their development. YRI, however, does not monitor whether trainees are doing so, and this Grand Jury has heard testimony from a former Suffolk County CPS training supervisor that, in the past, trainees have not been sharing any such evaluations with their supervisors (GJ Tr. 1/18/2024, pp. 75-77; GJ Tr. 2/16/2024, pp. 12-28).

## **2. The Child Protective Services Bridge Program**

The CPSBP is the second part of the basic training program and is a two-day course that is designed to help transition between foundational training in CWFP and the functional training in CPSRT. The first day is devoted to risk assessments, and the second day is devoted to the basic legal principles necessary for child welfare work. This second day includes two attorney trainers (GJ Tr. 1/18/2024, pp. 75-83; GJ Tr. 2/16/2024, pp. 28-29; GJ Ex. 43, OCFS Training Calendars). This is followed by two days of training in CONNECTIONS, which is the child welfare computer system that provides for the documentation of information about families and children in New York State. CONNECTIONS is a single, statewide system for the collection and recording of child protective, preventive, foster care, and adoption service information, including progress notes by



CPS caseworkers, and it is utilized by OCFS and every local CPS in New York State (GJ Tr. 9/14/2023, pp. 60, 62-63; GJ Tr. 1/17/2024, pp. 26-27; GJ Tr. 2/16/2024, p. 29; GJ Tr. 1/23/2024, pp. 22, 70, 107-108; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-2 to A-4, Chapt. 6, p. C-1; GJ Ex. 43, OCFS Training Calendars).

### **3. The Child Protective Services Response Training**

The CPSRT is the last portion of the basic training program and is a combination of classroom instruction, web-based training, and skills clinics covering the last three weeks of the program. The caseworker-trainees continue learning about the basic legal concepts regarding their work, are introduced to the CPS Program Manual and the legal requirements regarding their initial contact with a family, are given the opportunity to practice simulated interactions with two different families, are given additional training regarding the CONNECTIONS system, and lastly participate in a mock fact-finding hearing with two attorney-trainers in the simulated courtroom at the training center (GJ Tr. 1/18/2024, pp. 81-86; GJ Tr. 2/16/2024, pp. 30-37; GJ Ex. 43, OCFS Training Calendars).

#### **B. LOCAL TRAINING IN CONJUNCTION WITH THE BASIC COURSE**

After completing the OCFS training, caseworker-trainees continue to receive on-the-job learning upon returning to Suffolk County. The initial on-the-job learning is referred to as a two-week “shadow buddy” experience, during which caseworker-trainees shadow a more seasoned caseworker from the Investigative Team to which they will be assigned so that they can experience the day-to-day operations of a caseworker (GJ Tr. 1/18/2024, pp. 86-87; GJ Tr. 2/16/2024, pp. 71-73). After that, the Training Unit supervisors and senior caseworkers go out into the field with the caseworker-trainees to assess their capabilities, and the caseworker-trainees also get assigned one case a week for the next six weeks, after which they leave the Training Unit and report to their



assigned investigative team with a caseload of six cases (GJ Tr. 1/18/2024, pp. 86-87). The caseworker-trainees are evaluated at the nine-week point; the twelve-week point; the 26-week point, which is when they leave the Training Unit; and then at the 52-week point, which is when their probationary period ends (GJ Tr. 1/18/2024, pp. 100-101). During that first year, in addition to the training outlined above, caseworker-trainees also receive various web-based training, including mandated reporter training, sex-trafficking training, and implicit bias training (GJ Tr. 1/18/2024, pp. 89-91). Some trainees get terminated during the probationary period and some choose to quit (GJ Tr. 1/18/2024, pp. 100-101).

**C. ADVANCED TRAINING**

Once becoming a caseworker, she/he is required to complete six hours of in-service training annually (GJ Tr. 1/17/2024, pp. 79-80; GJ Tr. 1/18/2024, pp. 92-93; GJ Tr. 2/16/2024, pp. 44-45 GJ Ex. 10, 18 NYCRR 432.2[e][5][ii][b]). To receive in-service credits, the training must be related to health and safety, including, but not be limited to: “review of the protocols for identification and investigation of child abuse and maltreatment; any developments in legal, treatment, and prevention issues in child protection; and review and analysis of field experiences of child protective workers” (GJ Tr. 1/18/2024, p. 92; GJ Ex. 10, 18 NYCRR 432.2[e][5][ii][b]). The training announcement will usually indicate whether the training meets the credit requirements (GJ Tr. 1/17/2024, pp. 97-98; GJ Tr. 1/18/2024, p. 92). Other training is offered, including forensic interview training, but that training is currently only required for senior caseworkers assigned to the Abuse Teams (GJ Tr. 9/14/2023, p. 31, GJ Tr. 1/17/2024, pp. 78, 98, 100, 108, 110; GJ Tr. 1/18/2024, pp. 7-8, 92-93). SCDSS has also contracted with Daemen College to offer additional training to their caseworkers, which additional training exceeds the OCFS requirements (GJ Tr. 1/17/2024, pp. 78, 98, 108). In addition, training regarding autism spectrum disorders and



developmental disabilities have been offered since the death of CHILD A referred to above (GJ Tr. 1/17/2024, pp. 97-98; GJ Tr. 1/18/2024, p. 92). And, finally, supervisors must “satisfactorily complete a course in the fundamentals of supervising and managing child protective practice approved by OCFS within three months of their employment as a supervisor” (GJ Tr. 2/16/2024, p. 45; GJ Ex. 10, 18 NYCRR 432.2[e][5][ii][c]).

**D. TRAINING DEFICIENCIES**

Although caseworker basic training is extensive, there does not appear to be sufficient communication between OCFS, YRI, and the local CPSs throughout New York State regarding caseworker-trainee evaluations regarding the basic course. YRI relies on the caseworker-trainees to share their training evaluations with their local trainee supervisors. This Grand Jury has heard testimony that this important step is not occurring (GJ Tr. 1/18/2024, pp. 75-77; GJ Tr. 2/16/2024, pp. 12-28).

This Grand Jury has also heard testimony that, while the program given by the state provides caseworkers foundational training, Suffolk County should have its own training academy to better address the patterns and needs specific to Suffolk County, which could be modeled after the one created for the Administration for Children Services (“ACS”) in New York City (GJ Tr. 2/28/2024, pp. 77-78).<sup>5</sup> Right now, the training seems disjointed, and supervisory staff often have to educate themselves on certain matters because they have not necessarily had the same upstate training as the caseworker-trainees. If Suffolk County had its own training facility, CPS staff would be certified in all the different modalities, and CPS would be able to develop and train its own staff at its own pace with better expertise and quality assurance (GJ Tr. 2/28/2024, pp. 77-78).

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<sup>5</sup> ACS is the agency in New York City that is responsible for providing child protective services for the City’s five boroughs (GJ Tr. 1/23/2024, p. 105).



This Grand Jury has also heard testimony that joint trainings involving CPS, law enforcement, the SCDAO and the Medical Examiner's Office, which do not currently exist, would also be beneficial, as such trainings would not only enhance the skills and knowledge of the caseworkers investigating abuse cases, but they would also foster better working relationships among the participants in the training (GJ Tr. 2/28/2024, pp. 77-78).

Relatedly, CPS would also benefit from hiring retired police officers as investigative consultants, as ACS has done in New York City, to help caseworkers gather information and make safety assessments, especially in cases where there are guns or gang activity in the home, or where police officers or corrections officers are the alleged subjects of the report of child abuse or maltreatment (GJ Tr. 2/28/2024, pp. 125-126).

## **VI. CHILD PROTECTIVE SERVICES INVESTIGATIONS**

### **A. THE STATE CENTRAL REGISTER ("SCR")**

Generally, a CPS investigation begins with a phone call to the SCR, which is the primary recipient of calls regarding suspected child abuse and maltreatment in New York State (GJ Tr. 9/14/2023, pp. 20-21; GJ Tr. 1/17/2024, pp. 23-24; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-1 to C10). If a caller contacts the Suffolk County CPS directly, she/he will be encouraged to contact the SCR to make a report. If the caller refuses to contact the SCR, CPS will take down the information, and then report it to the SCR (GJ Tr. 1/17/2024, p. 24). The state allows anyone to make a call to report suspected abuse or maltreatment, and the call may be made anonymously if the caller fears repercussions from placing the call (GJ Tr. 9/14/2023, p. 43; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-1 and A2).

Certain individuals are mandated reporters, including some licensed professionals, such as teachers and doctors. Mandated reporters are required by law to make a report to the SCR if they



reasonably believe that a child is being abused or maltreated. The failure to do so is a class A misdemeanor (GJ Tr. 9/14/2023, pp. 43-45; GJ Ex. 1, CPS Manual, Chapt. 2, pp. A-1 to A-7, Chapt. 3, p. A-3; GJ Ex. 4, SSL §§ 413; GJ Ex. 55, SSL § 420).<sup>6</sup>

The staff at the SCR receive calls through toll-free telephone lines, 24 hours a day, 7 days a week, 365 days a year (GJ Tr. 9/14/2023, pp. 43-45; GJ Tr. 1/17/2024, pp. 24-25; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-1; GJ Ex. 7, SSL § 422[2][a]). After eliciting the report from the caller, it will be accepted if the allegations in the call could “reasonably constitute” a report that a child has been abused or maltreated by a parent, guardian, custodian, or other person legally responsible for the care of the child (GJ Tr. 9/14/2023, pp. 43-44; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-1 and A2; GJ Ex. 7, SSL § 422[2][a]). If accepted, the report will be classified as either one involving an “abused child” or one involving a “neglected” or “maltreated child” (GJ Tr. 9/14/2023, p. 46; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-1 and A2; GJ Ex. 7, SSL § 422[2][a]). An abused child or a maltreated child as defined in New York State Social Services Law § 412(1) and (2), incorporates the definitions of an “abused child” and “neglected child” in Family Court Act (FCA) § 1012(e) and (f) (GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-1 and A3).

An “abused child,” under the Social Services Law, means a child under the age of 18 years of age whose parent or other legally responsible person (a) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or (b) creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted

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<sup>6</sup> Pursuant to SSL § 420(1), “Any person, official or institution required by this title to report a case of suspected child abuse or maltreatment who willfully fails to do so shall be guilty of a class A misdemeanor.”



impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or (c) commits or allows to be committed certain specified sexual offenses, such as rape, sodomy, sexual abuse and sexual misconduct, or offenses relating to promoting prostitution or sex trafficking or involving in the sexual performance of a child (GJ Tr. 9/14/2023, pp. 48-62; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-2 and A3; GJ Ex. 5, SSL § 412[1]; GJ Ex. 6, FCA § 1012(e); GJ Ex. 53, 18 NYCRR § 432.1[a]).

A “maltreated child,” under the Social Services Law, is a child under 18 years of age whose parent or other legally responsible person impairs that child’s physical, mental, or emotional condition by failing to exercise a minimum degree of care in providing the child with proper supervision or guardianship, or by unreasonably inflicting harm, including the infliction of excessive corporal punishment (GJ Tr. 9/14/2023, pp. 48-62; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-2 and A3; GJ Ex. 5, SSL § 412[2]; GJ Ex. 6, FCA § 1012[f]; GJ Ex. 53, 18 NYCRR § 432.1[b]).

If the SCR interviewer believes that the report may constitute a crime or an immediate threat to the child's health or safety, but also believes that the alleged offender cannot be the subject of a report because that person is not legally responsible for the care of the child (e.g., a stranger), the SCR will then make a law enforcement referral, i.e., it will send the information to the appropriate law enforcement agency, district attorney, or other public official who is authorized to assist the child (GJ Tr. 9/14/2023, pp. 47-48; GJ Tr. 1/17/2024, p. 25; GJ Ex. 1, CPS Manual, Chapt. 3, p. B-1, Chapt. 6, p. C-1; GJ Ex. 7, SSL § 422[2][c]).

When all of the requirements for the acceptance of the report are met (i.e., where the allegations constitute abuse or maltreatment; the person allegedly responsible can be a subject of a report; and there is jurisdiction), the SCR will register a report and immediately send that report to the appropriate local CPS for investigation (GJ Tr. 9/14/2023, p. 60; GJ Tr. 1/17/2024, pp. 26-



27; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-2 to A-4, Chapt. 6, p. C-1). The SCR specialist registers the report by entering the information obtained from the caller into the CONNECTIONS system (GJ Tr. 9/14/2023, 62-63; GJ Tr. 1/17/2024, pp. 26-27; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-2 to A-4, Chapt. 6, p. C-1). When registering a report, the SCR will conduct a database search for any previous CPS history for each person listed in the report and will notify the receiving CPS of all previous SCR reports involving those persons, including unfounded reports (GJ Tr. 9/14/2023, p. 62; GJ Ex. 1, CPS Manual, Chapt. 3, pp. A-2 to A-4; GJ Ex. 7, SSL § 422[2][a]).

**B. INTAKE BY CHILD PROTECTIVE SERVICES**

In Suffolk County, the SCR report will usually be received by a caseworker in CPS's Intake Unit, who will receive an alert that the caseworker needs to sign in and retrieve the report from the CONNECTIONS system (GJ Tr. 9/14/2023, pp. 60, 62-63; GJ Tr. 1/17/2024, pp. 26-27). The CPS caseworker must acknowledge receipt of each report within minutes of the alert (GJ Tr. 9/14/2023, pp. 20, 60; GJ Tr. 1/17/2024, p. 27; GJ Ex. 1, CPS Manual, Chapt. 6, p. C-1). During non-business hours (i.e., evenings, weekends, and holidays), the report will be received and handled by a caseworker in CPS's Emergency Services Unit, who will subsequently transfer the matter to the caseworker on the appropriate team that will ultimately be assigned to handle the investigation (GJ Tr. 9/14/2023, p. 60; GJ Tr. 1/17/2024, pp. 26-27; GJ Ex. 1, CPS Manual, Chapt. 6, p. C-1). If the SCR report contains an "abused child" allegation, it will be assigned to an Abuse Team, of which there are two, and which are divided geographically, one covering eastern Suffolk and one covering western Suffolk; if the SCR report contains a "maltreated child" allegation, it will be assigned to one of CPS's Investigative Teams, which are divided geographically by zip code; and, if the SCR report contains an allegation regarding a child with special needs, it will usually be assigned to CPS's Special Needs Team, which covers all of Suffolk County (and which, as will be described



below, was created after the death of CHILD A) (GJ Tr. 9/14/2023, pp. 60, 66-70; GJ Tr. 1/17/2024, pp. 27-28, 35-36, 67-68).

