

**2011 REPORT**

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# **Kinship Care in New York: Keeping Families Together**

**New York State Kincare Coalition  
March 2011**



Support for the 2011 NYS Kincare Coalition report was provided by the AARP Foundation through a generous grant from the New York Life Foundation

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## Acknowledgments

The 2011 Kincare Coalition Report, “Kinship Care in New York: Keeping Families Together” compiles recommendations from professionals and caregivers who attended the June 2010 Albany summit and/or participated in the many preliminary meetings beginning in December 2008. The 130-plus summit participants included Kincare Coalition members, government representatives and experts from other states. The summit and this report were the culmination of a three-year Coalition effort, funded by the New York Life Foundation and AARP Foundation and supported by AARP New York, aimed at “drilling down” into the realities of kinship family life and identifying tailored assistance to support the unique needs of these families.

The contributions of the summit participants and the summit’s guest speakers shaped the report’s recommendations. Special thanks to Michael Friedman, Renee Benson, Deborah Langosch, Tanya Krupat, Yali Lincroft, Carl Freidman, Tanya Breindel, Mary Jo Whately, Jennifer Patsiner, Michelle Gross, Amy Roehl, Susan Antos and Rachel Glaser for their expertise and assistance in distilling the hundreds of ideas gathered at the summit. A complete list of speakers and contributors is found in Appendix A.

AARP New York contributed generously both to the summit and to this report. Beth Finkel, Senior Manager of State Programs and Services, chaired the three-year effort and tirelessly worked to keep the project on course. William Ferris, AARP New York Legislative Representative, and David McNally, Senior Manager of Advocacy, both provided valuable direction and insight on kincare issues. Chaunda Ball, Associate State Director for Communications, aided in formatting and editing the report. Garen Nigon and Rachel Vo, graduate interns at AARP NY, managed production and organized meetings.

This is the last report in the series. With its completion, I believe that we have fully described a complete package of assistance and rights that will provide kinship families with the recognition, dignity, and empowerment necessary to fulfill their personal mission – providing children who have suffered great loss with loving and stable homes.

I am truly grateful to have worked with such dedicated professionals and such inspiring caregivers. I thank them all for their grace, kindness, and patience.

Sincerely,

Gerard Wallace, Esq.  
Editor  
Director NYS Kinship Navigator  
Consultant to AARP NY’s Kincare Project

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## Introduction

In 2010, the New York State Kincare Coalition held its third statewide summit, “Kinship Care in New York: Keeping Families Together.” Each of the summits was supported by AARP New York and the AARP Foundation through a generous grant from the New York Life Foundation. The first two summits resulted in published reports containing recommendations for action to remove barriers faced by grandparents raising grandchildren and other kincaregivers. To date, 32 of the 36 recommendations have been partially or completely accomplished.<sup>1</sup> This report is the final one in the series.<sup>2</sup>

The first two summits focused on developing policies and laws that created a package of rights and assistance for kinship (kincare) families, and were based upon an increasingly accepted fact – that kinship care is a natural resource for children, achieving better outcomes and costing much less than foster care. Yet, while grandparents and relatives are our greatest resource for children at risk, they are not getting the recognition and supports that they deserve. Every national resource needs a system to refine it and deliver it to its consumers. Likewise, more must be done to support caregivers in delivering the best outcomes for children. Such a kinship system should include, not just social services and aging, but corrections, mental health, education and others which have not yet identified kinship care as part of their mission.

Recognition of the importance of informal kinship care, which is not kinship foster care, is already a fact for the nation’s child welfare system, where informal kinship care has moved from placement preference to an invaluable resource, and will continue to increase in importance during the next few years. With the increased use of diversion from foster care, less children will enter foster care and more will be placed in informal kinship care. Importantly, with New York’s enactment of a subsidized guardianship program, foster care is now only a brief stop on a journey to “informal care” for over 7,000 kinship foster children. They are very likely to move quickly out of kinship foster care into informal kinship care where they will complete the remainder of their minority.

The 2011 Kincare summit aimed to move beyond basic kinship needs and to highlight the internal family challenges that can create barriers to success. The summit focused on education, mental health, and incarcerated parents, as well as two perennials – social services and legal assistance. The first three present new opportunities to further the well-being of children in informal kinship care. These three system’s recognition of the special challenges faced by kinship families is the next step towards development of a complete package of kinship policy and practices.<sup>3</sup>

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<sup>1</sup> For a list of prior summit recommendations, see Appendix F.

<sup>2</sup> The 2005 Summit sought to identify barriers faced by kinship families to needed services, the 2008 Summit sought to outline a comprehensive plan for legal rights and services over a five year period, the 2010 Summit “drilled down” to core issues that were more deeply embedded in systems that should provide better services to kinship families.

<sup>3</sup> An estimated 250,000 to 300,000 are living in informal kinship care, compared to less than 25,000 in foster care.

The 2010 summit kept a sharp focus on kinship children with incarcerated parents. The plenary speaker, Dr. Joseph Crumbley, presented compelling program suggestions for ways to move children with incarcerated parents towards better outcomes. Dr. Crumbley also described many of the special challenges faced by all kinship families:

“One of the unique characteristics in kinship families is the changes in relationships and family dynamics between members of the triad (relative caregiver, birth parent and the birth parent’s child). These changes are both assets and challenges for the kinship family. Some of these changes in family dynamics and relationships include loyalty, pre-existing attachments and bonds, guilt, loss, hope, denial, changes in parental roles, authority and responsibilities. It is essential that service providers be aware of how these changes in the family can impact the relative caregiver’s ability to provide safety, protection and permanency for the child in kinship families. Equally important, is that providers offer the services, supports, training and skills to caregivers necessary to manage and cope with these family dynamics and changes.

It is also important for providers to understand the similarities and differences between relative (kinship) and non-relative foster care, adoptions and placements. Understanding the differences will assist providers in developing assessments and intervention strategies, support services, training programs (for relatives caregivers and professionals), case planning and decision-making models that are more effective with kinship families.”

Building upon the successes of kinship families means helping to insure better outcomes for children who were at grave risk of failing but who are now living with loving kinship caregivers. Children thrive in these families. They report greater and stronger:

- Satisfaction with living arrangement
- Relationship with caregivers
- Conception of family
- Sense of belonging
- Living with kin as “normal” not stigmatizing
- Experiencing being loved, being cared about
- Experiencing the many acts of kindness
- Creating a future of possibilities
- Experiencing dialogue<sup>4</sup>

2011 summit participants believe assistance to kinship families is important not because without it they may fail, but because with help they will achieve even better outcomes for children. Kinship strengths outweigh its challenges. Our kinship families are the nation’s greatest natural resource for children whose parents cannot parent. We should make sure that they succeed.

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<sup>4</sup> “Kinship Care: What does the research tell us?” Webinar: James P. Gleeson, Ph.D., ACSW, Associate Professor, Jane Addams College of Social Work, UIC. Sponsored by the CWLA National Advisory Committee for Kinship Care. Friday, November 5, 2010.

## 2011 Summit Report

Over 130 professionals and kinship caregiver advocates participated at the summit. Prior to the summit, each track held mini-summits where professionals from across New York State examined best practices from other states and heard about successful programs in New York State. The pre-summit meetings published findings that were shared with all summit participants prior to the event.

At the summit, participants met in facilitated breakouts where they spent the afternoon discussing issues and solutions. They prioritized their recommendations and reported to a committee, whose members then drafted this report. Each breakout examined specific challenges related to its subject:

- Incarcerated Parents
- Mental Health
- Education
- Legal Assistance
- Social Services

Their identification of issues and solutions make up the findings in this report.

Lastly, the report's focus on assistance highlights the integral role of the Office of Children and Family Services' twenty-two programs (NYS Kinship Navigator and 21 regional programs) in implementing many of the recommendations. Yet, the future of the entire program, costing \$3 million, is uncertain. Therefore, a cost/benefit justification for continuing the kinship program is included in Appendix I.

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<sup>5</sup> *The Journal of Contemporary Social Services*, "Matched Comparison of Children in Kinship Care and Foster Care on Child Welfare Outcomes," by Winokur, Crawford, Longobardi, and Valentine, emphasizes this fact: "The documented growth of kinship care has boldly thrust this topic into the forefront of child welfare practice. This study compares the permanency, safety, and stability outcomes for a matched group of children placed in kinship care and foster care. After controlling for demographic and placement characteristics, children in kinship care had significantly fewer placements than did children in foster care, and they were less likely to still be in care, have a new allegation of institutional abuse or neglect, be involved with the juvenile justice system, and achieve reunification. These findings call for a greater commitment by child welfare professionals, policy makers, and researchers to make kinship care a viable out-of-home placement option for children and families."

Most importantly, a June 2008 study, published in the Archives of Pediatric and Adolescence Medicine, conclusively shows that children have better outcomes with relatives than in non-related foster homes. This study bolstered policy arguments supportive of private and public kinship care and contributed significantly to the passage of the 2008 federal "Fostering Connections to Success and Improving Adoptions Act."

## 2011 Kincare Summit Report Recommendations

### Mental Health Recommendations:

1. Develop a Specialized Tool Kit for Kinship Families. The Office of Mental Health (OMH) should convene a workgroup to promote informed self-advocacy regarding mental health by kinship caregivers for themselves, their children, and parents.
2. Include Kinship Mental Health Needs in Efforts to Overcome System Fragmentation. The Governor’s Children’s Cabinet, the Council on Children and Family, the Office of the Aging’s Caregiver Council, and other working groups dedicated to eliminating silos and fragmentation should focus on kinship families.
3. Promote the Recognition of Kinship Mental Health Needs. Kinship care should be part of state and local health, mental health, child welfare, and other plans, including the NYS Children’s Plan via the Office of Mental Health. More attention is needed from not only the mental health and substance abuse service systems but also from primary health care providers such as community health centers. Outreach to community health centers and the Academy of Pediatrics, improved education at professional schools and most importantly in residency training, and health and mental health education for kin caregivers via primary health care practices is strongly urged.
4. Promote Improved Mental Health Services. OMH should establish a workgroup to review and modify OMH’s clinic standards to assure appropriate attention to the family context and to the challenges involved in reaching and treating family caregivers. In addition, OMH should establish a workgroup to recommend ways to include parenting as an important goal of psychiatric rehabilitation. This would include recommendations for OMH’s guidelines for Personalized Recovery Oriented Services (PROS).
5. Address Questions Regarding Mental Illness and Child protective services. The NYS Kincare Coalition should work with The Parents with Psychiatric Disabilities Initiative of the Mental Health Association of New York State to develop realistic and unbiased strategies and suggestions regarding the removal from home of a child of a parent with a mental disorder. These strategies and suggestions should be included in a guide designed to be used by child protective service workers and the Family Courts. The NYS Kincare Coalition should also review and take a position on recommendations to change current state law regarding parental mental illness and the termination of parental rights.



### **Education Recommendations:**

1. Provide training on the special needs of kinship families to administrators and school personnel within the education system.
2. Create a toolkit for kinship families and school personnel that explains the special needs of kinship children and the different school and community resources that are available to these families.
3. Ensure that all federal, state, and local regulations that address specific populations include kinship, redefine “parent,” and require school enrollment criteria that address the realities of kinship care.
4. Amend New York State Education Department regulations to address the educational challenges faced by kinship children, such as discipline responses, guidance services, and residency determination.
5. Provide specially trained “school liaisons” and social workers, and require that they identify and refer kinship families to local kinship resources and facilitate school enrollment.
6. Enact a mandate for local school districts to identify kinship resources and provide information about kinship resources to kinship families.

### **Incarcerated Parents Recommendations:**

1. Create a task force of state agencies who will partner and advise correctional organizations (i.e. jail, prison, parole, probation), as well as other agencies who touch these children’s lives (such as education, mental health, etc.). This task force could include the courts, child welfare, mental health, supportive services, education, and others. One agency should be placed in charge of the effort. A major focus should be the common problems associated with visiting (distance, facility culture, decorum, waiting time, alternative modes of visiting such as televisiting, etc.). Another focus should be the integration of services across agencies throughout a parent’s movement through the criminal justice system, including kinship services providers. This should involve inter-agency training. The task force should address the service-provider implications of parenting arrangements that tend to be intergenerational and vary considerably in complexity and severity.
2. Develop a model kinship program and curriculum tailored for kinship families, with best practices in kinship programming from across the nation and from Dr. Crumbley’s program.
3. Publish an incarcerated parent kinship care toolkit.
4. Develop an OCFS assessment, screening, and supportive services program that successfully connects children, parents, and kinship caregivers in a co-parenting approach. Include mental health professionals in the development and implementation of this program.
5. Involve OCFS kinship programs in planning for non-foster care children of incarcerated parents placed with relatives, including implementing post subsidized guardianship services. For instance, caregivers of children of incarcerated parents almost invariably face most of the special challenges of kinship care, and need special help, including respite care as well as subsidized child care and wraparound services, and case management assistance for relatives having to deal with surrogate parenting issues on limited income without the assistance to which the children would be entitled if they were in the foster care system (i.e. education, delinquency, drug abuse, etc).
6. Increase outreach to incarcerated parents through collaboration between the NYS Kinship Navigator program and criminal justice, child welfare, and social service agencies, as well as community-based organizations specializing in serving children of incarcerated parents or serving kinship families. Require DOCS to include the NYS Kinship Navigator program in their discharge planning and post informational flyers in every prison and jail.
7. Expand on the work on the NYS Kinship Navigator in providing referrals to existing service providers, but also increase OCFS kinship services, particularly in rural jurisdictions.
8. Collect data on incarcerated parents, the caregivers, and children from the criminal justice and child welfare systems, OCFS kinship database, and from community providers (it is important to not just collect data from “systems”). Engage judges and court administrators to improve parental access to judicial proceedings and mediation, and ensure the consideration of children in sentencing, as well as during probation and parole hearings.
9. Courts should investigate the “impact” of placement on children and encourage mediation involving the incarcerated parent and the kinship caregiver.
10. Police departments should adopt procedures that distribute the New York State Permanent Judicial Commission on Justice for Children’s brochure, “Parental Appointment of Your Child’s Caregiver” and make it part of the intake process for all police departments.

### **Social Services Recommendations:**

1. Ensure a consistent, dedicated and increased funding line item for the OCFS kinship program, including a mandate for counties to use foster care preventive dollars to support kinship care services.
2. Launch a formal, statewide study of the cost savings of kinship care.
3. Address specific policies that pose barriers to access for kinship families, including: ensuring that children can stay with families while going through the foster care process; allowing an exception for mandatory document policies; providing an administrative procedure for kin to seek approval as foster parents, enhancing access to housing; ensuring appropriate use of the SCR search.
4. Mandate family finding services for all local social services districts.
5. Ensure that every district has a kinship liaison and a working agreement with its kinship service providers to facilitate enrollment of kin in non-parent grants.
6. Expressly include education regarding public assistance grants for non-parent caregivers in the duties of federal agency's assistance secretary of Children and Family and of Aging.
7. Continue the work of the New York State KinCare Coalition, and expand its outreach to include state and federal agencies.
8. Convene a national kinship summit in Washington D. C. that would describe federal policies and laws supportive of informal kinship families.

### **Legal Assistance Recommendations:**

1. Provide permanent funding for legal services (consultations and representation) as part of the OCFS kinship program funding and ensure that legal services for kinship caregivers includes legal information and assistance for matters regarding family law, education, and public assistance.
2. The Office of Court Administration should create and provide “do-it-yourself” forms online and also available at the courthouses so pro se litigants may address “extraordinary circumstances” as well as best interests.
3. The Office of Court Administration should include Family Court proceedings in its pro bono programs.
4. New York State should enact the recommended funding for “family stability” legal services in The Chief Judge’s Task Force to Expand Access to Civil Legal Services Report and also insure that a significant percentage of the funding targets family court pro se indigent litigants.
5. Amend NY Family Court Act § 262(a)(iii) to create a right to an attorney as a legal custodian or legal guardian where the parent has filed a petition for return of the child by adding “under part 4 of article six of this act” (currently only legal custody is mentioned). Amend FCA § 262 to include the right to assigned counsel to all primary caregivers, regardless of whether they have a prior order of custody or guardianship.
6. Amend Domestic Relations Law § 72 to include all relatives who may benefit from an extended disruption of custody as an extraordinary circumstance.

7. Train judges, court clerks and attorneys for the children on the rights of kinship caregivers, including mandated distribution of OCFS kinship publications.
8. Each family court in New York State should have a “help center” with information for kinship caregivers. The center should have legal fact sheets available and a staff person who is able to provide legal information to kinship caregivers. The New York City Family Court Help Centers, collaboration between the courts and LIFT, should be expanded statewide to meet this need.
9. Pro Bono legal services should be encouraged by funding regional and a statewide kinship legal assistance project similar to those run by MFY Legal Services and by the Rural Law Center. This project would provide legal trainings (CLE) on kinship issues, assistance in establishing pro bono programs, and be staffed by an attorney coordinator. The attorney coordinator would assist pro bono attorneys who commit to representing kinship families (or provide petition assistance or ADR/mediation services), and also create a statewide network of pro bono legal assistance providers.

## I. Mental Health

Mental health challenges are inherent in kinship care and have an impact on all family members. Children who have been separated from their parents almost inevitably experience grief and trauma that can have a long-lasting and disruptive impact on their development. Kinship caregivers generally experience tremendous stress and are at increased risk for mental and physical disorders, which are often exacerbated because the caregivers do not have the time or resources to address their own needs adequately.

The biological parents also struggle with the effects of separation and loss. In addition, some have had their children removed because a child protective service professional believes that they have mental and/or substance abuse disorders and concluded (not always correctly) they are not capable of raising their children. Working on mental health issues with kinship families requires consideration of the needs of each of the individuals involved and the needs of the family unit as a whole.

In previous summits, the mental health needs of kinship families were not the subject of any recommendations. Although some reference was made in a section of the 2008 report on Special Challenges –Special Services, the Coalition recognized that more needs to be done and convened a preliminary working summit in December 2009 in New York City. It was chaired by Michael Friedman, LMSW from the Mental Health Association of New York City and featured presentations by:

- Deborah Langosch, PhD, LCSW, Co-Chair, NYC Kincare Task Force and Director, Kinship Care Program, Jewish Board of Family and Children’s Services, NYC;
- Renee Goldsmith Benson, LMSW, Executive Director, Catholic Charities Caregivers Support Services, Albany NY;
- James Gleeson, Associate Professor, The Kinship Care Practice Project at Jane Addams College of Social Work, University of Illinois.

The observations and recommendations from the preliminary summit were far-reaching and formed the basis for the deliberations of the breakout on mental health at the 2010 Kincare Summit. (See [www.nysnavigator.org](http://www.nysnavigator.org) for preliminary report). This summit report on mental health does not attempt to describe the wide ranging discussion and recommendations in the full mental health report. Participants at the summit in June agreed with the preliminary report’s recommendations. They prioritized those recommendations, while also raising additional challenges and solutions.

### Children

Although youth in both formal and informal kinship care are less likely to be mentally ill than those in foster care, they face more serious mental health challenges than children who are cared for by their biological or adoptive parents. All children and adolescents in kinship care have experienced significant stress and loss due to separation from their biological parents, and many have additional mental health problems.

Some suffer the effects of having been born to drug addicted mothers. Some have fetal alcohol syndrome, which can impair brain functioning. Some have experienced physical and/or sexual abuse and many have been neglected. This population has high prevalence of post traumatic stress disorder, attachment disorder, substance abuse, and various developmental disabilities, including Asperger syndrome and other autistic spectrum disorders.

Often not considered are the continuing multi-directional relationships among the children, the biological parents, or the relative caregiver. No one person is completely untouched by the actions or experiences of the others. At the summit, Dr. Joseph Crumley details many unique challenge of the kinship “triad.” (See report section on Incarcerated Parents).

### **Caregivers**

Research shows that kinship caregivers have high rates of depression, anxiety, and social isolation. They may be struggling with their relationship with the biological parents regarding authority and boundaries. They may be feeling ill equipped and overwhelmed. They may have fears about how children will fare or how their own health will be affected. They may also have concerns about their own mortality and wonder who will care for the children should they die or become disabled.

Caregivers are often still dealing with unresolved mourning about the death or disappointment of their own children and about what they had imagined their retirement or future to be before taking on this role as kinship caregiver. Often, kinship caregivers do not get the physical and mental health care they need, especially preventive care and regular check-ups, in large part because they tend to put their own needs second to those of the kids they are raising. Outreach to encourage them to take care of themselves can be very important to their physical and mental health.

### **Parents**

The separations between the parents and the children create many difficult emotions. Biological parents may feel great loss, consider themselves a failure, and blame themselves. They may feel angry and hurt. Many fear that the children will stop loving them. There is often difficulty associated with a loss of the individual’s role as a parent; or to the loss of their parent’s support. All this creates emotional challenges for the biological parents who are separated from their children.

In addition, kinship care is sometimes necessary because parents are unable to care for their children due to psychiatric disabilities or substance abuse. It is likely that child protective services may unnecessarily remove children from the homes of parents with mental illness because they are not able to distinguish adequately between parents with mental illness who can or cannot provide adequate care for their children. But sometimes separation is in the best interest of the children. How to make this judgment is difficult for most CPS workers.

One of the findings of both summit meetings was that in general, the mental health and substance abuse systems do not adequately address the needs of people with mental illnesses who are parents. As a result, parents with mental or substance use disorders often do not get adequate treatment. For example, the New York State Office of Mental Health’s (OMH) clinic standards neglect parenting as a central issue in the lives of many people in treatment.

Similarly, OMH standards regarding psychiatric rehabilitation, which could help parents with serious mental illnesses to develop the childrearing skills they need, generally do not focus on this as a major life goal. This is despite the fact that for many parents with mental illness this is their highest priority.

### Summit Deliberations

Overall, participants noted that mental health, substance abuse, physical health, child welfare, and other systems do not adequately identify kinship family members' mental health issues, nor are there protocols for assessing the unique challenges faced by these families.<sup>1</sup> The mental health and substance abuse service systems are often not able to provide adequate services to kinship children, their caregivers, and their biological parents because services are in short supply; because they are often difficult to access due to distance, office hours, language barriers, or cost; and most importantly because often they are not provided by staff with expertise regarding this population.

Most service systems have tunnel vision and fail to notice or do anything about the fact that the children they serve may be in kinship care, or that the adults that they serve are parents of children who live with relatives or are themselves kinship caregivers, or that the parents themselves face challenges related to the support of their parents and their relationship with their children. In summary, in the kinship triad of parent, caregiver, and children, there are unique emotional and family issues that cause enormous stress on the mental health of all three members of the triad, and there is little recognition or specialized training related to these circumstances.

Participants agreed that kinship families need basic mental health education, including information about how to find and pay for mental health services; mental health and substance abuse screenings; thorough assessments; adequate treatment services, and help with self-advocacy in order to overcome barriers to accessing services. A kinship tool kit would provide caregivers and service providers with a basic tool. Participants recommended that the tool kit be modularized and made available in computer-based forms as well as in print, and in multiple languages.<sup>2</sup>

The fragmentation of the service systems—a problem noted in all discussions of the limitations of service provision—can affect populations that are not recognized within a system, particularly when understanding family relationships is crucial to treatment. For this reason, it is critical to improve the integration of physical and behavioral health services and thus provide opportunities to promote mental health, identify mental and substance use disorders, and provide culturally competent treatment. Integration is also important in schools, child welfare programs, aging services, the criminal justice system, employee assistance programs, and the military and veterans' service systems.