If the SCR report contains an allegation of serious physical or emotional abuse, sexual abuse, or the death of a child, CPS must also inform law enforcement (GJ Tr. 9/14/2023, p. 61; GJ Tr. 1/17/2024, pp. 27-28, 37, 67-68; GJ Ex. 1, CPS Manual, Chapt. 6, pp. A-1 and A-2, C-3 and C-4; GJ Ex. 9, SSL § 424[5-a]). CPS must also assess whether to inform law enforcement when (a) there is an allegation of maltreatment resulting in physical harm; (b) the report is made by a mandated reporter; and (c) there have been two other indicated or pending reports made within the last six months that involve the same child, sibling, or other children in the household, or the subject of the report (GJ Tr. 9/14/2023, p. 61; GJ Tr. 1/17/2024, pp. 27-28, 37, 67-68; GJ Ex. 1, CPS Manual, Chapt. 6, pp. A-1 and A-2, C-3 and C-4; GJ Ex. 9, SSL § 424[5-b]).

### **C. OVERVIEW OF CHILD PROTECTIVE SERVICES INVESTIGATIONS**

#### **1. Initial Steps**

CPS must begin an investigation or a FAR within 24 hours of receiving an SCR report of abuse or maltreatment. Within those 24 hours, “CPS must conduct face-to-face contact or telephone contact with the subject or subjects and/or other persons named in the report (which may include children), or other persons - including the source of the report, if known — who may be able to provide information about whether the child may be in immediate danger of serious harm” (GJ Tr. 9/14/2023, pp. 71-74; GJ Tr. 1/17/2024, pp. 41; GJ Ex. 1, CPS Manual, Chapt. 6, p. B-1; GJ Ex. 10, 18 NYCRR § 432.2[b][3][i]).

Within one business day of the oral report date, CPS must review all prior SCR records in which one or more family members are named, including any legally sealed reports (i.e. unfounded and FAR reports) (GJ Tr. 9/14/2023, pp. 74-75; GJ Tr. 1/17/2024, pp. 41, 69-70; GJ Ex. 1, CPS



Manual, Chapt. 6, p. B-1). Thus, while legally sealed reports are shielded from access by law enforcement agencies conducting investigations, such reports are available for review internally by CPS caseworkers conducting their own investigations.

Within five business days of receipt of the report, CPS must review its own CPS records in which one or more family members are named, again including any unfounded and FAR reports. CPS may also review the records on closed and open services cases (GJ Tr. 9/14/2023, pp. 74-75; GJ Ex. 1, CPS Manual, Chapt. 6, p. B-1).

## **2. The Full investigation**

During a full investigation, a CPS caseworker must:

(a) conduct “face-to-face interviews with subjects of the report and family members of such subjects, including children named in the report.” If at any time the CPS caseworker “is refused access to the home and/or to observe or talk to any child in the household, or if a child in the household cannot be located, the CPS caseworker must consult with a CPS supervisor, and must assess within 24 hours of the refusal whether it is necessary to seek a court order to obtain access.” Whatever the decision, it must be clearly documented in the CONNECTIONS system in progress notes;

(b) obtain “information from the reporting sources and other collateral contacts, such as hospitals, family medical providers, schools, police, social service agencies and other agencies providing services to the family, relatives, extended family members, neighbors and other persons who may have information relevant to the allegations in the report and to the safety of the children”;

(c) maintain confidentiality, because information identifying the reporter and/or source of a report of suspected child abuse or maltreatment, as well as the agency, institution, organization,



and/or program with which such person(s) is associated, “is confidential and may not be disclosed to any person not authorized by law to have access to such information”;

(d) conduct a preliminary assessment of safety within seven days of receipt of the report, which is used to determine “if any child named in the report and any other children in the household may be in immediate danger of serious harm.” If any child is assessed to be unsafe, CPS must immediately take appropriate controlling interventions to protect that child. This safety assessment must also be documented in CONNECTIONS;

(e) determine “the nature, extent and cause of any circumstance set forth in the CPS report and of any other condition that may constitute abuse or maltreatment”;

(f) obtain “the name, age, gender, ethnicity and condition of each child in the home”; and

(g) notify “the subjects and other persons named in the report (except children under the age of 18 years), in writing,” no later than seven days after receipt of the SCR report, of the existence of the report and the subject's rights pursuant to the Social Services Law (GJ Tr. 9/14/2023, pp. 20-21, 63, 68, 72-74, 77, 79, 85-86, 97-98; GJ Tr. 1/17/2024, pp. 25, 41, 44, 50, 69-70, 121; GJ Ex. 1, CPS Manual, Chapt. 6, p. B-2; GJ Ex. 10, 18 NYCRR 432.2[b][3][ii]).

If there are children named in the report who do not live in the household or whose parent or legal guardian is not listed in the report, the CPS caseworker must list that child’s parent or legal guardian as an “other person,” so that they can be notified about the existence of the report (GJ Ex. 1, CPS Manual, Chapt. 6, p. B-2).

Within seven days of receiving the report, if the report meets the criteria for a FAR, and that response would meet the family’s needs, CPS may assign the report to a FAR team (GJ Tr. 9/14/2023, pp. 87-89; GJ Tr. 1/17/2024, pp. 46-47, 92; GJ Ex. 1, CPS Manual, Chapt. 6, p. B-2; GJ Ex. 54, 18 NYCRR 432.13[c]).



Case progress notes must begin upon receipt of the SCR report and “must continue until the case is closed to all services” and must be made “as contemporaneously as possible” with the events or information recorded (GJ Tr. 9/14/2023, pp. 94-97; GJ Tr. 1/17/2024, pp. 43, 54-55; GJ Ex. 1, CPS Manual, Chapt. 6, p. B-4, Chapt. 8, p. F-1; GJ Ex. 11, 18 NYCRR § 428.5[a]).

Prior to determining whether to either indicate or unfound the report, the investigation must include, but is not limited to the following:

(a) “[o]ne home visit with one face-to-face contact with the subjects and other persons named in the report to evaluate the environment of the child named in the report, as well as other children in the same home”;

(b) reasonable efforts being made to have face-to face contact with the non-custodial parent in the non-custodial parent’s home;

(c) reasonable efforts being made to achieve another type of contact (i.e. telephone, video conference, in writing) when face-to-face contact is unavailable;

(d. “[a]n assessment of the current safety of all children in the home or named in the report”;

(e) “[a]n assessment of the risk of future abuse and maltreatment of the child(ren)”;

(f) “[d]ocumentation of such assessments in the form and manner specified by OCFS”; and

(g) “[a] determination of the nature, extent and cause of any condition cited in the report” (GJ Tr. 9/14/2023, pp. 20-21, 63, 68, 72-74, 77, 79, 85-86, 97-98; GJ Tr. 1/17/2024, pp. 25, 41, 44, 50, 69-70, 121; GJ Ex. 1, CPS Manual, Chapt. 6, p. B-3; GJ Ex. 10, 18 NYCRR § 432.2[b][3][ii], and [iii]).



### **3. The Interviews**

#### **a. The Source of the Report**

As noted above, as part of a CPS investigation, CPS must make efforts to contact the source of the report, unless the source is anonymous, within 24 hours of receiving the report, to help in determining whether the child is in danger of serious harm (GJ Tr. 9/14/2023, pp. 20-21, 63, 68, 72-74, 77, 79, 85-86, 97-98; GJ Tr. 1/17/2024, pp. 25, 41, 44, 50, 69-70, 121; GJ Ex. 1, CPS Manual, Chapt. 6, pp. F1 and F-2; GJ Ex. 10, 18 NYCRR § 432.2[b][3][ii][b]).

#### **b. The Family**

Although interviewing the family is an ongoing process throughout the investigation, “the initial interview with the family must be conducted as soon as possible after CPS receives a report from the SCR. Depending on the circumstances surrounding the report, the initial interview may be with either the parent(s), or the child(ren), or they may be seen together,” but “CPS must try to quickly determine whether any children in the household may be in immediate danger of serious harm” (GJ Tr. 9/14/2023, pp. 20-21, 63, 68, 72-74, 77, 79, 85-86, 97-98; GJ Tr. 1/17/2024, pp. 25, 41-42, 44, 50, 69-70, 121; GJ Ex. 1, CPS Manual, Chapt. 6, p. F-2).

#### **c. The Children**

Any child named in the report should be seen and interviewed if possible before CPS can close the investigation, and they should be “interviewed in a sensitive manner” to avoid imposing “any additional trauma” (GJ Tr. 9/14/2023, pp. 20-21, 63, 68, 72-74, 77, 79, 85-86, 97-98; GJ Tr. 1/17/2024, pp. 25, 41, 44-45, 50, 69-70, 121; GJ Ex. 1, CPS Manual, Chapt. 6, pp. F-2 to F-5).

In some cases, interviewing a child will not provide useful information (e.g. where “the child is too young to effectively communicate”). In those situations, it is “nevertheless important to interact with and observe the child, because the investigator can still obtain information through



that interaction” (GJ Tr. 9/14/2023, pp. 20-21, 63, 68, 72-74, 77, 79, 85-86, 97-98; GJ Tr. 1/17/2024, pp. 25, 41, 44-45, 50, 69-70, 121; GJ Ex. 1, CPS Manual, Chapt. 6, p. F-1; GJ Ex. 10, 18 NYCRR § 432.2[b][3][ii][b]).

It is good practice to interview the child outside the presence of the subject of the report or the non-subject parent, but that may not always be possible (GJ Ex. 1, CPS Manual, Chapt. 6, p. F-5). CPS caseworkers “are not prohibited from speaking with children prior to speaking with parents,” or without parental consent, and it may be preferable to do so when the allegations are particularly serious, or if it appears that the child may be in imminent danger, or if it appears that the child may be afraid to speak honestly in front of the parents (GJ Ex. 1, CPS Manual, Chapt. 6, p. F-5). Such interviews can occur anywhere but will most likely take place in the setting where the child is at the time CPS begins the investigation (e.g., in school, or a childcare setting) (GJ Ex. 1, CPS Manual, Chapt. 6, p. F-5).

“Other than when there are allegations of sexual abuse or severe physical abuse,” there are no strict rules about when a child should be interviewed separately from the subject or parent (GJ Ex. 1, CPS Manual, Chapt. 6, p. F-6). The decision will be made on “a case-by-case basis” by the CPS caseworker and that worker's supervisor (GJ Ex. 1, CPS Manual, Chapt. 6, p. F-6).

The first duty of CPS in investigating an abuse or maltreatment report is to assess the child’s safety and it may be advisable to interview the child at school without parental permission, which can be done if the CPS caseworker has “either probable cause or good reason to believe” that the child has been abused or maltreated (GJ Ex. 1, CPS Manual, Chapt. 6, pp. F-1 and F-8).

**d. Multi-Disciplinary Teams and the Child Advocacy Center**

There also are cases in Suffolk County in which an investigation is conducted by an MDT, or there is a joint investigation by CPS and an authorized law enforcement agency. This usually



occurs in cases of sexual abuse or severe physical abuse but can also occur in certain maltreatment cases. In these cases, the MDT often will conduct interviews at a CAC (GJ Tr. 9/14/2023, pp. 100-107, 121-122, 147; GJ Tr. 1/17/2024, pp. 55-56, 67-68, 104, 148-172, 195-201; GJ Tr. 2/28/2024, pp. 133-142; GJ Ex. 1, CPS Manual, Chapt. 6, p. L-7; GJ Ex. 39, SSL § 423[6]).

MDTs include, but are not limited to, members who are employed by CPS; the police agency having jurisdiction; the district attorney's office; a physician or medical provider trained in forensic pediatrics; a mental health professional; and victim advocacy personnel. The purpose of MDTs is to coordinate the responses of all the agencies involved in the investigation, prosecution and case management of child abuse and maltreatment cases, primarily in those cases where a criminal prosecution may be contemplated. MDTs, especially when operating out of a CAC, help to reduce trauma to a child by reducing the number of interviews for the child and providing a safe and comfortable place for such interviews (GJ Tr. 9/14/2023, pp. 100-107, 121-122, 147; GJ Tr. 1/17/2024, pp. 34-35, 42, 55-58, 67-68, 104, 148-172, 195-201; GJ Tr. 2/28/2024, pp. 133-142; GJ Ex. 1, CPS Manual, Chapt. 6, p. L-7; GJ Ex. 39, SSL § 423[6]).

CACs differ somewhat from county to county, but the standard model is designed to be both physically and psychologically safe for the child, and, as is done in New York City and Nassau County, it is considered the "best practice" to house all MDT member agencies in one building, which is often referred to as co-locating the agencies at the CAC (GJ Tr. 9/14/2023, pp. 102-107; GJ Tr. 1/17/2024, pp. 56-58, 157-158, 169-170, 195-196, 200-201; GJ Tr. 2/28/2024, pp. 133-142; GJ Ex. 39, SSL § 423[6]).