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<sup>1</sup> The 2005 summit Report Recommendation Eleven described how N.Y. Public Health Law §§2504 & 2164 defines who can make certain medical decisions for children, but the definition of “person in parental relation” does not include caregivers with legal custody orders. Participants acknowledged that caregivers who are legal custodians, not guardians, may be denied full medical decision making authority by medical providers. This statutory confusion is compounded by the diverse guardianship orders and procedures governing minors, the elderly, and developmentally disabled.

<sup>2</sup> Development of a tool kit would necessitate the participation of numerous mental health professionals, and the convening of a workgroup that would review existing materials, consult with experts, and draft the text.

Participants were unanimous that all of the systems that serve this population could do more to promote mental health rather than waiting for a disorder to emerge. These systems include primary health care, schools, child welfare services, aging services, the criminal justice system, etc. Participants also agreed with the preliminary recommendation that a review and revision of mental health clinic and psychiatric rehabilitation standards is needed. It was suggested that this should be done for the substance abuse system as well and done jointly if at all possible. This would be in keeping with efforts to integrate mental health and substance abuse services.

**Mental Health Recommendations:**

1. Develop a Specialized Tool Kit for Kinship Families. The Office of Mental Health should convene a workgroup to promote informed self-advocacy regarding mental health by kinship caregivers for themselves, their children, and parents.
2. Include Kinship Mental Health Needs in Efforts to Overcome System Fragmentation. The Governor’s Children’s Cabinet, the Council on Children and Family, the Office of the Aging’s Caregiver Council, and other working groups dedicated to eliminating silos and fragmentation should focus on kinship families.
3. Promote the Recognition of Kinship Mental Health Needs. Kinship care should be part of state and local health, mental health, child welfare, and other plans, including the NYS Children’s Plan via the Office of Mental Health. More attention is needed from not only the mental health and substance abuse service systems but also from primary health care providers such as community health centers. Outreach to community health centers and the Academy of Pediatrics, improved education at professional schools and most importantly in residency training, and health and mental health education for kin caregivers via primary health care practices is strongly urged.
4. Promote Improved Mental Health Services. OMH should establish a workgroup to review and modify OMH’s clinic standards to assure appropriate attention to the family context and to the challenges involved in reaching and treating family caregivers. In addition, OMH should establish a workgroup to recommend ways to include parenting as an important goal of psychiatric rehabilitation. This would include recommendations for OMH’s guidelines for Personalized Recovery Oriented Services (PROS).
5. Address Questions Regarding Mental Illness and Child Protective Services. The NYS Kincare Coalition should work with The Parents with Psychiatric Disabilities Initiative of the Mental Health Association of New York State to develop realistic and unbiased strategies and suggestions regarding the removal from home of a child of a parent with a mental disorder. These strategies and suggestions should be included in a guide designed to be used by child protective service workers and the Family Courts. The NYS Kincare Coalition should also review and take a position on recommendations to change current state law regarding parental mental illness and the termination of parental rights.



## II. Education

In New York State, according to the U. S. Census Bureau’s 2009 American Community Survey, 304,458 children under the age of eighteen are living in grandparent-headed households. The exact number of these children who attend public schools is unknown.<sup>3</sup> However, the New York State Department of Education’s (NYSED) Student Support Services reports a steady intake of grandparents and other relatives contacting the service in seek of answers to education-related questions, approximately 150 calls per week, particularly around issues involving school enrollment.

### Summit Deliberations

In April 2010, the New York State Kincare Coalition held a preliminary meeting attended by staff from the Department of Education, attorneys specializing in educational legal issues, kinship service providers, and caregivers. All participants agreed that kinship families face many obstacles when dealing with the education system. They identified three broad areas of concern: the educational system’s inattention to kinship families, caregivers’ lack of knowledge about school rules and regulations and educational methods, and a lack of law and regulations focused on the special circumstances of kinship families. Laws and regulations were further divided into three issues: enrollment, under-inclusion of the entire “class” of all kinship caregivers, and considerations for the special challenges faced by kinship children.

At the 2010 summit, participants agreed that the preliminary conclusions accurately reflected kinship educational issues.

### Attention to Education Needs of Kinship Children

The New York State Education Department provides school personnel to help guide parents through the education system: student support services (residency determination and school enrollment); state technical assistance center and local homeless liaisons, special education quality assurance, and NYC parental liaisons, but none of these systems is formally charged with identifying kinship families and addressing their special challenges. Consequently, personnel often do not understand the special challenges faced by kinship caregivers.

Participants described numerous personal experiences in situations where caregivers did not receive education services. For example, they described instances where elderly caregivers who live *too close* to schools could qualify for school busing.

Summit participants reaffirmed that the children themselves face acute social and emotional circumstances. For example, when a grandparent assumes parenting duties, children are left to explain to their peers why their parents aren’t caring for them or why their grandmother is now their adoptive mother. Having to relive and share personal history about an uncomfortable family situation can cause a child to feel angry, resentful, and embarrassed.

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<sup>3</sup> The New York State Department of Education does not collect data regarding children who are not living with parents. The New York State Office of Court Administration does not have statistical data on third party legal custody, guardianships, and adoptions.

Kinship children often have parents who are unable to parent. However, parents are still very important to their children. The “triad” of caregiver as parent, parent as non-parent, and child presents special challenges which can be addressed by tailored kinship supports. Moreover, despite the fact that kinship children often share very similar situations, challenges, and experiences to children in foster care, children in informal kinship care do not have the legal supports of the local social service department. Such supports can be crucial to negotiating relationships with non-custodial parents.

At the summit, kinship service providers described uneven success in educating school personnel about informal kinship care and in establishing supportive referral networks with their local school districts. Participants agreed that educating school personnel about kinship families and their special challenges should begin with the collaboration between kinship service providers and the NYSED administrators. Kinship service providers can help educate administrators and school personnel on the social/emotional and school issues related to children in kinship care.

The collaboration will enable school personnel (counselors, school social workers, psychologists, nurses, attendance teachers, parental liaisons, etc.) to better understand how current services and rules affect kinship families, and specific changes and revisions can then be made to help meet the needs of the children in kinship, including the ability to make appropriate referrals. Similarly, kinship service providers need to identify the educational resources that can assist them in their mission. To assist in identification, summit participants compiled a complete list of NYSED resources, available on the NYS Kinship Navigator Web site, [www.nysnavigator.org](http://www.nysnavigator.org).

A newly enacted law, Chapter Law 518 of the Laws of 2010, demonstrates how more can be done to focus on kinship families. The law permits grandparents to participate with parents in Parent Teacher Association meetings, ending the de facto practice that either the parents or grandparents could participate, not both. Similarly, another new law Social Services Law § 392 requires local social services districts to identify kinship resources and provide information about these resources to kinship families on their websites.<sup>4</sup> A similar educational law enactment is needed to require local school districts to focus attention on kinship families.

Summit participants agreed that policies from the federal, state, and local level need to do more to recognize the educational needs of kinship caregivers and to respond to those needs.<sup>5</sup>

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<sup>4</sup> Chapter Law 518 of the 2010 Laws of New York State.

<sup>5</sup> “Schools can contribute significantly to helping grandparents cope with the stresses of parenting a second time around. As a basis for understanding and helping, school personnel may need to learn to recognize and accept strong feelings experienced by each member of the grandparent-parent-child triad. Grandparents (even those who find great satisfaction in raising their grandchildren) often feel disappointment mixed with anger, blame, guilt, and serious concern about family finances. Parents usually have ambivalent feelings of gratitude and resentment, as they grieve the loss of their child even if they recognize that the decision to remove the child from their care is in the child’s best interest. Often, resentment deepens as estrangement widens. Children raised by grandparents may express feelings of abandonment, even though they are grateful to their grandparents for taking care of them (Saltzman & Pakan, 1996). Grandparent and grandchild interactions with noncustodial parents can be supportive or damaging to all the parties involved.” “Grandparents as Parents: A Primer for School,” Dianne Rothenberg; <http://www.kidsource.com/kidsource/content2/grandparents.3.html#School>.

### Caregiver Education and Involvement

For caregivers, who are again taking on the responsibility as parents, meeting the educational needs of children can be an overwhelming task, particularly because the education system has changed significantly over time. Local school districts can provide assistance by helping kin to understand how students are taught and how to assist them with their homework, as well as provide specialized assistance in negotiating Individual Education Plans (IEP's). Likewise, they can work with local kinship service programs to address issues related to educational needs, and local kinship service providers can assist the local district by tailoring programs to assist kin in "relearning."

### Laws and Regulations: Enrollment, Under-Inclusion, and Special Considerations

Participants identified three domains where laws and regulations effect children's education and where kin were not included or were under-included: enrollment, under-inclusion in "parental" authority statutes, and special considerations.

**Enrollment:** As with many states, the issue of school enrollment in the care of non-parents raises many concerns for school districts. The response has been a hodgepodge of legislation, regulation, and local practices (See a list of state statutes at <http://new.abanet.org/child/PublicDocuments/educational-consent.pdf>). Like New York State, states focus on describing conditions related to residency and the assumption of care. However, descriptions of what satisfies these requirements are inconsistent. Some states have elaborate descriptions of circumstances, some permit "self-proving affidavits," some expressly prohibit any payments to caregivers by parents.

In New York State case law governs school enrollment and permits tuition-free enrollment only upon proof of residency plus assumption of care and control.<sup>6</sup> Complying with these two conditions presents special problems regarding precedents that are unknown to caregivers. Often when children are placed into kinship care, they are coming from a different school district, caregivers are without legal custody or guardianship, and caregivers have little guidance in proving either condition. The result is that enrollment is unfairly delayed or denied, causing extreme stress on the kinship family.

For instance, a grandmother who takes a grandchild into her home must apply to the local school district and prove residency plus care and control. But what satisfies these two conditions is not well-defined in state law, nor are local school personnel knowledgeable of the distinctions. In one district, her proof suffices, in another the same documentation will be rejected. The result is that kinship children are denied access to education because kin fail to document residency and care and control to the unique satisfaction of a particular local district, where similar proof would permit enrollment in another school district.

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<sup>6</sup> Longwood CSD v. Springs USFD, 1 N.Y.3d 385 (2004); Appeal of Palmieri, 45 Educ. Dept. Rep. 174 (2005).

In some school districts, denial occurs when a school district denies enrollment because a kinship caregiver is receiving support from a parent. In other instances, despite case law, districts will deny enrollment when the caregiver is not a legal custodian or guardian. Given the emphasis on parental support collection and on informal placements via parental powers of attorney (i.e., parental designations), denials based upon these circumstances are contrary to public policy, and oftentimes, contrary to the letter and spirit of federal law. Adding further confusion, the tests for enrollment are different than for schooling responsibility. The distinction results in situations where kin are qualified to be responsible for a child, but not to enroll the child in school. This is a result that denies the realities of kinship care.

Further contradicting the goal of educational stability, a denial can result in a child's prolonged absence from school - caused by the school district - because children are prohibited from attending during the pendency of an appeal. The appeal process can keep them out of school for more than six months.

Participants strongly expressed their views that these enrollment problems should be addressed by legislation not only at the state level, but also at the federal level. Legislation should clearly describe the circumstances permitting school enrollment for children moving into a new school district through kinship care. Prompt enrollment in school should also address a comprehensive definition and mechanism for identifying kinship children and a "fast track" to admission and attendance.<sup>7</sup> The upcoming revisions to "No Child Left Behind" and the "Elementary and Secondary Education Act" offer opportunities for federal action that would address this compelling kinship issue in every state.

Participants recommended requiring school districts to designate at least one employee to facilitate the prompt enrollment of kinship children, receive student records, and serve as the district contact person with state and local departments of social services and other agencies. This requirement already exists to ensure the continuing education of students released from the Department of Social Services.

*Under-Inclusion:* In order to provide appropriate attention to the educational needs of kinship children, participants recommended that federal, state and local regulations addressing specific populations of children should expressly include kinship caregivers. As an example of an inclusive definition, participants cited the Individuals with Disabilities in Education Act, 20 U.S.C. 1401(23) (C), where "parents" includes a subdivision:

*"an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare."*

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<sup>7</sup> The only court case cited in the 2010 edition of "School Law" (developed by NYS School Boards Association & NYS Bar Association) that holds support from parent defeats "custody" or "guardianship" predates the 2004 amendments to the IDEA.

NYSED can modify the rules and regulations to clearly and unambiguously include kinship families. For instance, at previous summits the Coalition recommended changes to the “person in parental relation” definition, found in the Education Law and Public Health Law.<sup>8</sup> The definition, which describes who may be responsible for the education of a child, still does not include many kinship caregivers who assume primary care (e.g. legal custodians), and does not provide school districts with clear understanding of their duties and obligations.

*Special Considerations:* Just as New York State has enacted laws and promulgated regulations providing additional protections for students with autism, for those in foster care, or for homeless children, New York State should enact provisions that provide additional safeguards for children in informal kinship care. Examples of state and federal laws providing special considerations include the recent Fostering Connections Act (which requires busing for foster children who should remain in their original school districts), the McKinney Vento Act, and NYCRR 100.2(x)(1)(v) which offers protections for homeless children. Since kinship children face circumstances similar to foster children and to homeless children, similar laws should apply to kinship children.

### **Education Recommendations:**

1. Provide training on the special needs of kinship families to administrators and school personnel within the education system.
2. Create a toolkit for kinship families and school personnel that explains the special needs of kinship children and the different school and community resources that are available to these families.
3. Ensure that all federal, state, and local regulations that address specific populations include kinship, redefine “parent,” and require school enrollment criteria that address the realities of kinship care.
4. Amend New York State Education Department regulations to address the educational challenges faced by kinship children, such as discipline responses, guidance services, and residency determination.
5. Provide specially trained “school liaisons” and social workers, and require that they identify and refer kinship families to local kinship resources and facilitate school enrollment.
6. Enact a mandate for local school districts to identify kinship resources and provide information about kinship resources to kinship families.

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<sup>8</sup> NYS Ed. Law §§ 2, 3202, 3212, 4410; Pub. Health Law § 2164(1)(C); Gen. Ob. Law § 5-1551.

### III. Incarcerated Parents with Children in Kinship Care<sup>9</sup>

Across the country, “More than 1.7 million children have a parent who is incarcerated, with the majority of these children cared for by relatives.”<sup>10</sup> In New York State, more than 105,000 children have at least one parent who is incarcerated.<sup>11</sup> According to the New York State Department of Correctional Services (DOCS) HUB Report, there were 58,378 men and women incarcerated in New York State prisons on January 1, 2010.<sup>12</sup> Less than sixty percent of those in custody come from New York City area and the suburban New York City metro area; close to 50% of women in State prisons come from upstate urban or other upstate counties.

In 2008, the Governor’s Children’s Cabinet, as part of its focus on “disconnected youth,” established a special subcommittee to consider the issues faced by children of incarcerated parents.<sup>13</sup> The subcommittee’s work has produced guiding principles based on the *Children of Incarcerated Parents Bill of Rights*;<sup>14</sup> a series of concrete recommendations; a training outline for law enforcement regarding minimizing trauma to children; a survey of incarcerated parents to gather information about their children; outreach to criminal justice agencies; and more. The Subcommittee’s collaboration with the Osborne Association in New York City and with the Permanent Commission on Justice for Children led to the topic’s inclusion in the 2010 KinCare Summit.

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<sup>9</sup> At past summits, the topic of incarcerated parents was not part of the discussion because of our focus on fundamental issues common to most kinship families. However, at the 2010 Summit, the aim was to “drill down” to topics beyond the usual ones associated with kinship. Given the importance placed on disconnected youth and on incarcerated parents by the Governor’s Children’s Cabinet, as well as the Kinship Coalition’s awareness of the impact of incarceration on kinship families, the Summit dedicated a track to the issue.

<sup>10</sup> Kinship Care-When Parents Are Incarcerated: What We Know and What We Can Do (hereafter KCWPAI), Creassie Finney Hairston, Annie E. Casey Foundation (June, 2009) p.4; not counting parents in jail, “It is estimated that over 1.5 million children nationally have a parent who is in state or federal prison”, Bureau of Justice Statistics. (2003) Sourcebook of Criminal Justice Statistics. <http://www.albany.edu/sourcebook>).

<sup>11</sup> Since no agency tracks parents across arrests, county jails, and state and federal prisons, the actual number is certainly significantly higher. Also, since this figure is a snapshot, the number of children who have had or will have a parent incarcerated increases the totals into the hundreds of thousands.

<sup>12</sup> See [http://www.doc.ny.state/Research/Reports/2010/UnderCustody\\_Report.pdf](http://www.doc.ny.state/Research/Reports/2010/UnderCustody_Report.pdf).

<sup>13</sup> This Subcommittee is chaired by DCJS and the Committee for Hispanic Children & Families. Members include: State Education Department, Departments of Labor and Parole, OTDA, OASAS, OCFS, and others. The Subcommittee meets about 6 times a year.

<sup>14</sup> See [www.sfcipp.org](http://www.sfcipp.org) for more information about the Children’s Bill of Rights (developed in 2005).

Although incarceration rates in the United States far exceed those of any other country in the world, the overall incarcerated population in New York State has dropped by nearly 6,000 people, or 9%, over four years by the end of 2010-2011.<sup>15</sup> In 2008-09, New York State experienced a 2.8% decrease in the state prison population.<sup>16</sup> The decline was driven exclusively by a reduction in the number of people sent to prison for new crimes, as well as the increased release of those incarcerated.<sup>17</sup> In New York, the reduction has also been attributed to the 2009 reforms to the Rockefeller drug laws, which are sending low-level drug offenders into treatment programs rather than prison.<sup>18</sup>

However, the numbers of women who are being sent to prison has increased over the past decades - with devastating consequences for children and families. According to a report commissioned by the Institute for Women and Criminal Justice:

“Women are the fastest-growing segment of the prison population, surpassing male prison population growth in all 50 states. These trends have profound consequences for communities, families and the women themselves. The report finds that the rise in the female prison population has been punctuated by growth spikes that reached higher, lasted longer and often began earlier than those affecting men.”<sup>19</sup>

New York State is currently in dire fiscal shape, and given these tight budgets, policymakers must keep a heightened vigilance to ensure that all public dollars are spent effectively and efficiently. Nationally, state correction costs are estimated to be over \$50 billion annually and consume one in every 15 discretionary dollars.<sup>20</sup> In FY2008, New York State spent \$2,871 million or 5.4% of the State General Fund on corrections.<sup>21</sup> For their FY2010-11 New York continues to have significant budget reductions.

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<sup>15</sup> Testimony of Brian Fischer, Commissioner, New York State Department of Correctional Services Before the Joint Legislative Fiscal Committees (February 8, 2010). <http://www.docs.state.ny.us/Commissioner/Testimony/09Budget.html>

<sup>16</sup> Pew Center on the States, *Prison Count 2010 – State Population Declines for the First time in 38 Years* (Washington DC: The Pew Charitable Trusts, March 2010).

<sup>17</sup> Pew Center on the States, *Prison Count 2010 – State Population Declines for the First time in 38 Years* (Washington DC: The Pew Charitable Trusts, March 2010).

<sup>18</sup> Testimony of Brian Fischer, Commissioner, New York State Department of Correctional Services Before the Joint Legislative Fiscal Committees (February 8, 2010). <http://www.docs.state.ny.us/Commissioner/Testimony/09Budget.html>

<sup>19</sup> Frost, Greene & Pranis (May 2006), *Hard Hit: The Growth in the Imprisonment of Women: 1977-2004*. Institute on Women and Criminal Justice,

<sup>20</sup> Pew Center on the States, *One in 31: The Long Reach of American Corrections* (Washington, DC: The Pew Charitable Trusts, March 2009).

<sup>21</sup> Pew Center on the States, *One in 31: The Long Reach of American Corrections* (Washington, DC: The Pew Charitable Trusts, March 2009).

### Importance of Kinship Care

While it is generally accepted that private kinship care (informal), not foster care, provides the largest single resource for placement of children with incarcerated parents, there are no known national surveys or child welfare studies of how many children with such parents are in private kinship or in kinship foster care.<sup>22</sup> Even child welfare agencies across the country do not know how many children in foster care have an incarcerated parent. However, a sampling of the New York State Office of Children and Family Services kinship program data shows that 7.6% of the children in their programs have incarcerated parents.<sup>23</sup> Given that there are over 105,000 children of incarcerated parents in the State and the accepted fact that most are cared for outside of the child welfare system by their other parent or family members (when a father is incarcerated) or by grandparents and other kin (when a mother is incarcerated), this is a significant issue facing kinship caregivers in New York State.<sup>24</sup>

### Summit Deliberations

The New York State Kincare Coalition, began preparing for the summit in early 2010 by consulting with the leadership of the Governor’s Subcommittee, specifically Tanya Krupat, the Osborne Association, Jacquelyn Greene, co-chair of the Governor’s Children’s Cabinet Subcommittee on Children of Incarcerated Parents, and Kathleen DeCataldo, Executive Director of the Permanent Judicial Commission on Justice for Children. Additional consultation was provided by national consultants Yali Lincroft (on behalf of the Annie E. Casey Foundation) and Arkansas Voices for Children director and former Open Society Institute Fellow Dee Ann Newell. On April 23, 2010 a stakeholder meeting convened in Albany and produced preliminary recommendations.

At the summit, keynote speaker Dr. Joseph Crumbley, an internationally known expert on kinship families, presented on:

- What family dynamics and child developmental issues predispose youth to repeating cycles of family recidivism?
- How and what are the tasks for kinship families in interrupting these cycles?
- What are the roles and tasks for incarcerated parents in supporting relative caregivers and their children in breaking cycles of incarceration?

Dr. Crumbley’s presentation focused on standard theories of child development and how children of incarcerated parents follow such standard models, but are at risk of significant distortions in behavior related to the special challenges in child and parent relationships when a parent is incarcerated. Dr. Crumbley showed specific “scripts” for caregivers and parents to use in speaking to children. These statements suggested ways to “turn around” children and establish co-parenting techniques.<sup>25</sup>

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<sup>22</sup> KCWPAI p. 9.

<sup>23</sup> Data provided by the NYS Kinship Navigator, [www.nysnavigator.org](http://www.nysnavigator.org).

<sup>24</sup> More than 90 percent of primary caregivers interviewed in the study were close relatives of the incarcerated mother and her minor children (also known as kinship caregivers). *Childhood Disrupted: Understanding the Features and Effects of Maternal Incarceration*, Volunteers of America (November 2010) p. 9; <http://www.voa.org/Childhood-Disrupted-Report>.

<sup>25</sup> Dr. Crumbley’s presentation was based upon his work as a consultant with the Turning Points for Children, “KIDS’N’KIN” kinship care program in Philadelphia for 10 years. The kinship care program worked with relatives raising the children of incarcerated mothers at Muncy State Correctional Facility for Women, in Muncy, Pennsylvania.



With this background, the breakout participants discussed a wide range of issues, many of which were typically associated with children and incarcerated parents, such as distance from home, the environment in waiting areas, procedures for visits, communications between parents and children, and parenting education programs. However, participants also agreed that kinship families present special atypical challenges for parents, caregivers, and children. Participants noted that while kinship service providers are focusing more attention on parents, there is very little programming specifically aimed at case management of kinship families with incarcerated parents,<sup>26</sup> nor are there specialized training and assessments for these situations.