When an allegation of child abuse or maltreatment is being investigated, the child can be brought to the CAC, where all members of the MDT can observe one interview, usually through a one-way mirror or via closed-circuit television, and during the same session, the child can also be



medically and psychologically examined, if necessary. This avoids duplicative interviewing, reduces the number of times that a child must describe what occurred, and speeds up any medically necessary evaluation and treatment. It may also help strengthen the case for court, by minimizing or eliminating the prospect of the child's statement being "watered down" or undermined because of the repetition and will also help make the child more comfortable with the system and consequently a better witness. Co-locating all the member agencies in one building also facilitates the sharing of information and improves the relationship and understanding between and among the MDT agencies, which leads to more effective and efficient joint investigations (GJ Tr. 9/14/2023, pp. 102-107; GJ Tr. 1/17/2024, pp. 56-58, 157-158, 169-170, 195-196, 200-201; GJ Tr. 2/28/2024, pp. 133-142).

Currently, in Suffolk County, there is a CAC in Central Islip, and a satellite CAC in Riverhead, however, neither houses all the MDT agencies in one building, and both are underutilized, partially because of geography and transportation issues (GJ Tr. 9/14/2023, pp. 102-107; GJ Tr. 1/17/2024, pp. 56-58, 157-158, 169-170, 195-196, 200-201; GJ Tr. 2/28/2024, pp. 133-142). Also, at present, there are not enough Special Victims Unit ("SVU") personnel in SCPD to be able to do joint responses with CPS, and there is not enough physical space in the current CACs to house all the member agencies (GJ Tr. 2/28/2024, pp. 137-138).

Relatedly, SVU currently only investigates cases involving children under the age of 13, which means that cases involving children between the ages of 13 and 17 are being handled by general squad detectives, who do not have forensic interview training. A forensic interview is a neutral, unbiased, child-friendly, fact-finding interview, which is done in a non-leading way, and which allows the child to relate the events in an open narrative with gentle prompting by the interviewer (GJ Tr. 1/17/2024, p. 150). The better practice would be for SVU detectives, who do



have such training, to handle those cases too, so that children under the age of 17 would also be able to provide information with a level of confidence, security, and safety that would increase the likelihood of a just outcome (GJ Tr. 1/17/2024, pp. 197-200; GJ Tr. 2/28/2024, pp. 138-140).

In short, a true co-located CAC would make for better and more efficient child protective investigations in Suffolk County and would minimize the trauma to children and the family members who are not the subject of the SCR report (GJ Tr. 9/14/2023, pp. 102-107; GJ Tr. 1/17/2024, pp. 56-58, 157-158, 169-170, 195-196, 200-201; GJ Tr. 2/28/2024, pp. 133-142).

#### **4. The Determination**

CPS must make a determination within 60 days after receiving a report whether there is some credible evidence to support the allegations of abuse or maltreatment in cases accepted by the SCR before January 1, 2022, or a fair preponderance of evidence to support the allegations of abuse or maltreatment in cases accepted by the SCR on or after January 1, 2022, so as to either “indicate” or “unfound” the report (GJ Tr. 9/14/2023, pp. 108-109, 119-120; GJ Tr. 1/17/2024, pp. 51-54; ; GJ Ex. 1, CPS Manual, Chapt. 6, p. O-1; GJ Ex. 10, 18 NYCRR § 432.2[b][3][iv]). GJ Ex. 36, OCFS Administrative Directive 21-OCFS-ADM-26). A CPS supervisor must review and approve the decision to either indicate or unfound any allegations in a report (GJ Tr. 9/14/2023, pp. 110-111; GJ Tr. 1/17/2024, p. 60; GJ Ex. 1, CPS Manual, Chapt. 6, p. B-3; GJ Ex. 10, 18 NYCRR § 432.2[b][3][v]). The caseworker’s supervisor will do this by reviewing the record and the evidence that was gathered by the caseworker, and then conferencing the case in person with that caseworker to determine the appropriate conclusion (GJ Tr. 9/14/2023, pp. 110-111). An Assistant Bureau Director may also review the determination under certain circumstances (GJ Tr. 9/14/2023, pp. 110-111; GJ Tr. 1/17/2024, p. 60).



“CPS must conduct a risk assessment for all children named in a report when making key decisions” on a case and “must assess whether the best interests of the child require Family Court or Criminal Court action”; if so, then CPS must initiate such action (GJ Ex. 1, CPS Manual, Chapt. 6, pp. B-3 and O-1; GJ Ex. 10, 18 NYCRR § 432.2[b][3][vi] and [d]).

“Where appropriate, CPS is also responsible for providing and coordinating, or arranging for rehabilitative and foster care services” and is responsible for monitoring the provision of such services to the children named in an open indicated report (GJ Tr. 9/14/2023, pp. 108-109, 119-120; GJ Tr. 1/17/2024, pp. 19, 54; GJ Tr. 2/16/2024, pp. 69-71, 77-80; GJ Ex. 1, CPS Manual, Chapt. 6, p. B-4, Chapt. 8, p. B-2 and D-4; GJ Ex. 10, 18 NYCRR § 432.2[b][4][i], [b][5][i]).

“If the report is indicated, CPS must provide a Notice of Indication to each subject and any other adult person(s) named in the report within seven days of the date of determination,” which “must include information about the outcome of the investigation and the subject’s rights regarding amendment and to a fair hearing” (GJ Tr. 9/14/2023, pp.110-113; GJ Tr. 1/17/2024, pp. 61; GJ Ex. 1, CPS Manual, Chapt. 4, p. B-3, Chapt. 6, p. O-4, Chapt. 12, pp. A-1 to C-1; GJ Ex. 7, SSL § 422[8]).

“If the report is unfounded, the SCR notifies the subject or subject(s) and any other adult person named in the report of this determination by mail” (GJ Ex. 1, CPS Manual, Chapt. 6, pp. O-4 and O-5; Chapt. 12, p. C-1).

Mandated reporters often request information regarding a CPS investigation resulting from that mandated reporter’s report. If the request is made prior to the completion of the investigation, the information released to the mandated reporter is limited to the statement that the report is “under investigation.” If the request is made after the investigation has been completed, the



information released to the reporter is limited to whether the report is “indicated” or “unfounded” (GJ Ex. 1, CPS Manual, Chapt. 2, p. A-7; GJ Ex. 7. SSL §422[4][A]).

The decision to provide on-going services is made at the investigation’s conclusion, and, depending on the nature of the determination (i.e., unfounded or indicated) such services can be either court-ordered, or voluntarily accepted by the family (GJ Tr. 9/14/2023, pp. 113-117; GJ Ex. 1, CPS Manual, Chapt. 6, pp. O-5 to O-8).

## **5. Administrative Appeals**

Indicated reports. Subjects of indicated reports can request an administrative appeal from the SCR to change an indicated report to an unfounded report. Assuming the requests are timely, the SCR will then review the documentation submitted by CPS and will use the preponderance of the evidence standard to determine whether the report should remain indicated (GJ Tr. 9/14/2023, pp. 117-120; GJ Tr. 1/17/2024, p. 61; GJ Tr. 2/28/2024, pp. 21-23, 108-109; GJ Ex. 1, CPS Manual, Chapt. 6, p. O-4; GJ Ex. 7, SSL § 422[8][a]; GJ Ex. 56, SSL § 424-a).

If the SCR does not amend the report in accordance with the request within 90 days of receiving the request, the subject then has the right to a hearing before an OCFS administrative law judge, who will then determine whether the SCR report should be amended on the grounds that it is inaccurate or that the allegations are not supported by a fair preponderance of the evidence (GJ Tr. 9/14/2023, pp. 117-120; GJ Tr. 1/17/2024, p. 61; GJ Ex. 1, CPS Manual, Chapt. 6, p. O-4; GJ Ex. 7, SSL § 422[8][a][i]).

Unfounded reports. Currently, the law does not authorize a mandated reporter or anyone else to request a similar administrative appeal to change an unfounded report to an indicated report (GJ Tr. 9/14/2023, p. 120; GJ Tr. 1/17/2024, pp. 61-62; GJ Tr. 2/28/2024, pp. 21-23, 108-109; GJ Ex. 1, CPS Manual, Chapt. 6, p. O-4 and O-5; GJ Ex. 7, SSL § 422[8][a]). Thus, for example, a



child's teacher who makes repeated mandatory reports based on first-hand observations of the child, only to have CPS deem such reports to be unfounded, currently has no mechanism by which to appeal the unfounded determination.

## **6. Registering a Complaint**

Although there are no administrative appeals from unfounded determinations, anyone can complain about the conduct and practices of CPS or any of its employees by contacting the SCDSS's Commissioner's Response Unit ("CRU"), whose function is to answer calls from the public, not just regarding CPS, and not just regarding unfounded reports, but also regarding any of the other divisions or bureaus of the SCDSS (GJ Tr. 1/17/2024, pp. 126-128; GJ Tr. 2/28/2024, pp. 31-40, 114-117). Someone could also register a complaint online on the SCDSS website (GJ Tr. 1/17/2024, pp. 126-128). If the complaint relates to an investigation conducted by CPS or its employees, a procedure has been implemented for addressing such complaints, which will result in a written response once the investigation findings are completed (GJ Tr. 1/17/2024, pp. 126-128; GJ Tr. 2/28/2024, pp. 31-40, 113-117; GJ Ex. 48, Commissioner Complaint Procedure Update Emails). Any response, however, would be governed by the applicable confidentiality and disclosure laws and rules for CPS records set forth below (GJ Tr. 1/17/2024, p. 128).

When investigating the allegations of a complaint, the investigating staff member is supposed to consider whether the appropriate protocol was followed, whether the accused employee conducted their investigation correctly (if applicable), whether there was any violation of the law, and whether any other related factors are deemed appropriate for consideration (GJ Tr. 1/17/2024, pp. 126-128; GJ Tr. 2/28/2024, pp. 31-40, 113-117; GJ Ex. 48, Commissioner Complaint Procedure Update Emails).



A mandated reporter or anyone else could also register a complaint by contacting OCFS, which would then decide whether to open an investigation and/or contact the local DSS (GJ Tr. 2/28/2024, pp. 31-40, 113-117). A mandatory reporter or anyone else could also call in a new SCR report (GJ Tr. 2/28/2024, pp. 40-41, 116-117).

Relatedly, this Grand Jury has heard testimony about the Office of Safety First, which was created in New York City within ACS to address complaints or concerns by mandatory reporters about the conduct of ACS investigations (GJ Tr. 2/28/2024, pp. 117-121). That office provides a dedicated hotline for mandated reporters to call to assist in connecting the mandated reporter with the ACS caseworker (GJ Tr. 2/28/2024, pp. 117-121). That office not only requires a response within 24 hours from ACS leadership as to what they would be doing regarding the concerns in the call, but also ensures that the ACS caseworker will communicate with the mandated reporter (GJ Tr. 2/28/2024, pp. 117-121). Any response is still governed by the laws and the rules regarding confidentiality and disclosure, but the office not only facilitates communication between ACS and mandated reporters, and not only helps to identify patterns and trends regarding the types of calls being received, but also holds ACS leadership accountable for addressing the concerns of mandated reporters once they have received a triggered alert. Such an office should be created here within the SCDSS (GJ Tr. 2/28/2024, pp. 117-121).

**D. CONFIDENTIALITY OF CHILD PROTECTIVE SERVICES RECORDS**

Although the general rule is that CPS records are confidential and may not be disclosed, Social Services Law § 422(4)(A) sets forth specific exceptions to this rule for indicated reports that are requested by certain entities (GJ Tr. 9/14/2023, pp. 35-36, 141-157; GJ Tr. 1/17/2024, pp. 61-62; GJ Tr. 1/23/2024, pp. 7-8; GJ Ex. 1, CPS Manual, Chapt. 13, p. A-1 to B-1; GJ Ex. 7, SSL § 422[4][A]). One such entity is “a grand jury, upon a finding that the information in the record is



necessary for the determination of charges before the grand jury” (GJ Tr. 1/23/2024, pp. 7-8; GJ Ex. 7, SSL § 422[4][A][f]). There is no similar exception for a grand jury in connection with unfounded CPS records, whose disclosure is much more limited (GJ Tr. 9/14/2023, pp. 35-36, 141-157; GJ Tr. 1/17/2024, pp. 65-66, 68-72; GJ Tr. 1/23/2024, pp. 8-9; GJ Ex. 1, CPS Manual, Chapt. 13, p. A-1 to B-1; GJ Ex. 7, SSL § 422[5][a]).

Unfounded CPS records are legally sealed and must remain on file for 10 years from the date the report was received by the SCR, and after which the records are expunged (GJ Tr. 1/23/2024, pp. 8-9; GJ Ex. 7, SSL § 422[4][5][a] and [b]). Before those records are expunged, however, under Social Services Law § 422(5)(a), they may be made available only to the following entities: (i) OCFS for the purpose of supervising CPS; (ii) OCFS and local or regional fatality review team members for the purpose of preparing a fatality report; (iii) CPS, OCFS, or all members of a local or regional MDT or the Justice Center for the Protection of People with Special Needs when investigating a subsequent report of suspected abuse, neglect or maltreatment involving a subject of the unfounded report, a child named in the unfounded report, or a child's sibling named in the unfounded report; (d) a subject of the report; and (iv) a district attorney, an assistant district attorney, an investigator employed in the Office of a District Attorney, or a sworn officer of the division of state police, of a city, county, town or village police department or of a county sheriff's office when such official verifies that the report is necessary to conduct an active investigation or prosecution of an alleged intentional false report to the SCR, which is a violation of Penal Law § 240.50(4)(a) (GJ Tr. 9/14/2023, pp. 35-36, 141-157; GJ Tr. 1/17/2024, pp. 65-66, 68-72; GJ Tr. 1/23/2024, pp. 13-16; GJ Ex. 1, CPS Manual, Chapt. 13, p. A-1 to B-1; GJ Ex. 7, SSL § 422[5][a]).