### **Parents**

Incarcerated parents have high levels of substance abuse and poverty, often have histories of unemployment and low educational levels, and many have health or mental health issues as well. High levels of past physical and sexual abuse also exist, particularly among incarcerated women. These and other issues that preceded the incarceration can exacerbate the challenges parents face communicating and expressing their emotions to their children and to their children's caregivers.<sup>27</sup> While many parents love their children and take advantage of any and all mechanisms available to them to communicate and be involved with their children, some parents do not communicate positive messages to their children, and they may be suspicious, jealous of, or resentful towards caregivers over the "loss" of their parenting role.

Their need to see their children can sometimes override their appreciation of the challenges caregivers face in bringing children on visits, accepting collect phone calls, and encouraging children to write letters. Some caregivers are also very angry at parents for leaving them with children to care for unexpectedly and, in the case of older caregivers, when they have their own issues or had plans for living a life without primary childcare duties.

A parent's release, although it is the moment families may have eagerly anticipated, is also a stressful time. There are issues related to conflicting expectations, including the immediate assumption of parental duties upon release and role adjustments. There are few pre-release services available to help families navigate this transition.

Summit participants also noted that sometimes parents may not be positive influences for their children (sometimes they recognize this and sometimes they do not), and families are not always positive influences for the incarcerated person. Both of these highlight the need for assessments that identify which triads may work together and which programs should intervene to ameliorate these tensions, so that the family system can work positively together and support children's healthy development.

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<sup>26</sup> KCWPAI, p.28

<sup>27</sup> KCWPAI, p.17.

### Caregivers

Caregivers themselves must work through complex emotional realities. In particular, grandparents face special challenges. They are the parents of the incarcerated parents. Sometimes the incarcerated parent victimized the grandparent's grandchild. For grandparents and other caregivers, there are many common issues. Caregivers may fear the release of the parent or have unrealistic hopes for reunification (and respite) upon release. Caregivers often complain of calls not made and promises not kept by some incarcerated parents. And many may have special problems in making visits caused by their age, disabilities, and multiple children from different family members residing in their homes. Some caregivers are also angry and hurt by parents who have come home only to become incarcerated again. They acutely feel and have to manage the pain and disappointment of the children in their care when this happens.

Other caregivers have a positive relationship with the incarcerated parent, feel supported and appreciated by them and long for the parent's return. In all situations though, this is a stressful and difficult situation for caregivers.

### Children

As with every issue related to kinship care, the core concern is the well-being of children. For children with incarcerated parents, there are special concerns related to loss/bereavement, stigma and isolation, and to the possible perpetuation of involvement with the criminal justice system. Summit participants' described similar challenges to those documented by the Women in Prison Project:

“When asked what particular difficulties children of incarcerated parents face, case-workers identified the embarrassment of having an incarcerated parent; infrequent visits; anger because of their parent's choices; being cut off from family; not being able to see their mother when they would like; having to communicate through letters; difficult emotions when incarcerated parents do not want them to visit; and the painful emotions of saying goodbye at the end of a visit. One caseworker felt that children of incarcerated parents faced the same issues as other children in foster care.”<sup>28</sup>

Children may have unrealistic “myths” about their parents or may harbor extraordinary anger. They may feel isolated due to the negative response by many who learn of their incarcerated parent.<sup>29</sup> They may be aware that some adults and peers believe they will become “criminals” themselves, although there is no evidence of this.

Participants saw the need for more focus on strengthening children who are at risk because of parental incarceration and were enthusiastic about implementing the scripts and program actions outlined by Dr. Crumbley.

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<sup>28</sup> When Free Means Losing Your Mother, 2006, Women in Prison Project, Correctional Association of New York, p.23.

<sup>29</sup> The Family Center in NYC is the only one of the 21 OCFS kinship programs to offer a program for kinship families with incarcerated parents (via a federal grant).

## Kinship Services

Despite the obstacles, Dr. Crumbley demonstrated that many parents can become critical partners with caregivers. His premise is that children will invariably seek to establish a relationship with their parents, will be loyal to their parents, and thus may attempt to replicate behaviors they believe conform to their parent’s values. This fundamental desire to be in some relationship with their parent (even if it is to not be like their parents) offers invaluable opportunities to assist children by providing specialized information and techniques to the caregivers and incarcerated parents.

Participants unanimously supported development of a model program that incorporated corrections, reentry, and kinship services and was based on Dr. Crumbley’s suggestions. They emphasized that programs cannot offer just a few hours of training. It will take focused efforts over a period of time to develop and manage communications between triad members and to address often deeply rooted assumptions and biases. For instance, understanding why a child would want to stay in touch with an incarcerated parent; why and how visiting can be a positive and critically important experience and/or intervention for a child; how to engage and train caregivers and parents while avoiding undue influence; how to convince resistant parents or caregivers of the advantages.

Participants noted that a significant number of children in OCFS’s kinship programs had incarcerated parents and that these programs could play a central role in developing a model program. However, there was also agreement that not only the OCFS kinship programs but all programs serving kinship families should become part of a coordinated effort. Participants noted that the New York State Kinship Navigator program could collect valuable aggregate data from the OCFS kinship programs and could be a resource for and about incarcerated parents.

The different roles and blood relationships are complications inherent to kinship and demonstrate the need for program flexibility and strong assessment tools. As described by Dr. Crumbley, here are some of the special challenges:

“Among the families interviewed for this study, there are a host of household structures and caregiving arrangements. Whether families included elder siblings caring for younger sisters and brothers while their mother was incarcerated in Indiana, or husbands and their children and step-children making do on a reservation in South Dakota, these families exhibited both great vulnerability and staggering resilience. The complicated nature of many of these family structures—children in multiple households, mothers with children from more than one father, caregivers that are resistant to reunify the child they have looked after for years to a mother who has been long absent—represent a significant challenge in developing programs and services. However, the extended support networks typical of such families may also represent important strengths and opportunities, which can be elicited and utilized through programming that is thoughtful, flexible and family-focused. Indeed, any program model that is not adaptable in its approach is likely to fail in its ability to serve a family that is characterized by change.”<sup>30</sup>

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<sup>30</sup> Childhood Disrupted, p.30; <http://www.voa.org/Childhood-Disrupted-Report>

### **Co-Parenting**

Co-parenting is increasingly a component in kinship services. Many states now have co-parenting (or shared parenting) laws that include not just parents but also kin. Kinship service providers are developing program interventions that include parents. However, co-parenting with incarcerated parents needs even more specialized attention. At the summit, participants suggested that family reunification was actually a broader idea where family meant not just parent and child, but also kin as primary caregivers and co-parenting by parents and kin. Participants also suggested assessments tools were needed for Child Protective Services, private kinship service programs, and other agencies. Participants noted that it is still possible for such families to work together towards the well-being of children (research and interventions in the divorce field offer models for this), even when incarcerated parents and caregivers, “don’t get along.”

### **Corrections**

Participants noted that, despite fiscal restraints, NYS’s Department of Correctional Services (DOCS) has made important improvements for children and incarcerated parents. Some facilities now have better visiting arrangements, and more incarcerated parents are participants in parenting programs (however, participation is still not mandated unless there is a court order). Participants felt that all incarcerated parents should have some mandated parenting instruction and support, and when appropriate, it should include education regarding kinship care and kinship services.

Participants recognized that DOCS should be a partner in special kinship programming and that success would demand a greater commitment in the agency’s time and resources. In developing a model, participants suggested looking to San Francisco’s One Family Program, a partnership between the San Francisco Sheriff’s Department and San Francisco Children of Incarcerated Parents (SFCIPP), a nationally recognized coalition. Successful components included:

- Using a nationally recognized “Parenting Inside Out” curriculum inside the jail which addresses issues of co-parenting between the incarcerated parent and the outside caregiver
- Designing a supportive family visiting program that is child and family friendly
- Having dedicated child welfare department staff housed inside the jail or prison who are trained to facilitate communication
- Creating a public/private council to regularly advise the Sheriff’s Department. The council is comprised of senior public agency representatives from child welfare, court, probation, mental health and community based organizations

Visiting an incarcerated parent presents well-documented problems, ranging from distance, procedures, waiting areas, treatment of families, communications, and financial constraints. But for kin, there are sometimes additional issues related to proof of relationship, such as a demand for a child’s birth certificate. DOCS could do more to train personnel about the unique problems of kinship families and how they can sensitively respond.

Post incarceration, kinship families confront another set of problems. For instance, sometimes there is inconsistency between correctional supervision agencies and courts regarding permitted contacts between children and an incarcerated parent (sometimes more contact while in prison and less once on parole). There are also issues related to parental relationship, involvement, and responsibilities post release. Participants noted that there is little to no coordination between child welfare, courts, parole, and release programs. Parents regaining custody of children upon release need more coordination, clarity, and support from all systems, particularly because for some kinship families, this problem is underscored by the reality of parental reunification undoing years of efforts towards family stability.

Participants suggested many other changes. Most were aimed at the general issues faced by incarcerated parents and their children.

### **Probation/Courts/Police**

Participants agreed that criminal courts should do more to recognize the needs of children and take into consideration how different sentencing options will impact the children and family. When incarceration results in a change in primary custody, the custodial circumstances should be part of the pre-sentence investigation. In October 2009, the San Francisco Probation Department adopted a “Family Impact Statement” in pre-sentencing reports which asks five questions related to custody and its affect upon the child.<sup>31</sup> This is a national model that New York State can look to for improving sentencing procedures.

Participants also noted that kinship arrangements would benefit from more permanency mediation, especially useful as an entry point for the kinship caregiver and the incarcerated parent to begin to address reunification and to acknowledge the child’s point of view.

Lastly, participants noted that in 2010 the New York State Permanent Judicial Commission on Justice for Children’s developed a brochure called “Parental Appointment of Your Child’s Caregiver,” which is a one page handout given to an arrested parent so they can arrange care for their children. The brochure explains how to designate authority using New York’s parental designation law and how to contact programs that help kinship families. Participants felt that local police should make inquiries about children and give out the brochure.<sup>32</sup>

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<sup>31</sup> Questions asked in the Family Impact Statement includes information about the number of children, their living situation and whether the defendant is a primary caretaker or offers financial support. For more information about the “Family Impact Statement” adopted by the San Francisco Probation Department, go to the 4/13/10 SFCIPP blog titled, “Our Achievements Thus Far.” <http://www.sfcipp.typepad.com/san-francisco-children-of-incarcerated-parents-partnership-blog/page/3/>.

<sup>32</sup> <http://www.nycourts.gov/ip/justiceforchildren/NewContent/2-Incarcerated%20Parent%20Flyer-English.pdf>.

**Incarcerated Parents Recommendations:**

1. Create a task force of state agencies who will partner and advise correctional organizations (i.e. jail, prison, parole, probation), as well as other agencies who touch these children's lives (such as education, mental health, etc.). This task force could include the courts, child welfare, mental health, supportive services, education, and others. One agency should be placed in charge of the effort. A major focus should be the common problems associated with visiting (distance, facility culture, decorum, waiting time, alternative modes of visiting such as televisiting, etc.). Another focus should be the integration of services across agencies throughout a parent's movement through the criminal justice system, including kinship services providers. This should involve inter-agency training. The task force should address the service-provider implications of parenting arrangements that tend to be intergenerational and vary considerably in complexity and severity.
2. Develop a model kinship program and curriculum tailored for kinship families, with best practices in kinship programming from across the nation and from Dr. Crumbley's program.
3. Publish an incarcerated parent kinship care toolkit.
4. Develop an OCFS assessment, screening, and supportive services program that successfully connects children, parents, and kinship caregivers in a co-parenting approach. Include mental health professionals in the development and implementation of this program.
5. Involve OCFS kinship programs in planning for non-foster care children of incarcerated parents placed with relatives, including implementing post subsidized guardianship services. For instance, caregivers of children of incarcerated parents almost invariably face most of the special challenges of kinship care, and need special help, including respite care as well as subsidized child care and wraparound services, and case management assistance for relatives having to deal with surrogate parenting issues on limited income without the assistance to which the children would be entitled if they were in the foster care system (i.e. education, delinquency, drug abuse, etc).
6. Increase outreach to incarcerated parents through collaboration between the NYS Kinship Navigator program and criminal justice, child welfare, and social service agencies, as well as community-based organizations specializing in serving children of incarcerated parents or serving kinship families. Require DOCS to include the NYS Kinship Navigator program in their discharge planning and post informational flyers in every prison and jail.
7. Expand on the work on the NYS Kinship Navigator in providing referrals to existing service providers, but also increase OCFS kinship services, particularly in rural jurisdictions.
8. Collect data on incarcerated parents, the caregivers, and children from the criminal justice and child welfare systems, OCFS kinship database, and from community providers (it is important to not just collect data from "systems"). Engage judges and court administrators to improve parental access to judicial proceedings and mediation, and ensure the consideration of children in sentencing, as well as during probation and parole hearings.
9. Courts should investigate the "impact" of placement on children and encourage mediation involving the incarcerated parent and the kinship caregiver.
10. Police departments should adopt procedures that distribute the New York State Permanent Judicial Commission on Justice for Children's brochure, "Parental Appointment of Your Child's Caregiver" and make it part of the intake process for all police departments.

## IV. Social Services

Social services<sup>33</sup> presents a well-documented range of challenges for kinship families, mostly in the public assistance and child welfare systems, and to a lesser but significant degree in the aging systems.<sup>34</sup> At the 2005 and 2008 summits these three systems received the most attention, yet there are many issues which remain unaddressed.

Social Services is the only 2010 summit track that did not have a preliminary meeting. Instead, Coalition members met frequently over the last three years with senior staff at the Office of Temporary and Disability Assistance, Office of Children and Family Services, and Office for the Aging (OTDA, OCFS, and OFA), as well as with the staff for the committees on Children and Family in both legislative houses. The issues and solutions discussed at those meetings were presented to participants in advance of the summit and laid the foundation for the summit social services track's agenda.

Summit participants identified several areas where prior summit recommendations have shown visible results. First, the general public's knowledge about kinship care, the special challenges it presents, and the resources available, has increased. This is likely a result of the ongoing work of the New York State Kinship Coalition, AARP NY, the New York State Kinship Navigator, OCFS kinship programs and other kinship service providers' efforts to establish networks across the state,<sup>35</sup> as well as the efforts of all three core agencies, OTDA, OCFS, and OFA.

Second, the ongoing staff trainings and the development of kinship agency relationships with local DSS providers have eliminated obstacles for kinship caregivers in several counties. In Westchester County, for example, there is a DSS liaison that works specifically with kinship families. Additionally, the publication of a kinship care handbook by the NYS Office of Children and Families, entitled "Having a Voice & a Choice," and the "Know Your Options" brochure have provided significant guidance to local community programs and local DSS providers.<sup>36</sup>

And finally, the simple opportunity provided by the Kinship Coalition for kinship service providers to share personal experiences and potential solutions to common barriers has created a more cohesive, supportive network for kinship caregivers.

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<sup>33</sup> See 2005 and 2008 summit reports at [www.nysnavigator.org](http://www.nysnavigator.org).

<sup>34</sup> The report does not address housing and child care issues.

<sup>35</sup> The NYC Dept. for the Aging Grandparent Resource Center continues to be a vastly effective outreach and service provider in the five boroughs.

<sup>36</sup> The Fostering Connections and Improving Adoptions Act and the OCFS publications, "Having a Voice & a Choice," and "Know Your Options", are part of the shift in child welfare policies towards support for informal kinship care. See <http://www.ocfs.state.ny.us/main/publications/Pub5080.pdf> and <http://www.ocfs.state.ny.us/main/publications/Pub5120.pdf>.

Despite the successes, barriers still exist.<sup>37</sup> In particular, two of the greatest obstacles continue to be the lack of information among DSS service providers and a general lack of knowledge of kinship services among non-foster (informal) kinship caregivers. This information gap is further aggravated by misinformation and confusing language, caused by local department of social services (LDSS) and community agencies who are unfamiliar with kinship care.

For instance, kinship caregivers who approach LDSS's to ask for financial assistance and ask for "kinship" or "nonparent" grants are often told that such benefits do not exist, despite the fact that the official name for these grants is "nonparent" and that kinship caregivers are the predominant recipients of grants, which are also one kind of child-only grants. This problem remains despite at least five years of continued efforts to remedy the issue.

Summit participants once again recommended the strengthening of training for LDSS providers, including specific trainings for front-line workers, supervisors, and 1017 case managers.<sup>38</sup>

Another tremendous barrier for kinship families is the lack of resources. Twenty-five counties remain without a direct service kinship program, and "waiting" timelines required for public benefits often leave families without the proper resources to care for their children. Many examples of the "gap" in kinship services were documented in prior summit reports. For instance, kinship caregivers call local area agencies on aging or local social services districts and are told that the agency does not have any specialized resources or are referred to unrelated services such as fathers' rights organizations.<sup>39</sup> Without supports, many kinship caregivers choose not to become caregivers or make the difficult decision to relinquish custody, because they do not have adequate support.

Summit participants recommended increased funding for services to kinship caregivers. Further, they recommended that those dollars be consistent and dedicated, and where available, be mandated (i.e., utilization of foster care preventive dollars available to counties and the Older American Act's caregiver discretionary kinship funding). In addition, it was recognized that for many counties, the only resource is the NYS Kinship Navigator, an information and referral program. It was suggested that policies be developed for local social services districts and area offices on aging to either provide direct services or contract with a local provider.

Also, participants agreed that although enactment of subsidized guardianship will help some kinship families, there remains a long road ahead. As recommended in prior summits, participants sought to amend the subsidy policy to extend it to non-foster care families. In addition, participants raised questions about the opportunity to become a kinship foster parent and the legal "permanency" of kinship guardianship.

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<sup>37</sup> The 2005 and 2008 summit recommendations addressed many serious issues not discussed in this report and which are of great importance to the kinship community. See prior summit recommendations in Appendix E.

<sup>38</sup> Family Court Act Section § 1017 permits "direct" placements with kin for children in Article Ten proceedings. Direct placements are a diversion from foster care; the local district continues reunification efforts but does not pay foster care payments to the kinship caregiver. Upstate about 600 children are in kinship foster care; compared to over 6,000 in New York City.

<sup>39</sup> Enactment of new Social Services Law §392 in July 2010 expands the coordination of kinship services with local social services districts. See statute in Appendix F.



Participants agreed that kin have complained that the opportunity to become a foster parent was not really offered to them. Instead, various “ruses” dissuaded them from seeking to become foster parents. There are numerous stories documented over the past two decades about such practices (This was discussed in the 2005 and 2008 summit reports). For instance, in some districts kin are told that children cannot be placed with them until they are certified as foster parents, and that the certification will take many months to complete. Often the option to become a foster parent is not offered as a realistic alternative and kin are instead pushed to become Article Ten “direct” custodians, which would not allow them to receive foster care payments. In those instances, there is no administrative procedure for kin to seek to become foster parents without the agreement of the district.<sup>40</sup>

As for legal permanency after kin exit foster care and become kinship guardians, the rights of parents remain intact and kin are vulnerable to petitions by parents, often repeated over many years. Yet, the recently enacted “permanent guardian” legal arrangement is not expressly an option for kinship foster parents in the KinGap program. As a result, KinGap permanently removes kinship children from foster care, but it does not provide a “permanent placement.”

At the summit, participants strongly recommended the creation of a county kinship liaison within each LDSS, specifically assigned to work with kinship families and available to support the work of local kinship programs. This would facilitate sharing of information and a stronger, streamlined relationship between community-based providers and LDSS providers.

In some counties, special relationships and working agreements with the OCFS kinship programs are already streamlining the approval of non-parent grants. Such practices, including agreements for facilitated enrollment are crucial elements in a system of supports for informal kinship families, and also result in significant savings to the local districts by lowering agency processing costs.

To better advocate for kinship services, summit participants recommended the launch of a formal, statewide study of the cost savings of kinship care. While some such information exists, no specific calculations have been done on a community-by-community basis (to begin the examination, this report has an appendix on cost benefit). Data profiling kinship families could be collected from the 22 OCFS kinship programs via their uniform database. Additional data is needed to profile kinship families and to quantify the cost savings. Such data could be collected from the offices of Court Administration, Temporary and Disability Assistance, Children and Family Services, of Aging, and others. Collecting this information and presenting it to policy-makers would help in determining more appropriate funding levels and policies for informal kinship families.

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<sup>40</sup> See 18 NYCRR 443.2 for approval process. Agency has (10) days to respond, in writing, to inquiries from interested foster parents, schedule an appointment, and provide an application and medical forms, 18 NYCRR 443.2(b); Agency has (10) days from receipt of completed application to accept or reject the applicant(s) for home study, acceptance is conditional on the submission of medical forms, 18 NYCRR 443.2(b)(15); Agency must complete a home study within (4) months after acceptance of an application (exception for delays beyond the agency’s control). 18 NYCRR 443.2(c); Agency must advise applicant, in writing, of reasons for decision and offer an “interview” to discuss the decision, 18 NYCRR 443.2(c)(3). There are no time requirements enumerated in the New York Compilation of Codes, Rules and Regulations for approval of certification after the home study is completed. Compare Family Court Act § 1028-a where relative can petition to become a foster parent of a related child in foster care upon fulfillment of certain conditions.

Regarding child welfare policy recommendations, the group added suggestions:

- Removal of barriers to children being placed in kinship homes during the foster care application process.
- Creation of an exception to mandatory documentation policies for kinship families who cannot access such documents.
- Realistic, expedited certification and placement during the application process.
- The revision of the State Central Registrar (SCR) search on kinship caregivers. At times, an SCR hit twenty years old has disqualified families from receiving benefits or accessing foster care.
- The statewide implementation of Family Finding techniques.

An area of social services that was only touched upon by summit participants, but was identified as critical, is federal legislation. The reauthorization of child welfare laws and the Older American Act, as well as legislation on immigration, education, social security, and other areas, all present opportunities for federal support of kinship families,<sup>41</sup> as do amendments to federal laws that would mandate training about kinship families and their needs in various service systems.<sup>42</sup> Participants felt strongly that there is a compelling need for more attention to kinship families at the federal level and that the Coalition should find national leadership for a kinship summit in the nation's capitol.

The last recommendation is to continue the work of the KinCare Coalition, as well as to enhance its outreach through newsletters and e-newsletters for both families and providers, and to set up local kinship coalitions in communities without kinship programs.

### **Prior Social Services Recommendations**

Participants also reaffirmed their support for recommendations from the first two summit reports - that are not yet implemented or only partially implemented. They supported these prior recommendations:

- Strengthening and expanding training for local DSS providers, including trainings specific for front-line workers, supervisors, and 1017 caseworkers, identifying special assessment tools.
- Ensuring that kinship families can become foster parents, by improving regulations regarding notification and certification. (See Appendix H in 2008 Report.)
- Creating a subsidized guardianship for families not in the foster care system.
- Increasing legal permanency for kinship guardians by emphasizing permanent guardianship.
- Mandating use of 10% of Caregiver Support Act funding for kinship care programs and mandating collaboration with child welfare funding efforts; and training on public assistance benefits, such as the non-parent grant, to aging senior and frontline staff.

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<sup>41</sup> For instance, given the fiscal realities of state funding, only permanent federal funding will sustain kinship services. Mandating use of the discretionary 10% for kinship services in the Older Americans is a recommendation from the 2008 summit.

<sup>42</sup> For instance, expressly include education regarding public assistance grants for non-parent caregivers in duties of assistant secretary of Children and Family and of Aging.