Even under circumstances where a District Attorney's Office has been permitted direct access to unfounded records as a member of a fatality review team or an MDT, the District Attorney's Office is not permitted to redisclose those records to a Grand Jury (GJ Tr. 9/14/2023, pp. 35-36, 141-157; GJ Tr. 1/17/2024, pp. 65-66, 68-72; GJ Tr. 1/23/2024, pp. 13-16; GJ Ex. 1, CPS Manual, Chapt. 13, p. A-1 to B-1; GJ Ex. 7, SSL § 422[5][b]; GJ Ex. 16, *McGuire v. DiFiore*, 112 A.D.3d 630, 632 [2d Dept. 2013]). This has the potential to lead to absurd results, such as where a District Attorney's Office has lawful access to unfounded records as a member of a fatality review team or an MDT, and those records reveal criminal negligence on the part of a CPS caseworker, yet the District Attorney's Office is legally prohibited from using those reports to criminally investigate and prosecute the caseworker. Moreover, pursuant to Social Services Law § 422(12), "[a]ny person who willfully permits and any person who encourages the release of any data and information contained in the central register to persons or agencies not permitted by the [Social Services Law] shall be guilty of a class A misdemeanor" (GJ Tr. 9/14/2023, pp. 27-28, 145-146; GJ Ex. 7, SSL § 422[12]).

According to a 2009 version of the CPS manual, which continues to be accessible on the OCFS website, "[a]ny unfounded and legally sealed reports that are properly unsealed by CPS as part of a subsequent investigation (see SSL§422[5][a][iii]) should be carefully reviewed for information relevant to the current investigation. It is possible that the information contained in the unsealed report provides no information relevant to the investigation of the current report. However, information from the unsealed report combined with information obtained in the current investigation may provide evidence of a pattern of behavior that may help show abuse or maltreatment. Alternatively, the information in the unsealed report may provide evidence to counter or discredit the current allegations of abuse or maltreatment" (GJ Tr. 1/23/2024, pp. 12-



18; GJ Ex. 7, SSL § 422[5][a]; GJ Ex. 42, 2009 CPS Manual Excerpt, Chapt. X, Section C.2, pp. 1-2, December 2007).

“Use of any information from an unfounded report in the current investigation of abuse or maltreatment should be documented in the record of the current investigation. The form that this documentation takes is discretionary and may include re-recording progress note references, and photocopying or electronic copying of documents. Once pertinent information from the unsealed report becomes part of the record of the investigation of the current report, it is available to anyone with legal access to the current report's investigative record” (GJ Tr. 1/23/2024, pp. 12-18; GJ Ex. 7, SSL § 422[5][a]; GJ Ex. 42, 2009 CPS Manual Excerpt, Chapt. X, Section C.2, December 2007, pp. 1-2).

Thus, under this procedure, any information from a prior unfounded report that is incorporated into a subsequent indicated report would be governed by the disclosure rules for indicated reports set forth in SSL § 422(4)(A) (GJ Tr. 1/23/2024, pp. 12-18; GJ Ex. 7, SSL § 422[5][a]; GJ Ex. 42, 2009 CPS Manual Excerpt, Chapt. X, Section C.2, pp. 1-2, December 2007). Information from the sealed unfounded report that is not incorporated into a subsequent or indicated report remains legally sealed and may not be released except under the provisions of Social Services Law § 422(5)(a) (GJ Tr. 1/23/2024, pp. 12-18; GJ Ex. 7, SSL § 422[5][a]; GJ Ex. 42, 2009 CPS Manual Excerpt, Chapt. X, Section C.2, pp. 1-2, December 2007).

Suffolk County's CPS has developed a form for documenting instances where information from prior unfounded reports has been incorporated into a subsequent case (which the form refers to as being “migrated” into the new case), which must be approved by an Assistant Director after a determination has been made that the information is relevant to the new case (GJ Tr. 1/23/2024, pp. 12-18; GJ Ex. 37, Notice of Migration; GJ Ex. 7, SSL § 422[5][a]; GJ Ex. 42, 2009 CPS Manual



Excerpt, Chapt. X, Section C.2, pp. 1-2, December 2007). Any information from that prior unfounded report that is not officially incorporated or “migrated” into the new case using this form remains legally sealed and may not be released except under the provisions of SSL § 422(5)(a) (GJ Tr. 1/23/2024, pp. 12-18; GJ Ex. 7, SSL § 422[5][a]; GJ Ex. 37, Notice of Migration; GJ Ex. 42, 2009 CPS Manual Excerpt, Chapt. X, Section C.2, pp. 1-2, December 2007).

Thus, under this procedure, a caseworker and her/his supervisor could in effect insulate a caseworker on a prior unfounded case from having her/his conduct criminally investigated by not migrating prior unfounded case information into a new indicated investigation. Moreover, this procedure is not found in either the current version of the CPS Program Manual, the Social Services Law or in 18 NYCRR Part 432. This procedure also does not provide any guidance for determining whether or how unfounded case information is pertinent and, if pertinent, the procedure for how such information should be incorporated into a new investigation. In short, the Social Services Law and 18 NYCRR Part 432 must be amended to provide rules and a procedure governing when a prior unfounded case must be incorporated into a new investigation, and what disclosure rules would apply under those circumstances.

**VII. CONFIDENTIALITY LAWS REGARDING UNFOUNDED CASES HAVE HAMPERED THE INVESTIGATION OF CHILD PROTECTIVE SERVICES REGARDING CHILD A’S DEATH**

In February 2018, CPS indicated a case against CHILD A’s biological mother for inadequate guardianship, and indicated a case against CHILD A’s father for, among other things, inadequate guardianship, and excessive corporeal punishment (GJ Tr. 1/18/2024, pp. 36-40; GJ Ex. 22A, Box 3, File 1, pp. 147-148; GJ Ex. 49, CPS GJ Subpoena Response Ind. 26842053). CHILD A subsequently died of hypothermia on January 17, 2020. The father and the father’s fiancée were thereafter arrested and charged criminally in connection with the child’s death. On



March 8, 2020, CPS also indicated a case against both the father and the father's fiancée (GJ Tr. 1/18/2024, pp. 36-40; GJ Ex. 22A, Box 3, File 1). Both the father and his fiancée were also subsequently convicted of crimes in connection with CHILD A's death (GJ Exs. 51 and 52, Certificates of Disposition).

Between the February 2018 indicated cases and the date of CHILD A's death, however, CPS received at least 10 reports of maltreatment regarding CHILD A and the other children in the same home from mandated reporters. Those reports were determined by CPS to be unfounded. However, due to the above-referenced law governing the disclosure of unfounded cases, those reports and the investigative records supporting them are not available to this, or any other, Grand Jury. This has severely hampered this Grand Jury's ability to investigate whether CPS caseworkers and other personnel engaged in willful misconduct or gross negligence in their investigation of those reports. This is highlighted by the evidence presented to this Grand Jury from those mandated reporters and the SCPD detectives who investigated the circumstances surrounding CHILD A's death.

**The Evidence from the Mandatory Reporters and Suffolk County Police  
Department Detectives**

In September 2017, CHILD A was six years old when the father of CHILD A enrolled the child in first grade at a public elementary school located in Suffolk County, New York ("ELEMENTARY SCHOOL"). The father of CHILD A was a police officer in the New York City Police Department. CHILD A's sibling, CHILD B, and other children living in the household with CHILD A's father and his fiancée were also enrolled in the same public school district (GJ Tr. 9/19/23, p. 13). Both CHILD A and CHILD B had been diagnosed with autism and were described as high functioning (GJ Tr. 9/19/23, pp. 15-16). Staff at ELEMENTARY SCHOOL described both CHILD A and CHILD B as healthy, clean, happy, and friendly (GJ Tr. 9/19/23, pp. 17, 66-67, 113).



Staff at ELEMENTARY SCHOOL were aware that there was prior CPS involvement with the family at the time of enrollment (GJ Tr. 9/19/23, pp. 17-18).

By January 2018, both CHILD A and CHILD B began to consistently complain of hunger to staff (GJ Tr. 9/19/23, pp. 71-72). Staff at ELEMENTARY SCHOOL were concerned as the children were losing a significant amount of weight (GJ Tr. 9/19/23, pp. 74-75). The staff at ELEMENTARY SCHOOL were informed by CHILD A and CHILD B that they were not given breakfast at home as punishment (GJ Tr. 9/19/23, pp. 73-74, 115). Staff at ELEMENTARY SCHOOL contacted CHILD A's and CHILD B's father and his fiancée, but this issue continued through the remainder of the school year (GJ Tr. 9/19/23, pp. 76, 115-116). Staff at ELEMENTARY SCHOOL emailed the CPS caseworker assigned to both CHILD A and CHILD B regarding their hunger in the Spring of 2018 (GJ Tr. 9/19/23, pp. 118, 24).

In September 2018, CHILD A was seven years old when the child returned to ELEMENTARY SCHOOL for second grade. Staff at ELEMENTARY SCHOOL observed that both CHILD A and CHILD B appeared thin and were now wearing pull-up diapers, despite having been capable of properly using the toilet the previous school year (GJ Tr. 9/19/23, pp. 22, 119). Both CHILD A and CHILD B were observed eating crumbs of food that other children dropped on the floor or eating food out of the garbage (GJ Tr. 9/19/23, pp. 134, 164-165, 186). CHILD A was also observed coming to school in wet pullups and clothing (GJ Tr. 9/19/23, pp. 163, 165-166). During September 2018, staff at ELEMENTARY SCHOOL called the SCR to report their observations (the first report).<sup>7</sup> The hunger issues improved for a short period of time following the first report. Staff at ELEMENTARY SCHOOL did not receive any response or feedback from CPS regarding the first report after an initial interview (GJ Tr. 9/19/23, pp. 79-80).

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<sup>7</sup> This summary of the events leading to the SCR reports is based solely upon the independent recollections of staff at ELEMENTARY SCHOOL during this investigation.



By January 2019, CHILD A and CHILD B were observed to be still exhibiting issues related to hunger, but staff at ELEMENTARY SCHOOL additionally observed suspicious bruises on the children (GJ Tr. 9/19/23, pp. 140-141). For example, CHILD A came to school with a bruise on his/her face that could not have been attributed to gym class, as his/her father claimed (GJ Tr. 9/19/23, pp. 170). Staff at ELEMENTARY SCHOOL made a report of suspected abuse and a lack of food to the SCR (the second report) (GJ TR. 9/19/23, pp. 28, 170).

In February 2019, CHILD B came to school in urine-soaked clothing and shoes for multiple consecutive mornings (GJ Tr. 9/19/23, pp. 145-147). The staff at ELEMENTARY SCHOOL made a report to the SCR (the third report) (GJ Tr. 9/19/23, p. 149). Relevant video<sup>8</sup> and text messages from the time of the third report, were located during the subsequent criminal investigation (GJ Tr. 9/21/23, p. 129; GJ Tr. 9/21/23, p. 32; GJ Ex. 18, Surveillance Video; GJ Exhibit 19, Phone Download, Father; GJ Ex. 20, Phone Download, Fiancée; GJ Ex. 21, Video Compilation). A camera labeled “boy’s room” was in the garage and showed CHILD A and CHILD B sitting on the concrete floor of the garage multiple nights in a row (GJ Tr. 9/21/23, pp. 130-133). Corresponding text messages between CHILD A’s father and his fiancée discuss that CHILD B wet himself/herself, was not allowed in the house and that CHILD B would not go to sleep because the

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<sup>8</sup> In January 2020, SCPD Homicide detectives were present when a search warrant for the home of CHILD A was executed (GJ Tr. 9/21/23, p. 31). As a part of the search warrant execution, cameras located around the house and the cellphones of both the father and stepmother of CHILD A were recovered. (GJ Tr. 9/21/23, p. 32; GJ Ex. 18, Surveillance Video; GJ Exhibit 19, Phone Download, Father; GJ Ex. 20, Phone Download, Fiancée; GJ Ex. 21, Video Compilation). Relevant text messages between CHILD A’s father and his fiancée were found on the cell phones (GJ Tr. 9/21/23, p. 72). Both phones were able to access the cloud-based surveillance videos from their house. (GJ Tr. 9/21/23, p. 73). Several relevant emails were found regarding the deletion of cameras and the password change on the date of CHILD A’s death (GJ Tr. 9/21/23 p. 75). A District Attorney Investigator testified about creating two video compilations, which included both text messages and video surveillance (GJ Tr. 9/21/23, p. 83) as well as the minimum and maximum temperatures for the day from the National Weather Service (GJ Tr. 9/21/23, p. 86). The first compilation included video from approximately a year leading up to the death of CHILD A (GJ Tr. 9/21/23, p. 87). The second compilation included video from the day of the death of CHILD A (GJ Tr. 9/21/23, p. 87). Relevant portions of these video compilations were presented to this Grand Jury, which were connected to dates of investigative significance regarding CPS, that SCPD detectives learned from staff at ELEMENTARY SCHOOL (GJ Tr. 9/21/23, p. 127; GJ Tr. 9/21/23, p. 32; GJ Ex. 18, Surveillance Video; GJ Exhibit 19, Phone Download, Father; GJ Ex. 20, Phone Download, Fiancée; GJ Ex. 21, Video Compilation).



child was on a solid concrete floor, and it was freezing (GJ Tr. 9/21/23, pp. 131-132). Notably, around this time, CHILD B frequently complained of being cold to the staff at ELEMENTARY SCHOOL and refused to take his/her coat off while inside the classroom, despite the temperature in the classroom being appropriate. CHILD B's teachers gave the child sweatshirts to wear during the school day (GJ Tr. 9/19/23, pp. 137, 185).

In March 2019, CHILD B informed his/her teacher that CHILD B was sleeping in a cold garage on a mattress, and he/she was not given breakfast at home (GJ TR. 9/19/23, pp. 151-152). The following day, the staff at ELEMENTARY SCHOOL had a meeting to discuss their concerns regarding CHILD A and CHILD B. The staff at ELEMENTARY SCHOOL described being frustrated that the situation was not improving, even though they were making formal reports to the SCR and following up with the Suffolk County CPS caseworkers. The staff at ELEMENTARY SCHOOL decided to "flood the CPS hotline" with reports to see if they could bring attention to the issue and force a change (GJ Tr. 9/19/23, pp 33-34). Over the next week, four different staff members at ELEMENTARY SCHOOL, all of whom were trained mandated reporters, made formal reports to the SCR detailing allegations including urination, weight loss, sleeping in the garage, refusing to go to the school nurse or psychologist, and the deprivation of food/water related to CHILD A and CHILD B (the fourth, fifth, sixth and seventh reports) (GJ Tr. 9/19/23, pp. 35-36, 120, 144, 150). When staff members at ELEMENTARY SCHOOL called Suffolk County CPS to follow up on reports four through seven, they were informed by the CPS caseworker that by making multiple reports to the SCR, the reports canceled each other out. Further, the staff at ELEMENTARY SCHOOL were accused by the father of harassing CPS and the family of CHILD A and CHILD B (GJ TR. 9/19/23, pp. 158-159). Relevant video and text messages from shortly after reports four through seven were made were recovered during the subsequent criminal



investigation (GJ Tr. 9/21/23, p. 133). Corresponding text messages between CHILD B's father and his fiancée again discussed that CHILD B was not allowed in the house, should be washed outside of the house in the back and would not be getting a mattress following CHILD B's involvement in CPS reports against the father and the father's fiancée (GJ TR. 9/21/23, p. 133).

In April 2019, ELEMENTARY SCHOOL held a Professional Development Day where the entire staff attended a presentation by a representative of Suffolk County CPS. During that presentation, a staff member of ELEMENTARY SCHOOL confronted the CPS representative about making repeated calls on behalf of CHILD A and CHILD B and that nothing appeared to be happening. The representative from CPS responded in sum and substance that unless there was broken bone, there was nothing CPS could do about the children's home situation (GJ Tr. 9/19/23, pp. 38, 91, 172).

In May 2019, CHILD A came into school with a visible bruise on his/her face (GJ Tr. 9/19/23, pp. 172, 24). CHILD A informed his/her teacher that his/her father had thrown the child's backpack at the child. The staff at ELEMENTARY SCHOOL made a report to the SCR (the eighth report). The following day, a CPS caseworker came to ELEMENTARY SCHOOL to interview CHILD A. A member of the staff of ELEMENTARY SCHOOL was present for the interview conducted by CPS, in which CHILD A confirmed the allegation that his/her father threw a backpack at him/her (GJ Tr. 9/19/23, p. 94). Further, CHILD A informed CPS that both CHILD A and CHILD B sleep in the garage of their home and CHILD A and CHILD B would urinate upon themselves and be hosed down in their backyard (GJ Tr. 9/19/23, pp. 92-93). CHILD A was absent the following few days and staff at ELEMENTARY SCHOOL reached out to CPS to do a wellness check but did not receive a response from CPS (GJ TR. 9/19/23, pp 174-175).



In June 2019, staff at ELEMENTARY SCHOOL observed that CHILD B had abrasions on his/her face, a bloody nose and what appeared to be ligature marks on his/her wrists (GJ Tr. 9/19/23, pp. 153-154). The staff at ELEMENTARY SCHOOL made a report to the SCR (the ninth report) (GJ Tr. 9/19/23, pp. 155-156).

In September 2019, CHILD A was eight years old when he/she began third grade at ELEMENTARY SCHOOL but the child would not survive the school year. Staff at ELEMENTARY SCHOOL observed that CHILD A had visibly pale skin, grey skin under his/her eyes, matted hair, and was very thin (GJ Tr. 9/19/23, pp. 96-97, 176, 199). CHILD B appeared very thin and sickly to the staff at ELEMENTARY SCHOOL (GJ Tr. 9/19/23, pp. 96, 156).

In November 2019, the staff at ELEMENTARY SCHOOL observed bruises and abrasions on the faces of both CHILD A and CHILD B (GJ Tr. 9/19/23, pp. 186-187, 204-205). The father of the children indicated that the children had obtained the injuries playing football. Both children indicated they received injuries while playing football but were inconsistent in the details (GJ Tr. 9/19/23, pp. 205, 14). Staff at ELEMENTARY SCHOOL had never observed CHILD A or CHILD B playing football at school, and based upon their observations of the injuries, the staff did not believe this explanation (GJ Tr. 9/19/23, pp 187-188, 205). The staff at ELEMENTARY SCHOOL made another report to the SCR regarding the bruises to the children's faces and the ongoing hunger issues (the tenth report) (GJ Tr. 9/19/23, pp. 188, 207). A CPS caseworker came to the ELEMENTARY SCHOOL to interview CHILD B and walked into CHILD B's classroom to attempt to speak to the child in front of CHILD B's teacher and other students. When CHILD B saw the CPS caseworker, CHILD B threw himself/herself on the floor and began to cry. The CPS caseworker left the classroom without speaking to CHILD B (GJ Tr. 9/19/23, p 190-191). Relevant video and text messages were recovered during the subsequent criminal investigation, from shortly



before the tenth report, showing both CHILD A and CHILD B sitting in the garage with a low temperature of 19 degrees. (GJ Tr. 9/21/23, pp. 136-137). Corresponding text messages between CHILD A's father and his fiancée discussed that one of the children wet himself, and CHILD A's father threatened to "beat them till they bleed" (GJ Tr. 9/21/23, p. 136). Video surveillance from the following day shows CHILD A's father kneeling over both children as he repeatedly punched them both (GJ TR. 9/21/23, p. 137).

On January 17, 2020, the SCPD Homicide Squad<sup>9</sup> received a phone call notification (GJ Tr. 9/21/23, pp. 9, 98), indicating that CHILD A had been pronounced dead (GJ Tr. 9/21/23, pp. 10, p 99). Homicide Squad detectives were informed in that notification that CHILD A reportedly had a head injury from a fall while running to the school bus (GJ Tr. 9/21/23, pp. 10, 99-100). Detectives were unable to find evidence of a fall in the driveway or walkway such as blood, scuff marks or something CHILD A may have tripped over, and there was no ice or snow on the ground (GJ Tr. 9/21/23, pp 13-15). Video surveillance<sup>10</sup> from a neighboring house showed several children waiting for the school bus, not including CHILD A. None of the children getting on the school bus fell (GJ Tr. 9/21/23, pp. 19, 40-41). Additionally, the video from the neighboring house captures the backyard of CHILD A's house, showing what appears to be CHILD A, naked, and

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<sup>9</sup> The SCPD Homicide Squad investigates all criminal and non-criminal deaths in Suffolk County, including drug overdoses, suicides, homicides, and unattended deaths (GJ Tr. 9/21/23, pp. 6, 96-97). Examples of a non-criminal death include an accident, such as a fall, or an overdose (GJ Tr. 9/21/23, pp. 7, 97). The purpose of the initial investigation is to ascertain whether there was in fact any criminality or "foul play" (GJ Tr. 9/21/23, p. 97).

<sup>10</sup> A Homicide detective observed surveillance cameras throughout CHILD A's house and on neighboring houses, so he contacted the SCPD Electronic Investigations Section ("EIS") to request that a detective respond and download video surveillance to assist the investigation (GJ Ex. 18, Surveillance Video; GJ Ex. 21, Video Compilation). The detective explained that noting where cameras are located and obtaining video surveillance is an important part of both criminal and non-criminal investigations because it will either corroborate or contradict a witness' description of how events occurred. (GJ Tr. 9/21/23, p. 12). It could also be beneficial for the Medical Examiner's Office to review video surveillance to help determine the cause of death. (GJ Tr. 9/21/23, p. 114). An EIS detective testified that he responded to SCENE (GJ Tr. 9/21/23 p. 39) and that his role is to assist investigations by responding to requests to obtain video surveillance (GJ Tr. 9/21/23, p 38). The EIS detective further explained that EIS was available to assist any law enforcement or outside agency, including CPS, upon request (GJ Tr. 9/21/23, p. 55).



falling repeatedly in the patio area (GJ Tr. 9/21/23, p. 142; GJ Ex. 18, Surveillance Video; GJ Ex. 21, Video Compilation).

CHILD A died of hypothermia. (GJ Tr. 9/21/23, p. 29; GJ Ex. 17, Death Certificate, CHILD A). Video surveillance from the garage the night before CHILD A's death showed CHILD A and CHILD B sitting on the cement floor, shivering (GJ Tr. 9/21/23, pp. 25, 115; GJ Ex. 18, Surveillance Video; GJ Ex. 21, Video Compilation). There was a low temperature of 19 degrees Fahrenheit that evening (GJ Tr. 9/21/23, p. 140).

During the investigation of CHILD A's death, a Homicide detective, who is a mandated reporter, notified the Suffolk County CPS office and made a report to the SCR for suspected maltreatment and neglect as the other children were still in the custody of CHILD A's father and his fiancée (GJ Tr. 9/21/23, p. 117). That evening, CHILD A's siblings were removed from the home by CPS. (GJ Tr. 9/21/23, p. 119).

Despite at least ten reports to the SCR in less than two years by staff members at ELEMENTARY SCHOOL, CHILD A and CHILD B remained in the custody of their father and their father's fiancée. While at the hospital following CHILD A's death, CHILD A's father informed Homicide detectives that all the CPS reports against him were unfounded and he asserted that the ELEMENTARY SCHOOL district "has the highest rate of CPS reports in the State" (GJ Tr. 9/21/23, pp. 106-107).

The police were not able to speak to the surviving siblings because they did not have permission from CHILD A's father and his fiancée (GJ Tr. 9/21/23, p. 119-120). The surviving siblings were subsequently brought to the Nassau County CAC, where each child was interviewed by a representative of both CPS and the SCPD Homicide Squad. (GJ Tr. 9/21/23, p. 121).



Notably missing from the above rendition of the events preceding the death of CHILD A, is a full discussion of what was done or not done by the CPS employees who were responsible for investigating the reports in question. It should also be noted that none of the unfounded reports in question, nor their underlying investigative records, were ever migrated by CPS personnel into the indicated case against the father and his fiancée relating to CHILD A's death, a decision that rested solely within the discretion of CPS personnel (GJ Tr. 1/18/2024, pp. 48-51; GJ Ex. 22A, Box 3, File 1). The absence of this information, which is essential to any effort to determine whether, or to what extent, CPS as an agency, or individual CPS employees, failed in their duty to protect CHILD A, is due solely to the current confidentiality laws and rules governing access to unfounded CPS files. Those laws and rules, intended to protect the privacy rights of citizens, have had the unintended consequence of shielding CPS and its employees from investigation into criminal culpability.

After CHILD A's death, CPS employees could have obviated the injustice in this case by migrating the ten unfounded reports and underlying investigative material into the subsequent indicated report relating to CHILD A's tragic death, which would have made those reports and material accessible to this Grand Jury. The failure of CPS to do so can only be interpreted as a transparent attempt to shield their own inaction from public scrutiny. Thus, the laws and rules must be changed to prevent such future injustices.

## **VIII. RESPONSES TO THE DEATH OF CHILD A**

### **A. THE CHILD PROTECTIVE SERVICES TRANSFORMATION ACT**

On July 9, 2020, the Suffolk County Legislature enacted the CPS Transformation Act, which amended the Suffolk County Administrative Code to include new requirements designed to strengthen the CPS system, improve oversight functions, and provide new safeguards to protect



children (GJ Tr. 1/17/2024, pp. 10-11, 94-95; GJ Tr. 2/28/2024, pp. 59-103; GJ Exs. 23-29, CPS Transformation Act Resolutions and Chapter A. Administrative Code, Article X. Department of Social Services; GJ Ex. 34, CPS PowerPoint).

The Act required (a) the creation of a Special Needs Unit to handle cases involving children with developmental disabilities, such as autism; (b) a heightened level of review when CPS is in receipt of four or more reports of unique incidents relating to one case, or in receipt of six or more reports of the same incident; (c) a heightened level of review for a newly-created designation of reports labeled “unfounded due to insufficient evidence”; (d) a heightened level of review when CPS is in receipt of three or more reports related to one case from certain school officials who are New York State certified school psychologists, New York State licensed master social workers or registered professional nurses; (e) training requirements for CPS caseworkers, including bi-annual investigative training, bi-annual implicit bias training, casework supervision training, and training regarding children with developmental disabilities for Special Needs Unit caseworkers; (f) that the owner or tenant of a location who permits a caseworker to enter the premises attest as to whether electronic audio and/or video surveillance equipment will be used during the caseworker’s visit (fines will be up to \$1000 for each violation); (g) that no CPS caseworker shall be assigned more than 15 active cases per month, unless approved by a senior supervisor with notice to the Commissioner, and that the average caseload per caseworker shall not exceed 12 cases; and (h) the creation of an Open Data Portal for the posting of CPS staffing and caseload levels on the county website (GJ Tr. 1/17/2024, pp. 96-102; GJ Tr. 2/28/2024, pp. 92-93; GJ Exs. 23 through 28, Res. Nos. 475-2020 through 480-2020; GJ Ex. 29, Chapter A. Administrative Code, Article X. Department of Social Services § A10-4[A]; GJ Ex. 34, CPS PowerPoint).