**Social Services Recommendations:**

1. Ensure a consistent, dedicated and increased funding line item for the OCFS kinship program, including a mandate for counties to use foster care preventive dollars to support kinship care services.
2. Launch a formal, statewide study of the cost savings of kinship care.
3. Address specific policies that pose barriers to access for kinship families, including: ensuring that children can stay with families while going through the foster care process; allowing an exception for mandatory document policies; providing an administrative procedure for kin to seek approval as foster parents, enhancing access to housing; ensuring appropriate use of the SCR search.
4. Mandate family finding services for all local social services districts.
5. Ensure that every district has a kinship liaison and a working agreement with its kinship service providers to facilitate enrollment of kin in non-parent grants.
6. Expressly include education regarding public assistance grants for non-parent caregivers in the duties of federal agency's assistant secretary of Children and Family and of Aging.
7. Continue the work of the New York State KinCare Coalition, and expand its outreach to include state and federal agencies.
8. Convene a national kinship summit in Washington, D.C. that would describe federal policies and laws supportive of informal kinship families.

## V. Legal Assistance

New York’s child welfare system uses two different and disparate kinship care systems: the formal and informal. In both, children are cared for by relatives, often for the exact same reasons – parental substance use, child abuse or neglect, abandonment, incarceration, or a physical or mental illness – that prohibit parents from caring for the children. Yet, as mentioned throughout this report, in comparison to the formal system, there are few supports for kinship families in the informal system. This imbalance of help is especially acute in legal services, where each year the lack of legal assistance jeopardizes family stability and the well-being of children for thousands of kinship families.

Laws at both the federal and New York State levels mandate that relatives should be contacted about caring for children when they are removed from their parental care. New York’s Family Court Act Section § 1017 mandates a search and notice to relatives upon a child’s removal.<sup>43</sup> The Federal Fostering Connections to Success and Increasing Adoptions Act of 2008 now requires all states to perform similar searches to locate relatives when a child is being removed from his or her parents or has been surrendered to the local DSS and to notify them of their options.<sup>44</sup> Other amendments in New York have further clarified how to address petitions for custody or guardianship by relatives during the pendency of an Article 10 proceeding.<sup>45</sup>

Unfortunately, while relatives are “preferred”, they have no right to care and may be diverted from becoming foster parents or even prohibited from becoming caregivers. In such instances and others, there has been little to no funding for attorneys to assist relative caregivers who come in contact with the formal child welfare system. Relative caregivers are not provided with legal counsel in proceedings to become kinship foster parents, legal guardians, or custodians in Article 10 proceedings. See Appendix D for child welfare laws identifying kin as a resource.

Recently attention has shifted towards the appropriate use of relatives instead of foster parents – as a diversion from foster care. In New York, diversion means that children have been “paroled” to the relatives, meaning they care for the children but receive no foster care subsidy. Kinship families facing diversion also receive no legal assistance, and they are not eligible for any payments or subsidies from the child welfare agency.

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<sup>43</sup> NY Family Court Act § 1017(1), “. . . conduct an immediate investigation to locate any non-respondent parent of the child and any relatives of the child, including all the child’s grandparents, all suitable relatives identified by any respondent parent or non-respondent parent and any relative identified by a child over the age of five as a relative who plays or has played a significant positive role in his or her life and inform them of the pendency of the proceeding and of the opportunity for becoming foster parents or seeking custody or care of the child, and that the child may be adopted by foster parents if attempts at reunification with the birth parent are not required or are unsuccessful.”

<sup>44</sup> Public Law No: 110-351.

<sup>45</sup> NY Family Court Act §§ 1055-b and 1089-a.

Kinship foster parents are eligible for reimbursement for legal fees, but only if they meet certain criteria to become legal guardians under the Kinship Guardianship Assistance Act.<sup>46</sup> Kinship foster parents seeking legal guardianship through the recently enacted Kinship Guardianship Assistance Act are provided up to \$2,000 per child for legal representation in guardianship proceedings.<sup>47</sup> Once they obtain legal guardianship, they are eligible for subsidized guardianship payments. However, there is no funding legal assistance and thus kin must defend their guardianship against petitions by parents seeking to regain custody or increase visitation post appointment by privately hiring counsel.

Kinship families leaving foster care enter the informal kinship system where they find themselves with little to no access to free legal assistance, i.e., assigned counsel, legal services programs, court or local bar pro bono, and community-based programs.

The result is that “informal” kinship caregivers have little understanding of their legal rights regarding their care and custody of children and even less opportunity to protect their interests as custodians of children. In all their legal arrangements, whether with or without court orders, or with legal custody or guardianship or with adoption, the care is private and not monitored by the state. Kin, who start with fewer legal rights than parents and resources, also find that they are not only on their own, they are not able to assert the best interests of children.

As described in the Task Force Report to the Chief Judge, family court pro se litigants represent about 74% of all litigation.<sup>48</sup> While it is not known how many kinship caregivers cannot afford representation, Family Court Act Section § 262 does not provide counsel to indigent petitioning non-parents nor respondents in guardianship proceedings, and legal services organizations across New York State do not provide representation for kinship caregivers in either Article Six or Article Ten proceedings (neglect and private custody or guardianship proceedings).

The lack of legal information and resources extends to issues beyond family court. Kinship caregivers face special challenges when seeking residential determinations for school enrollment, and they often confront barriers to obtaining public assistance benefits on behalf of the child, or they face complex barriers to accessing Social Security benefits. (See the 2005 and 2008 summit reports for detailed discussion and also see the Education and Social Services sections of this report.)<sup>49</sup> They also have difficulties obtaining larger apartments through subsidized housing programs (See “Removing Barriers to Successful Kinship Caregiving,” by the New York City Kincare Task Force, June 2009; posted at [www.nysnavigator.org](http://www.nysnavigator.org)).

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<sup>46</sup> NY Social Services Law § 458-b defines when a child is eligible for kinship guardianship assistance payments. Of the many requirements, the child must have been in the home of the prospective relative guardian for at least a consecutive six months prior to the guardian applying for guardianship and both return home and adoption have been ruled out as possibly permanency options for the child.<sup>47</sup> Public Law No: 110-351.

<sup>47</sup> NY Social Services Law § 458-c(2).

<sup>48</sup> The Task Force to Expand Access to Civil Legal Services in New York Report to the Chief Judge of the State of New York (November 2010) acknowledges the reality that the “best interests” of children are not served by pro se family court litigants who are unable to represent that interest. The Report recommends more funding for legal services for Family Court issues related to family stability as part of the “essentials of life”; pp 39-40.

<sup>49</sup> Under certain circumstances, the child may also be eligible for SSI (Supplemental Security Income) or Social Security benefits on behalf of the biological parent.

With legal resources continuing to shrink, the need for relatives to receive critical legal information and representation will only increase. At the same time, the enactment of the Kinship Guardianship Assistance Act and other legislation enacted in response to the federal Fostering Connections to Success and Increasing Adoptions Act of 2008,<sup>50</sup> will place more children in informal kinship care, as will other factors such as increased diversion and increased impoverishment.

### **Summit Deliberations**

In the 2008 Kincare summit report, participants emphasized the need for legal representation and made specific statutory recommendations. (See the 2008 summit Legal Assistance Recommendations.) But the causes for inaction on those recommendations still persist. 2008 and 2010 kincare summit participants acknowledged that a lack of funding was the major obstacle. There is no funding for informal kinship legal services programs, and strong resistance to expanding the circumstances where indigent kin participating in custodial/guardianship proceedings are covered in Family Court Act § 262.

In response to the continuing barriers to legal assistance, the New York State Kincare Coalition held a special legal assistance summit in December 2008. Presenters described six successful legal assistance efforts that include assistance to kinship caregivers.

### **Legal Information:**

- The statewide OCFS NYS Kinship Navigator
- Legal Information for Families Today, (LIFT) headquartered in New York City
- OCFS regional kinship programs that offer legal consultations

### **Legal Representation:**

- OCFS's kinship program Mid-Erie Grandparent Advocacy Program (with Neighborhood Legal Services)
- MFY Legal Services Inc. Kinship Caregiver Law Project, located in New York City
- OCFS's kinship program The Family Center, located in New York City.<sup>51</sup>

The NYS Kinship Navigator provides over 40 cited legal fact sheets, ranging from federal Social Security assistance for grandparents to adoption, as well as a toll-free phone line offering legal consultations with its director or an attorney at the Pace Women's Justice Center, and limited advocacy for callers. The Navigator has partnered with Empire Justice Center to present trainings on kinship law for attorneys (CLE credits) and assisted local kinship programs in outreach to the legal community.

Legal Information for Families Today (LIFT) empowers unrepresented litigants with legal information and compassionate guidance so that they can successfully advocate for themselves in the Family Court system. LIFT serves more than 25,000 parents and kinship caregivers each year through programs that are available inside the NYC Family Courthouses in all boroughs except Staten Island – the Help Centers and Education & Information Sites – as well as programs available in the community – the Family Legal Center and Family Law Information Telephone & Email Hotlines.

<sup>50</sup> See Appendix H in the 2008 Report for a summary of all laws that discuss the rights of relatives in the formal child welfare system.

<sup>51</sup> Since the round table, another program has been identified – the Rural Law Center's pro bono family law and appeals program.

LIFT also produces 36 original multilingual Legal Resource Guides, available in seven languages at all programs and on their website, with step-by-step information on various family law topics, such as “The Rights of Relatives in Family Court” and “How to Start a Family Court Case.”

A few of OCFS’s kinship programs have consultation agreements with attorneys who provide private consultations. Consultations provide caregivers with legal information, including warnings of potential custodial issues, suggestions on tactics, and help with obtaining assistance.

OCFS’s Mid-Eire program offers consultations inside the Erie County Family Court and limited representation through its contract with Neighborhood Legal Services. Its Grandparent Advocacy Program emphasizes a team approach that wraps services around the family. The team is comprised of a Kinship Services Facilitator, a Family Advocate and an attorney. They are located at the Erie County Family Court to facilitate referrals directly from the Family Court judges, court attorney referees and Petition Processing, Erie County Department of Social Services and Senior Services, and the larger community. The team walks a family through both the process and the system until their custodial decisions and arrangements have been made. They also follow up with linkages to existing community resources and monitor whether or not families have been able to access them.

MFY Legal Services’ Kinship Caregiver Law Project is a pro bono program offering legal representation and counsel and advice for relative caregivers in custody, guardianship, and adoption proceedings in New York City where the children are not in the formal foster care system. Currently approximately 140 pro bono attorneys represent kinship caregivers in both contested and uncontested legal proceedings and hundreds of pro bono attorneys have been trained (receiving CLE credits) since the program’s inception in 2006. They also offer court-based legal clinics where pro se litigants have the opportunity meet with an attorney for assistance in completing court documents. MFY recently expanded the project to include assistance in obtaining public assistance benefits, aiding relative caregivers in completing applications, providing assistance in navigating the application process, and representing clients at fair hearings when denied benefits.

In New York City, The Family Center’s OCFS’s kinship program has a full-time attorney on staff. The attorney provides legal consultations and limited representation for public assistance cases, custodial proceedings, and housing.

A resource identified after the 2008 summit is the Rural Law Center’s (RLC’s) kinship project. The RLC, funded by the Interest on Lawyer Accounts Funds, offers a variety of kinship care services in upstate New York. Among those is Kinship Care Continuing Legal Education to attorneys in exchange for a commitment to take a pro bono kinship case, petition assistance for grandparents who cannot access legal services, and ADR/mediation services in Clinton, Franklin and St. Lawrence Counties. These Alternative Dispute Resolution (ADR) sessions allow family members to participate in private, confidential, voluntary mediations that often result in a family agreement regarding custody. Most of those agreements are then converted to family court orders. The advantage of using ADR is that parents, grandparents and often DSS caseworkers, have the opportunity to work together to come up with a solution that is in the children’s best interest.