This Grand Jury has heard testimony that all these requirements have been implemented, save for the requirement of no more than 12 cases per CPS caseworker (GJ Tr. 1/17/2024, pp. 96-102; GJ Tr. 2/28/2024, pp. 92-93). Nevertheless, this Grand Jury has heard testimony that CPS has almost achieved this requirement, largely by virtue of the waiver of the need for new applicants to take the civil service examination (GJ Tr. 1/17/2024, pp. 75-77, 86-91, 120-122; GJ Tr. 2/16/2024, pp. 100-102; GJ Tr. 2/28/2024, pp. 75-76). Suffolk County's CPS receives on average approximately 9000 new SCR consolidated reports per year and would need 138 caseload-carrying staff to effectively meet the Acts requirement of no more than 12 cases per caseworker (GJ Tr. 1/17/2024, pp. 86-88; GJ Tr. 2/28/2024, pp. 62-77). Currently, CPS has 122 caseload-carrying staff and anticipates hiring an additional 21 caseworkers between March and April 2024, which means that CPS should easily meet the goal of 138, as long as CPS does not lose any staff, and can keep hiring new staff ahead of attrition (GJ Tr. 1/17/2024, pp. 86-88; GJ Tr. 2/28/2024, pp. 75-76). At present, Suffolk County's CPS is below the national average when it comes to overdue investigations (i.e., investigations that are not closed within 60 days) (GJ Tr. 2/28/2024, pp. 64-67).

This Grand Jury has also heard testimony, however, that while the SCDSS is budgeted for the number of investigative caseworkers they need, they are not sufficiently budgeted for support staff, i.e., the office assistants that handle the paperwork that allow the caseworkers to go out in the field and attend to their investigative responsibilities (GJ Tr. 1/17/2024, pp. 88-90). Requests for more money for support staff have regularly been made to the previous administration in Suffolk County, but to no avail (GJ Tr. 1/17/2024, pp. 88-90).



**B. CHILD PROTECTIVE SERVICES' INTERNAL REVIEW COMMITTEE**

In January 2020, soon after the death of CHILD A, the SCDSS Commissioner, in agreement with the previous Suffolk County Executive, formed an Internal Review Committee (“IRC”) to conduct a review of the cases involving CHILD A to determine whether any changes to CPS policies and procedures should be implemented to prevent future similar tragedies. The review involved an examination of not only indicated files, but any unfounded files as well (GJ Tr. 1/17/2024, pp. 94-95, 105-128; GJ Tr. 2/28/2024, pp. 51-52, 142-158; GJ Ex. 22A, IRC Memorandum, dated March 9, 2020). In March 2020, the IRC drafted recommendations based on a review of those records. The IRC’s recommendations were largely superfluous once the Suffolk County Legislature enacted the CPS Transformation Act, save for one recommendation (GJ Tr. 1/17/2024, pp. 94-95, 105-128; GJ Ex. 22A, IRC Memorandum, dated March 9, 2020).

One of the IRC’s recommendations involved the hiring of an in-house psychologist for mandatory decompression sessions for caseworkers who suffer from vicarious trauma, which is a real concern for caseworkers, who see fatalities, sexual abuse, and physical abuse on an ongoing basis. Although this recommendation has never been adopted, this Grand Jury has heard testimony that requests have been made to the prior administration about providing SCDSS workers with an Employee Assistance Program (“EAP”) like one that is already in place for the SCPD, which would make mental health professionals available to those caseworkers dealing with vicarious trauma who wanted to consult with a mental health professional. The sessions would not be mandatory, but the referral would be. Nevertheless, those requests were never implemented, and, currently, no such program exists (GJ Tr. 1/17/2024, pp. 113-114; GJ Tr. 2/28/2024, pp. 131-133, 150-151; GJ Ex. 22A, IRC Draft Memorandum, dated March 9, 2020).



**C. THE PROPOSED CHILD PROTECTIVE SERVICES DETERMINATION APPEALS BOARD**

A resolution was presented and introduced to the Suffolk County Legislature, bearing Resolution No. 1585-23, as amended on June 15, 2023, proposing to enact a Local Law to create a CPS Case Determination Appeals Board, which would be responsible for reviewing certain unfounded CPS investigations of alleged child abuse, neglect, or maltreatment to determine if additional review or reinvestigation was warranted and if the case should instead be indicated. The impetus for the resolution was the belief “that mandated reporters often have long standing relationships and interaction with a child that is suspected to be the victim of child abuse, neglect and/or maltreatment,” and that “mandated reporters should have the ability to appeal a determination that a case was unfounded when a mandated reporter believes that the determination is incorrect and that a child is the victim of child abuse, neglect and/or maltreatment” (GJ Ex. 38, Res. No. 1585-2023, Proposed Local Law to Create a CPS Case Determination Appeals Board).

According to the resolution, the Board would be comprised of the District Attorney, or a designee; the DSS Commissioner, or a designee; the County Attorney, or a designee; a representative of the regional office of OCFS; and the Presiding Officer of the Suffolk County Legislature, or her/his designee. Cases would be referred to the Board upon the written request of a mandated reporter in cases of suspected cases of child abuse or maltreatment using certain criteria, or “rubrics,” developed by the Suffolk County Legislature. If the request achieves a qualifying score utilizing these identified rubrics, the Board would review the report to determine if the unfounded determination was appropriate and, if not, could recommend that CPS conduct a further investigation or indicate the case (GJ Tr. 1/17/2024, pp. 10-11, 94-95; GJ Tr. 2/28/2024, pp. 23-31, 110-114; GJ Ex. 38, Res. No. 1585-2023, Proposed Local Law to Create a CPS Case Determination Appeals Board; GJ Ex. 47, Res. No. 1585-2023 docs).



OCFS and the SCDSS opposed the legislation on numerous grounds, including that (a) “once concluded in CONNECTIONS, case determinations are final and cannot be reopened without compromising the established business record and admissibility of that record in any future court proceeding”; (b) “under Social Services Law § 422, neither the Board nor the mandated reporter are authorized to receive CPS investigation records,” and “[w]ithout access to the materials informing the decision, the Board would have little ability to make a reasonable determination as to whether the case should be re-opened beyond the proposed rubrics, which only provide limited information”; and (c) “if a mandated reporter has additional concerns regarding a child's safety, they have a legal responsibility to make a new report to the SCR,” which “is the most effective mechanism to have CPS investigate the concerns” (GJ Tr. 1/17/2024, pp. 10-11, 94-95; GJ Tr. 2/28/2024, pp. 23-31, 110-114; GJ Ex. 38, Res. No. 1585-2023, Proposed Local Law to Create a CPS Case Determination Appeals Board; GJ Ex. 47, Res. No. 1585-2023 docs).

Although the proposed legislation has not been enacted, and is unlikely to be enacted, for the reasons stated by OCFS and the SCDSS, nevertheless, this Grand Jury finds that the lack of information sharing between CPS and the mandatory reporters, as in the case of CHILD A, is often frustrating for mandatory reporters, who do often have long-standing relationships and interactions with children suspected of being abused or maltreated. More information sharing between caseworkers and mandatory reporters could result in more effective and comprehensive abuse and maltreatment investigations. It therefore would be worth exploring whether that could be done without compromising anyone's privacy interests.



**D. THE OFFICE OF CHILDREN AND FAMILY SERVICES' RESPONSE**

**1. The Child Fatality Review**

OCFS's Bureau of Child Fatality Review and Prevention is responsible for investigating the cause and circumstances surrounding a child's death where there is a suspicion that abuse, or maltreatment was involved (GJ Tr. 1/23/2024, pp. 48-49, 60-61). That bureau is also responsible for issuing a Child Fatality Review Report regarding their investigation into such deaths (GJ Tr. 1/23/2024, pp. 23-24; GJ Ex. 1, CPS Manual, Chapt. 11, pp. A-1 to A-4). In doing so, the bureau will scrutinize any CPS history that the family may have had in the three years prior to the death of the child; will review the County's own child fatality investigation to make sure that it was properly conducted; and will also try to ensure that the surviving children in the household are safe and getting whatever services they require (GJ Tr. 1/23/2024, pp. 23-24; GJ Ex. 1, CPS Manual, Chapt. 11, pp. A-1 to A-4). In a typical year, the SCR gets between 150,000 to 175,000 reports of child abuse and maltreatment, out of which about 300 to 350 involve the death of a child (GJ Tr. 1/23/2024, pp. 48-49, 60-61).

One employee, assigned the role of fatality review writer, is assigned by the bureau to each fatality, and that person is responsible for conducting the review and drafting the fatality report. Once the report is drafted, it is reviewed by the following, who may make suggestions or recommendations during their review: (a) a fellow fatality review writer; (b) a supervisor; (c) the bureau director; (d) the OCFS regional office responsible for the county where the fatality occurred; and (e) the local DSS Office where the fatality occurred (GJ Tr. 1/23/2024, pp. 28-32). After the five reviews are completed, there is also a "quality assurance component," whereby someone from OCFS outside the bureau will also review the report and may also make recommendations or suggestions (GJ Tr. 1/23/2024, pp. 28-32).



The Child Fatality Review Report that is issued follows the same template in every instance and will contain the following major components: an indication of whether the family had an open case during the fatality; information regarding the age of the child at the time of death; information identifying the county the child lived in at the time of the death; a summary of what was reported to the SCR regarding the child's fatality; an executive summary outlining the circumstances surrounding the child fatality investigation that the county conducted; and an examination of any prior child welfare investigations involving the family for the three years prior to the death of the child, including any unfounded cases, to determine whether the county had followed all the necessary steps regarding those investigations (GJ Tr. 1/23/2024, pp. 25-29; GJ Ex. 1, CPS Manual, Chapt. 11, p. B-1).

When assessing whether the local CPS followed all the necessary steps in those prior investigations, the fatality review writer reviews only what has been entered into CONNECTIONS by the local CPS and whatever other information that is provided by that local CPS (GJ Tr. 1/23/2024, pp. 25-29, 49-52). Thus, the writer conducts no independent investigation of the facts of the case and will conduct the review based solely on the factual representations made by CPS (GJ Tr. 1/23/2024, pp. 25-29, 49-52). The writer then applies those facts to the statutes, rules and regulations governing CPS investigations to determine whether any of those statutes, rules or regulations had been violated (GJ Tr. 1/23/2024, pp. 25-29. If so, the writer, in the report, will then cite the specific provisions violated, and, when appropriate, make recommendations for improving or changing the practices that resulted in the violation (GJ Tr. 1/23/2024, pp. 25-29).

The report must not contain: (a) any information that would identify the deceased child, the child's siblings, or any person legally responsible for the child, or any other members of the deceased child's household; (b) the "identity of the source of a report made to the SCR, if one was



made”; and (c) “[a]ny psychological, psychiatric, therapeutic, clinical or medical reports, evaluations, or like materials or information not directly related to the cause of the child’s death” (GJ Tr. 1/23/2024, pp. 29-30; GJ Ex. 1, CPS Manual, Chapt. 11, p. B-1).

Once the report is finalized, it is distributed by OCFS to the following officials: (a) the local DSS Commissioner of the county where the death occurred; (b) the local DSS Commissioner who had care and custody, or custody and guardianship, of the child, if different from the Commissioner in the county where the child’s death occurred; (c) the chief executive officer of the county where the child’s death occurred; (d) the chairperson of the local legislative body in the county where the child’s death occurred; and (e) the appropriate officials in the State Senate and in the State Assembly (GJ Tr. 1/23/2024, pp. 32-35; GJ Ex. 1, CPS Manual, Chapt. 11, p. B-1). The report is not normally distributed by OCFS to the local District Attorney’s Office, nor is it distributed to a Grand Jury investigating the case (GJ Tr. 1/23/2024, pp. 32-35; GJ Ex. 1, CPS Manual, Chapt. 11, p. B-1).

Before a Child Fatality Review Report will be released to the public, OCFS must make a “best interest determination,” which assesses whether the public release of the report would or would not be in the best interests of the surviving children in the household (GJ Tr. 1/23/2024, pp. 35-37, 54-56). If the release is deemed not to be in the best interests of those children, it will not be released to the public (GJ Tr. 1/23/2024, pp. 35-37, 54-56). If a decision is made to release the report, it will be released on the OCFS website, but without any of the identifying information referred to above (GJ Tr. 1/23/2024, pp. 35-37, 54-56).

In the case of the death of CHILD A, a Child Fatality Report was issued, but OCFS made a best interest determination to not release the report to the public (GJ Tr. 1/23/2024, pp. 36-37, 54-56).



When certain deficiencies in local CPS investigations have been cited in a Child Fatality Report, the Regional Office of the OCFS responsible for that local CPS can initiate a heightened scrutiny of that local office, and require them to present a Program Improvement Plan (“PIP”) providing strategies for remedying those deficiencies and any others that may have come to the attention of the OCFS (GJ Tr. 1/23/2024, pp. 38-41, 52-54; 71-72, 76-77, 113-114, 134-138).

## **2. The Heightened Monitoring of Suffolk’s Child Protective Services**

The Westchester Regional Office of the OCFS is responsible for oversight and monitoring of nine local CPS offices, including the Suffolk County office (GJ Tr. 1/23/2024, pp. 66-67). The oversight and monitoring responsibilities of the Regional Office include quarterly site reviews, technical assistance, and monitoring the implementation and completion of PIPs (GJ Tr. 1/23/2024, pp. 66-67).

The quarterly site reviews are conducted every three months and involve a team from the Regional Office visiting the local CPS and reviewing that office’s practices to see whether that office is meeting the standards set forth in the applicable New York State Code of Rules and Regulations and the Social Services law (GJ Tr. 1/23/2024, pp. 67-68, 106-109, 111). As to CPS investigations, this involves, among other things, reviewing (a) CONNECTIONS data regarding the numbers of cases received; (b) the time it takes to initiate investigations; (c) the time it takes to enter progress notes in CONNECTIONS; (d) whether interviews are being done on time; (e) whether collateral contacts are being done on time; and (f) whether investigations are being closed on time. In other words, whether all the milestones set forth in the rules and regulations and the Social Services law have been met in connection with the investigation (GJ Tr. 1/23/2024, pp. 67-68, 106-111, 144-145). The Regional Office also monitors the services and foster care bureaus as well (GJ Tr. 1/23/2024, pp. 106-107).



The technical assistance provided by the Regional Office depends on the needs of the local CPS but can include training and helping to correct any identified deficiencies in the performance and practices of the local office (GJ Tr. 1/23/2024, pp. 68-69). Such deficiencies are often identified in case reviews, which involve reviewing the data in the CONNECTIONS system (GJ Tr. 1/23/2024, pp. 69-71, 106-107). A deficiency can include, for example, delayed progress-note entries or any other violations of the applicable rules and laws governing CPS practice (GJ Tr. 1/23/2024, pp. 70-71).

If deficiencies have been identified, the Regional Office will then report them to the local CPS, which would then be required to develop a PIP for addressing those specific deficiencies (GJ Tr. 1/23/2024, pp. 71-72, 76-77, 113-114, 134-138). Once the Regional Office approves the PIP, then that office will monitor its implementation until the deficiencies have been substantially corrected (GJ Tr. 1/23/2024, pp. 72-73, 76-77, 122-131). The monitoring can include visiting the site and having in-person discussions, conference calls to discuss strategies, reviewing agency-maintained documentation, including those in CONNECTIONS, and reviewing training records, if the PIP includes training issues (GJ Tr. 1/23/2024, pp. 72-73, 76-77). The quarterly meetings occur whether there is a PIP in place or not (GJ Tr. 1/23/2024, pp. 112-113).

In monitoring the local CPS offices, the Regional Office does not do any independent investigation of the facts of the cases they are reviewing and, like the fatality review writer, relies solely on the information in CONNECTIONS and any other information provided by the local CPS office (GJ Tr. 1/23/2024, pp.73-76, 111, 141-143). Moreover, the Regional Office cannot recommend disciplining a particular CPS employee regarding any identified deficiencies, because those employees are local employees and not employed by the state (GJ Tr. 1/23/2024, p. 74).



“Heightened monitoring” is an increase in oversight and monitoring responsibilities and can occur if the Regional Office notices ongoing deficiencies of a particular type that warrant greater scrutiny or because of deficiencies identified in a Child Fatality Report (GJ Tr. 1/23/2024, pp. 74-75, 98-99). This will result in an increased presence by the Regional Office, which can be an increase in the frequency of in-person meetings with the local CPS office, or an increase in the frequency of case reviews (GJ Tr. 1/23/2024, pp. 75-76).

In addition to the oversight and monitoring done by the Regional Office, the Home Office, which is the central OCFS office located in Albany, also has its own team review local DSS practices; this Continuous Quality Improvement (“CQI”) Team does a “deep dive” and reviews the performance and practices of local agencies for a 12-month period every four years (GJ Tr. 1/23/2024, pp. 77-78, 99-100, 112). The CQI Team has their own schedule and operates independently of the Regional Office’s review (GJ Tr. 1/23/2024, pp. 112-113). Nevertheless, if the CQI Team finds any deficiencies in a local CPS during their review, such deficiencies will be communicated to the Regional Office, and if the CQI Team has any questions about the practices of the local CPS, they will reach out to the Regional Office as well (GJ Tr. 1/23/2024, pp. 77-80).

The Regional Office also communicates with the Bureau of Child Fatality Review and Prevention (GJ Tr. 1/23/2024, pp. 77-80). If that bureau identifies local CPS deficiencies in their review, those deficiencies will be shared with the Regional Office, which will then be responsible for working with the local CPS office to develop a PIP regarding those deficiencies (GJ Tr. 1/23/2024, pp. 79-81).

After the death of CHILD A on January 17, 2020, OCFS did a comprehensive review of the casework practice of Suffolk County’s CPS regarding, not only the previous investigations related to CHILD A and that child’s family, but also a sampling of other CPS investigations, as



well as foster care and preventive cases within Suffolk County (GJ Tr. 1/23/2024, pp. 80-81, 114-116; GJ Ex. 22A, CPS GJ Subpoena Response, Letters to the SCDSS Commissioner dated, July 30, 2020 and November 6, 2020). As a result, on July 30, 2020, OCFS placed Suffolk County's CPS on heightened monitoring. It did so after noticing a number of practice concerns regarding, among other issues, the adequacy of supervision, the adequacy of the 24-hour assessment, the use of the local protocol for information that should be in progress notes, the adequacy of CPS history reviews, the adequacy of safety assessments and safety plans and service needs, and the adequacy of collateral contacts (GJ Tr. 1/23/2024, pp. 80-81, 114-116; GJ Ex. 22A, CPS GJ Subpoena Response, Letters to the SCDSS Commissioner dated, July 30, 2020 and November 6, 2020).

The heightened monitoring involved monthly meetings with Suffolk's CPS instead of quarterly meetings, and in addition to reviewing general data for these meetings, the reviews would also involve randomly selecting and reviewing at least five active cases every month (GJ Tr. 1/23/2024, pp. 116-117). Depending on the selected cases, the monthly meetings would take place with local CPS supervisors and managers, or sometimes with assistant directors and/or the Deputy Commissioner (GJ Tr. 1/23/2024, pp. 118-126). The Regional Office Team, however, would never meet with the actual caseworkers on any given case, and never shadowed any caseworkers or supervisors during their monitoring (GJ Tr. 1/23/2024, pp. 122-123).

On November 6, 2020, OCFS provided a written letter of findings outlining the deficiencies identified during their heightened review of CPS's casework and investigative practices (GJ Tr. 1/23/2024, pp. 121-122; GJ Ex. 22A, CPS GJ Subpoena Response, Letter to the SCDSS Commissioner dated, November 6, 2020). Then, on January 21, 2021, CPS submitted a PIP for addressing those deficiencies that was approved by OCFS the next day. The heightened monitoring continued until March 17, 2022, when it ended because OCFS found that Suffolk's



CPS had made “substantial progress” correcting those deficiencies, which included the adequacy of case-record documentation, of progress notes, of safety assessments, and of CPS history reviews (GJ Tr. 1/23/2024, pp. 121-126, 136-138; GJ Ex. 22A, CPS GJ Subpoena Response, Letters to the SCDSS Commissioner dated, March 17, 2022).

Once the heightened monitoring ended, the monitoring by the Regional Office reverted to the quarterly meetings, which are still taking place (GJ Tr. 1/23/2024, pp. 126-131).

**3. The Office of Children and Family Services’ Oversight of Suffolk’s Child Protective Services is Lacking**

Although OCFS’s oversight of CPS appears to be extensive, it suffers from the lack of any independent investigation of the facts of a case when OCFS is conducting its reviews. This Grand Jury finds that relying solely on the factual representations made by CPS and its notations in CONNECTIONS is simply not an adequate review, nor is the failure to meet with the actual caseworkers on the cases that are being reviewed.

**E. THE GRAND JURY SUBPOENAS**

As noted previously, in the wake of CHILD A’s death, this Grand Jury has also been investigating the conduct and practices of Suffolk County’s CPS, and to that end, this Grand Jury issued several Grand Jury subpoenas *duces tecum* to the SCDSS, directing their CPS bureau to provide, among other things, their complete files relating to both indicated and unfounded reports of abuse and maltreatment concerning not only CHILD A but other named children as well (GJ Tr. 1/17/2024, pp. 12-15, 187-192; GJ Tr. 2/28/2024, pp. 15-18; GJ Ex. 30, OSC, bearing Case# CC-22-990459, dated 7/7/2023). In response, the SCDSS produced files relating to the indicated reports in question but refused to produce any files related to any unfounded reports (GJ Tr. 1/17/2024, pp. 12-15, 187-192; GJ Tr. 2/28/2024, pp. 15-18; GJ Ex. 30, OSC, bearing Case# CC-22-990459, dated 7/7/2023). The SCDSS claimed that, although Social Services Law § 422(4)



does permit the disclosure of indicated records to grand juries conducting investigations, Social Services Law § 422(5) does not permit any such disclosure of unfounded records (GJ Tr. 1/17/2024, pp. 12-15, 187-192; GJ Tr. 2/28/2024, pp. 15-18; GJ Ex. 30, OSC, bearing Case# CC-22-990459, dated 7/7/2023).

The SCDAO, in its capacity as legal advisor to the Grand Jury, subsequently applied to the Suffolk County Supreme Court for an order compelling the SCDSS to fully comply with those subpoenas by providing the underlying records relating to the unfounded reports, arguing that while Social Services Law § 422(5) may exempt the unfounded reports themselves from disclosure, it does not exempt the underlying investigative records from such disclosure (GJ Tr. 1/17/2024, pp. 12-15, 187-192; GJ Tr. 2/28/2024, pp. 15-18; GJ Ex. 30, OSC, bearing Case# CC-22-990459, dated 7/7/2023). The Court disagreed, however, noting that:

§422 (5) (a) of the Social Service Law provides, in part, that “*all information identifying the subjects of the report and other persons named in the report shall be legally sealed* forthwith by the central register and any local child protective services which investigated the report.” Italics added. The statute, then, is clear that the material to be legally sealed is not limited to the report itself, but rather includes all information identifying the subjects of the report as well as other persons named in the report.

(GJ Tr. 1/17/2024, pp. 12-15, 187-192; GJ Tr. 2/28/2024, pp. 15-18; GJ Ex. 33, Court Order dated 7/28/2023, bearing Case# 22-990459). Accordingly, the Court denied the application and therefore this Grand Jury has been denied access to the unfounded records, which, as noted above, has hampered this Grand Jury’s ability to conduct a thorough investigation of the conduct of CPS personnel, not only in connection with CHILD A’s case, but in connection with other cases as well.

Indeed, if a CPS employee in an unfounded case were to have falsified CPS records by, for example, indicating in CONNECTIONS that they had made a field visit when, in fact, they had not (GJ Tr. 2/16/2024, pp. 113-114), the current disclosure laws and rules for unfounded cases would prevent a criminal investigation and/or prosecution of that employee’s misconduct.



Moreover, without access to unfounded files, it would be virtually impossible to prove gross negligence or willful misconduct by a CPS employee in an unfounded case (GJ Tr. 9/14/2023, p. 156; GJ Tr. 1/27/2024, p. 185). And, finally, as was noted above when discussing the issue of migrating unfounded cases into a new CPS investigation, it is conceivable that information contained in an unfounded report combined with information obtained in a new criminal investigation could provide evidence of a pattern of behavior that may help show abuse or maltreatment, or provide leads to witnesses, or provide instances of a witness's prior inconsistent statements. Alternatively, the information in the unfounded file could provide evidence that would exonerate the subject of a new investigation (GJ Tr. 1/17/2024, pp. 184-185; GJ Tr. 1/23/2024, pp. 12-18; GJ Ex. 42, 2009 CPS Manual Excerpt, Chapt. X, Section C.2, pp. 1-2, December 2007). Therefore, under appropriate circumstances, a Grand Jury and/or a District Attorney's Office should have access to unfounded sealed files if a sufficient showing can be made to a court that justice requires such access.

**F. AN UNSEALING ALTERNATIVE**

Whenever a person charged with a crime is completely exonerated by either a dismissal of the charges or an acquittal after trial, Criminal Procedure Law ("CPL") § 160.50 requires that all official records regarding that person's arrest and prosecution be sealed (GJ Tr. 1/17/2024, pp 185-186; GJ Tr. 2/28/2024, pp. 18-21; GJ Ex. 46, CPL § 160.50). This law applies to all criminal actions and proceedings, even to those charging crimes as serious as murder, and even to those charging crimes arising out of the same incident that could have been the basis of an SCR report of child abuse and maltreatment (GJ Tr. 2/28/2024, pp. 18-21; GJ Ex. 46, CPL § 160.50). CPL § 160.50 also provides, however, that such criminal records may be unsealed and made available to a law enforcement agency conducting an investigation, if that agency makes an *ex parte* motion to



the court where such records have been sealed and “demonstrates to the satisfaction of the court that justice requires that such records be made available to it” (GJ Tr. 2/28/2024, pp. 18-21; GJ Ex. 46, CPL § 160.50[d][ii]).

In view of the foregoing, it is illogical and inconsistent that a law enforcement agency investigating a case can obtain sealed criminal records in a case involving an unsubstantiated murder charge by applying to a court and making an interest-of-justice demonstration, and yet no such similar mechanism exists for a law enforcement agency or a Grand Jury seeking to obtain unfounded and sealed CPS records. The rationale for sealing the records is the same for CPL § 160.50 as it is for SSL § 422, i.e., that an individual should not suffer the stigma of having once been the object of an unsupported accusation (GJ Tr. 2/28/2024, p. 21). That rationale must give way, however, if a sufficient demonstration is made to a court that justice requires that the records be made available for an appropriate investigation and/or prosecution.

## **IX. CONCLUSIONS**

This Grand Jury makes the following conclusions based upon the stated findings of fact:

1. The current confidentiality laws and rules regarding unfounded cases have hampered this Grand Jury’s investigation of CPS, not only with respect to CHILD A’s case, but with respect to the cases of other named children as well. Those laws and rules, intended to protect the privacy rights of individuals, have had the unintended consequence of shielding an entire agency, its leadership, and its hundreds of employees, from criminal investigation and prosecution. If the government is to be held accountable, that must not be the case. Accordingly, the laws and rules must be changed to allow for the disclosure of unfounded files to a Grand Jury upon a court order finding that justice requires that the information in those files is necessary for the determination of charges being investigated by that grand jury, and/or to a District Attorney upon



a court order finding that justice requires that the information in those files is necessary for the purpose of prosecuting a violation of the Penal Law.

2. The confidentiality laws and rules regarding the incorporation of prior unfounded reports into a subsequent investigation are unclear and the Social Services Law and 18 NYCRR Part 432 must be amended to provide better-defined laws and rules for governing when a prior unfounded case can be incorporated into a new indicated investigation, and what disclosure rules should apply under the circumstances.

3. The existing CAC in Suffolk County needs to be improved in accordance with “best practices,” including the co-locating of all members of Suffolk County’s MDT in one building to facilitate the sharing of information between and among those member agencies and improve the relationships and understanding between and among those agencies, which will lead to more effective and efficient joint investigations and minimize the trauma to abused and maltreated children during the investigative process.

4. SVU currently only investigates cases involving children under the age of 13, which means that cases involving children between the ages of 13 and 17 are being handled by general squad detectives, who do not have forensic interview training. The better practice would be for SVU detectives, who do have such training, to handle those cases too, so that children under the age of 17 would also be able to provide information with a level of confidence, security, and safety that would increase the likelihood of a just outcome.

5. Yearly employee evaluations are not occurring at CPS, despite the requirement set forth in the SCDSS Employee Manual and should be taking place. Moreover, supervisors need to be adequately trained on how to conduct such evaluations.



6. SCDSS needs a better-defined disciplinary process and a better-defined Human Resources Department to address disciplinary matters, instead of one person making all disciplinary decisions.

7. Suffolk County should explore creating its own training academy for CPS caseworkers to better address the patterns and needs specific to Suffolk County, which could be modeled after the one created for ACS in New York City. CPS would then be able to develop and train its own staff at its own pace with better expertise and quality assurance.

8. Suffolk County should explore creating an Office of Safety First, modeled after the one created in New York City within ACS, which would provide a dedicated hotline for mandated reporters to call to assist in connecting the mandated reporter with the person assigned to a case. Any response would still be governed by the rules regarding confidentiality and disclosure, but the Office would not only facilitate communication between CPS and mandated reporters, and not only help to identify patterns and trends regarding the types of calls being received, but the Office would also hold CPS leadership accountable for addressing the concerns of mandated reporters once they have received a triggered alert.

9. A task force should be created to review the confidentiality laws and rules regarding CPS investigations, which should include examining whether more information sharing with mandatory reporters would further the investigative process without also compromising a subject's right to confidentiality.

10. CPS should hire retired police officers as investigative consultants, as ACS has done in New York City, to help caseworkers gather information and make safety assessments, especially in cases where there are guns or gang activity in the home, or where a police officer or corrections officer are the alleged subjects of the report of child abuse or maltreatment.



11. Suffolk County should explore providing SCDSS workers with an EAP like one that is already in place for the SCPD, which would make mental health professionals available to those dealing with vicarious trauma who wanted to consult with a mental health professional.

12. The waiver of the civil service examination for new CPS caseworkers, which expires in December 2024, should be extended so that the SCDSS can continue to work to hire new caseworkers to reduce caseloads. Alternatively, New York State should explore eliminating the test altogether for new CPS caseworkers, because it does not affect the job responsibilities of a caseworker.

13. OCFS oversight of CPS suffers from the lack of any independent investigation of the facts of a case when OCFS is conducting its reviews. OCFS should not simply rely solely on the factual representations made by CPS and its notations in CONNECTIONS and should meet with the actual Caseworkers on the cases that are being reviewed.

14. There appears to be insufficient communication between OCFS, YRI, and the local CPSs regarding trainee evaluations regarding the basic training course. YRI relies on the trainees to share their training evaluations with their local trainee supervisors, which does not appear to be occurring.

15. Joint trainings involving CPS, SCPD, the SCDAO and the Medical Examiner's Office, which do not currently exist, would be beneficial, as such trainings would not only enhance the skills and knowledge of the Caseworkers investigating abuse cases, but it would also foster better working relationships among the participants in the training.

16. While the SCDSS is budgeted for the number of investigative caseworkers they need, they are not sufficiently budgeted for support staff, i.e., the office assistants that handle the



paperwork for the caseworkers. The County should explore the feasibility of providing funding for the hiring of office assistants for CPS caseworkers.

17. As all mandated reporters receive training on the appropriate situations for which they must notify the State Central Register to report child abuse or maltreatment, this Grand Jury believes it would be more effective to expand heightened review in situations where there are three or more reports related to one case to all mandated reporters instead of limiting heightened review to reports made by only certain professions. The Suffolk County Administrative Code, § A10-4, sections D and E, which was previously amended as a part of the Child Protective Services Transformation Act in 2020, should be further amended to include that three or more reports from any mandated reporter should receive heightened review by a supervisor instead of limiting the heightened scrutiny to reports made by school officials who are New York State certified school psychologists, New York State licensed master social workers or registered professional nurses. Relatedly, all supervisors engaged in this heightened scrutiny for three or more reports related to one case should log all of their supervisory actions into the CONNECTIONS system to encourage greater accountability amongst the Child Protective Services supervisory staff.



## **RECOMMENDATIONS**

Based upon the stated findings of fact and all the evidence heretofore had before this Grand Jury and in order to improve the process of identifying and investigating child abuse and maltreatment allegations, increase protection for victims of child abuse and maltreatment, provide for greater accountability within Child Protective Services, improve the quality of training for Child Protective Services workers and employees, and generally provide for greater oversight of the investigative process of Suffolk County's Child Protective Services, pursuant to Criminal Procedure Law § 190.85(1)(c), the following legislative, executive, and administrative actions are recommended in the public interest:

### **LEGISLATIVE**

- I. The New York State Legislature must amend the New York State Social Services Law § 422(5)(a) to add the following to the list of entities to which unfounded reports may be unsealed and made available: (vi) a grand jury upon a court order finding that justice requires that the information in those reports is necessary for the determination of charges being investigated by that grand jury, or to a District Attorney upon a court order finding that justice requires that it is necessary for the purpose of prosecuting a violation of the penal law.
- II. The New York State Legislature must amend the New York State Social Services Law § 422(5)(b) to add the following to the instances in which unfounded reports may be introduced into evidence: (iii) in a grand jury or other judicial proceeding for the purpose determining charges being investigated by that grand jury, or to a District Attorney for the purpose of prosecuting a violation of the penal law.
- III. The New York State Legislature must amend New York State Social Services Law § 422 to provide better-defined rules governing when a prior unfounded case can be incorporated into a



new investigation, and what disclosure rules would apply to the incorporated items when that new investigation is indicated.

IV. The Suffolk County Legislature must by way of a resolution establish and provide funding for best-practices Child Advocacy Centers in Suffolk County that can house all members of Suffolk County's Multi-Disciplinary Teams in one building in order to facilitate the sharing of information between and among those member agencies, and improve the relationships and understanding between and among those agencies, which will lead to more effective and efficient joint investigations, and minimize the trauma to abused and maltreated children during the investigative process.

V. The Suffolk County Legislature must by way of a resolution amend the Suffolk County Administrative Code, § A10-4, sections D and E, to require that when Child Protective Services is in receipt of three or more reports related to one case from any mandated reporter, the case must be immediately reviewed by a casework supervisor.

### **EXECUTIVE**

I. The Governor must propose legislation amending New York State Social Services Law § 422(5)(a) to add the following to the list of entities to which unfounded reports may be unsealed and made available: (vi) a grand jury upon a court order finding that justice requires that the information in those reports is necessary for the determination of charges being investigated by that grand jury, or to a District Attorney upon a court order finding that justice requires that it is necessary for the purpose of prosecuting a violation of the penal law.

II. The Governor must propose legislation amending New York State Social Services Law § 422(5)(b) to add the following to the instances in which unfounded reports may be introduced into



evidence: (iii) in a grand jury or other judicial proceeding for the purpose determining charges being investigated by that grand jury, or to a District Attorney for the purpose of prosecuting a violation of the Penal Law.

III. The Governor must propose legislation to amend New York State Social Services Law § 422 to provide better-defined rules governing when a prior unfounded case can be incorporated into a new investigation, and what disclosure rules would apply to the incorporated items when that new investigation is indicated.

IV. The Governor should form a task force to review all the confidentiality laws and rules regarding CPS investigations, which should include examining whether more information sharing with mandatory reporters would further the investigative process without also compromising a subject's right to confidentiality.

V. The Governor should form a task force to review the feasibility of extending the waiver of the civil service examination for new Child Protective Services caseworkers beyond the current expiration date of December 2024, or perhaps eliminating the test altogether for new Child Protective Services caseworkers, because it does not affect the job responsibilities of a caseworker.

VI. The Suffolk County Executive must propose legislation requesting that the Suffolk County Legislature adopt a resolution establishing and providing for funding for best-practices Child Advocacy Centers in Suffolk County that can house all members of Suffolk County's Multi-Disciplinary Teams in one building in order to facilitate the sharing of information between and among those member agencies, and improve the relationships and understanding between and among those agencies, which will lead to more effective and efficient joint investigations, and minimize the trauma to abused and maltreated children during the investigative process.



VII. The Suffolk County Executive should create a task force to determine the feasibility of creating and/or providing funding for the following:

a. A Suffolk County Training Academy for Child Protective Service caseworkers to better address the patterns and needs peculiar to Suffolk County, modeled after the one created for Administration for Children Services in New York City;

b. The hiring of retired police officers as investigative consultants by the Suffolk County Department of Social Services, as the Administration for Children Services has done in New York City, to help caseworkers gather information and make safety assessments, especially in cases where there are guns or gang activity in the home, or where a police officer or corrections officer are the alleged subjects of the report of child abuse or maltreatment;

c. Providing Suffolk County Department of Social Services employees with an Employee Assistance Program, like the one currently in place for the Suffolk County Police Department, which would make mental health professionals available to those dealing with vicarious trauma who wanted to consult with a mental health professional;

d. An Office of Safety First, modeled after the one created in New York City within the Administration for Children's Services, which would provide a dedicated hotline for mandated reporters to call to assist in connecting the mandated reporter with the person at Child Protective Services assigned to a case, and which would not only facilitate communication between Child Protective Services and mandated reporters, and not only help to identify patterns and trends regarding the types of calls being received, but the Office would also hold Child Protective Services leadership accountable for addressing the concerns of mandated reporters once they have received a triggered alert; and

e. An increase in the number of Office Assistants for Child Protective Services.



VIII. The Suffolk County Executive must propose legislation requesting that the Suffolk County Legislature amend Suffolk County Administrative Code, § A10-4, sections D and E, to require that when Child Protective Services is in receipt of three or more reports related to one case from any mandated reporter, the case must be immediately reviewed by a casework supervisor.

### ADMINISTRATIVE

I. State and local agencies affected by the changes in the legislative recommendations referred to above should be given the necessary authority to adopt administrative rules and regulations necessary for the effective implementation and execution of the legislative recommendations.

II. The Office of Children and Family Services should not simply rely solely on the factual representations made by Child Protective Services and its notations in CONNECTIONS when monitoring Child Protective Services and should not only meet with the actual caseworkers on the cases that they are reviewing but should also conduct independent investigations where appropriate.

III. The Office of Children and Family Services should ensure that there is sufficient communication between the Office of Children and Family Services, Youth Research Inc., and the local Child Protective Services regarding trainee evaluations during the basic course, by ensuring that their trainees are sharing their training evaluations with their local trainee supervisors.

IV. The Suffolk County Department of Social Services needs to conduct yearly employee evaluations, as required in the SCDSS Employee Manual, and supervisors need to be adequately trained on how to conduct such evaluations.



V. Suffolk County Department of Social Services needs to create a better-defined disciplinary process, with a better-defined Human Resources Department, instead of the current process, which involves one person making all the disciplinary decisions.

VI. Joint trainings involving Child Protective Services, the Suffolk County Police Department, the Suffolk County District Attorney's Office, and the Suffolk County Medical Examiner's Office, should be instituted, as such trainings would not only enhance the skills and knowledge of the Caseworkers investigating abuse cases, but it would also foster better working relationships among the participants in the training

VII. Special Victims Unit detectives, who have forensic interview training, and who currently only investigate cases involving children under the age of 13, should also investigate cases involving children between the ages of 13 and 17, so that those children would be better able to provide information to the interviewer with a level of confidence, security, and safety that would increase the likelihood of a just outcome in those cases.

VIII. The Suffolk County Department of Social Services should require that all supervisors engaging in heightened scrutiny related to situations when Child Protective Services is in receipt of three or more reports related to one case, that each supervisor must record or log all supervisory actions into the CONNECTIONS program as a part of progress notes to encourage greater accountability from supervisors engaging in the heightened scrutiny.



## GLOSSARY OF ABBREVIATIONS

ACS	ADMINISTRATION FOR CHILDREN'S SERVICES
CAC	CHILD ADVOCACY CENTER
COI	COURT-ORDERED INVESTIGATIONS
CPB	CHILD PLACEMENT BUREAU
CPPS	CHILD PROTECTIVE/PREVENTIVE SERVICES BUREAU
CPSBP	CPS BRIDGE PROGRAM
CPSRT	CPS RESPONSE TRAINING
CWFP	CHILD WELFARE TRAINING PROGRAM
CPS	CHILD PROTECTIVE SERVICES
CRU	COMMISSIONER'S RESPONSE UNIT
EAP	EMPLOYEE ASSISTANCE PROGRAM
EIS	ELECTRONIC INVESTIGATIONS SECTION
FAR	FAMILY ASSESSMENT RESPONSE
FCSA	FAMILY AND CHILDREN SERVICES ADMINISTRATION
MDT	MULTI-DISCIPLINARY TEAM
OCFS	OFFICE OF CHILDREN AND FAMILY SERVICES
SCDAO	SUFFOLK COUNTY DISTRICT ATTORNEY'S OFFICE
SCDSS	SUFFOLK COUNTY'S DEPARTMENT OF SOCIAL SERVICES
SCPD	SUFFOLK COUNTY POLICE DEPARTMENT
SCR	STATE CENTRAL REGISTER
YRI	YOUTH RESEARCH, INC.