Neither the pro bono bar nor the Office of Court Administration provides any specialized legal assistance to kinship families. However, the report to the Chief Judge of the NY Court of Appeals by the Task Force recommended increased funding for legal services to civil litigants. The Coalition views this as a promising opportunity and recommends that legal services funds targeting “family stability,” particularly assist pro se indigent litigants and especially kinship caregivers in family court custodial proceedings.<sup>52</sup>

Participants identified untapped resources, including student programs at law schools, retired and volunteer attorney programs run by the Office of Court Administration (OCA), other non-profit volunteer attorney organizations, and pro bono volunteers in law firms of all sizes across the state. Participants also suggested that the OCA provide online “do-it-yourself” forms for relative applications to aid in the drafting of petitions, and suggested more training for judges and attorneys for the children on the rights of relative caregivers.

Lastly, participants described specific legal enactments. Under Family Court Act § 262, a relative caregiver seeking custody or guardianship of a minor child has no right to an attorney even if he or she cannot afford one. The caregiver only has the right to counsel if he or she was previously awarded legal custody – not guardianship<sup>53</sup> – by a court order and the parent has returned to court, seeking the return of the child. The Family Court Act should be expanded to include kin who already are primary caregivers but do not have a prior court order, and kin with a prior court order for guardianship (not just custody). Including guardianship is especially important because kin will become guardians when exiting foster care for the new subsidized guardianship KinGap program.<sup>54</sup>

Participants also discussed expanding the definition of extraordinary circumstances in Domestic Relations Law § 72 to include all kinship caregivers, not just grandparents. This legal change would greatly aid relative caregivers in successfully petitioning the court for custody or guardianship, particularly if caregivers are *pro se*. If a relative caregiver is filing for legal custody or guardianship and the parent is either unwilling to consent or missing, the caregiver must prove “extraordinary circumstances,” i.e. abuse, neglect and/or abandonment, which can be difficult to prove without legal representation, but fairly easy to prove if a child has lived with the relative caregiver for two or more years.

Extraordinary circumstances can include surrender, abandonment, unfitness, or extended disruption of custody. Domestic Relations Law § 72 clearly defines one extraordinary circumstance: an extended disruption of custody in which the parent has voluntarily relinquished care and control of the child and the child resided in the household of the grandparent for a continuous 24 month period. Under the current law, only a grandparent may benefit from this definition, thereby proceeding directly to a best interests determination by the court once they can demonstrate an extended disruption of custody.

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<sup>52</sup> LIFT submitted testimony on this issue during the Task Force’s fall 2010 hearings on Access to Civil Legal Services; testimony is available at: <http://www.liftonline.org/reform.html>.

<sup>53</sup> See NY Family Court Act § 262(a)(iii).

<sup>54</sup> Kin exiting foster care as part of the KinGap program will not have “permanent” placements, because parents still retain their rights. Guardianship based upon parental consent will retain a presumption that parental custody is in a child’s best interests, while guardianships based upon a finding of “extraordinary circumstances” will, at least, level the playing field. Such findings eliminate parental preferences. However, all guardianship inherently contain the risk of future petitions by parents to regain custody or increase visitation rights.



Many non-grandparent caregivers and the children in their care would benefit from being able to utilize D.R.L. § 72 to obtain an extraordinary circumstances determination in custody or guardianship proceedings. This statute permits grandparents to claim an “extraordinary circumstance” which provides standing in a custody/guardianship dispute, when they can prove two years of continuous residence in their home by a grandchild. There is no good reason to differentiate between grandparents and other relatives in these circumstances.<sup>55</sup> Of note, the Census Bureau estimates that 35% to 40% of all nonparent care is by non-grandparents.<sup>56</sup> Grandparents and other relatives, as well as many unrelated caregivers, provide care for children, and many do so for extended periods of time. Legislation could put all relatives on an equal playing field in proving extraordinary circumstances. It would also provide judges with clear guidance on establishing extraordinary circumstances based on extended disruption of custody for all relatives.

### **Legal Assistance Recommendations:**

1. Provide permanent funding for legal services (consultations and representation) as part of the OCFS kinship program funding and ensure that legal services for kinship caregivers includes legal information and assistance for matters regarding family law, education, and public assistance.
2. The Office of Court Administration should create and provide “do-it-yourself” forms online and also available at the courthouses so pro se litigants may address “extraordinary circumstances” as well as best interests.
3. The Office of Court Administration should include Family Court proceedings in its pro bono programs.
4. New York State should enact the recommended funding for “family stability” legal services in The Chief Judge’s Task Force to Expand Access to Civil Legal Services Report and also insure that a significant percentage of the funding targets family court pro se indigent litigants.
5. Amend NY Family Court Act § 262(a)(iii) to create a right to an attorney as a legal custodian and legal guardian where the parent has filed a petition for return of the child by adding “under part 4 of article six of this act” (currently only legal custody is mentioned). Amend FCA § 262 to include the right to assigned counsel to all primary caregivers, regardless of whether they have a prior order of custody or guardianship.
6. Amend Domestic Relations Law § 72 to include all relatives who may benefit from an extended disruption of custody as an extraordinary circumstance.
7. Train judges, court clerks and attorneys for the children on the rights of kinship caregivers, including mandated distribution of OCFS kinship publications.
8. Each family court in New York State should have a “help center” with information for kinship caregivers. The center should have legal fact sheets available and a staff person who is able to provide legal information to kinship caregivers. The New York City Family Court Help Centers, collaboration between the courts and LIFT, should be expanded statewide to meet this need.

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<sup>55</sup> The 2008 summit report also included this recommendation.

<sup>56</sup> Testimony of Acting Asst. Secretary of Children and Family to Senate Committee, July, 2010.

9. Pro Bono legal services should be encouraged by funding regional and a statewide kinship legal assistance project similar to those run by MFY Legal Services and by the Rural Law Center. This project would provide legal trainings (CLE) on kinship issues, assistance in establishing pro bono programs, and be staffed by an attorney coordinator. The attorney coordinator would assist pro bono attorneys who commit to representing kinship families (or provide petition assistance or ADR/mediation services), and also create a statewide network of pro bono legal assistance providers.

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## Appendix A: Reviewers of the 2010 Kinship Summit Report

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Chaunda Ball  
Associate State Director, Communications, AARP New York

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**Appendix B: List of New York State Kinship Programs**

<b>Program Name</b>	<b>Counties Served</b>	<b>Funding**</b>	<b>Program services</b>
Accord Corporation	Allegany	N/A	Children and family support services
Brooklyn Grandparent's Coalition	Kings	OCFS- \$125,000 and Brookdale Foundation- 2 <sup>nd</sup> year grant of \$4000	Case management and support for kinship families
Catholic Charities Support Services	Albany, Schenectady and Rensselaer	OCFS \$ \$129,008, 12,256 from county supported programs, \$32,165 from United Way	Case management , support groups, trainings, mentoring program
Catholic Charities of Buffalo	Erie, Genesee, Orleans, Niagara, Wyoming, Allegany, Cattaraugus, Chautauqua	OCFS and Cattaraugus County: \$226,000	Information and Assistance, Case Management, support groups
Catholic Charities of Columbia/Greene	Columbia and Greene	OCFS \$116,502	Case management, support groups, counseling, activities
Catholic Family Center	Monroe	OCFS \$149,000	Case management, linkage to several other partner services quarterly activities for kinship families, coordination of local Kinship Alliance, coordination of regional Kinship Care Conference
Chautauqua Child Care Council	Chautauqua	N/A	Information on child care resources and subsidies
Child Care Coordinating Council	Franklin and Clinton	\$96,730.52 – OCFS \$10,000 – Brookdale Foundation	I&R, advocacy, support groups, case management, respite, financial assistance,
Cornell Cooperative Extension	Dutchess	\$125,000 OCFS \$34,440 from a variety of sources	Case management, respite, workshops, youth programs, intergenerational activities
Cornell Cooperative Extension	Ontario	Spring Hill Foundation \$9,975	Case management and support for kinship families
Cornell Cooperative Extension	Orange	OCFS 134,000; OFA Title III E - \$17,000; DFY-S (Youth Bureau) \$17,000; Brookdale Foundation - \$4,000	Support groups, youth component, parent education, nutrition education, counseling, legal consultations, peer to peer mentoring
Cornell Cooperative Extension	Tioga	RAPP	I & R, resource library, workshops
Council on Adoptable Children	5 counties of NYC	OCFS \$158,000	Case management and support for kinship families
Department for the Aging	5 counties of NYC	Blended funding	Provides assistance with NPC, resource center
Department of Aging and Youth	Onandaga	NYSOFA and the Administration on Aging under Title III-E	Caregiver Resource Center
Enhanced Relatives As Parents Program	Rockland	OCFS 87,514 & LDSS 99,500	Case management, counseling, respite, workshops, wrap around
Family Enrichment Network	Broome, Tioga (via phone)	OCFS \$140,000	Case management, support, advocacv. counseling

<b>Program Name</b>	<b>Counties Served</b>	<b>Funding**</b>	<b>Program services</b>
Family Service Society of Yonkers	Westchester, primarily Yonkers	\$116,502 OCFS, \$50,000 DSS, \$20,000 Yonkers County of Youth Development, \$70,000 Private foundation support	Case management, I &R, support groups, events, youth program, counseling, mediation, legal services, workshops
Family Ties	Westchester	\$7,500 Westchester County Department of Senior Programs and Services	Support Groups, Respite, Information and Referral
Fort Green S.N.A.P	All 5 boroughs	N/A	Support groups for caregivers
Gateway-Longview, Inc.	Erie	LDSS \$115,000	Support services for caregivers (not long term)
Grandparents Advocating Support	Niagara, Erie	unknown	Support meetings, case management
Grandparents Empowerment Movement	All 5 boroughs	N/A	Support groups for caregivers
Grandparents Parents Raising Children Support Group	Suffolk and Nassau	Town of East Hampton	Information and referral, support group
Grandparents Raising Grandchildren	Oswego	OMH \$500	Bimonthly support group
Hispanic Counseling Center	Nassau	OCFS \$125,000	Case management, I &R, support groups
Jewish Board of Family and Children's Services	Kings, I & R to all of NYC	OCFS- \$125,000 and Brookdale Foundation- 2 <sup>nd</sup> year grant of \$4000	Case management, counseling, support groups, I and R, multi lingual
Kin and Kids	Oneida, Herkimer	OCFS \$111,986	Case management, advocacy, outreach, support, I&R
Legal Information for Families Today (LIFT)	5 counties of NYC		Provides legal services to caregivers
Liberty Resources, Inc.	Oswego	OCFS \$145,000	Case management and support for kinship families
Lincoln Square Neighborhood Center	All 5 boroughs	N/A	Information and referral, advocacy
Long Island Kinship Connection	Suffolk and Nassau	NYS OCFS - \$142,000	Case Management, Legal Assistance, Counseling, Support Groups, Respite Events, Children's Activities, I &R
Lutheran Social Services	Queens	\$116,502 for contract 12/1/10 - 11/30/11, OCFS (TANF)	Case management, referrals, advocacy, home visits
MFY Legal Services	5 counties of NYC	Equal Justice Works \$37,000, OCA \$141,750, Private Foundations \$110,000	Provides legal services to caregivers
Mid-Erie Counseling and Treatment Services	Erie	\$138,180 MINUS 1.1% DUE TO STATE BUDGET SHORTFALL	Legal services, advocacy, linkage and referral, support groups
NYS Kinship Navigator	All counties	OCFS \$220,500	Information and referral for caregivers across state
Office for the Aging	Montgomery	Unknown	Respite program for caregivers
Office for the Aging	Steuben	Title III-E amount unknown, minimal	Counseling, information and referral
Office of the Aging	Cortland	Unknown	Kinship educational sessions and workshops
Office of the Aging	Fulton, Montgomery	Unknown	Support group, referrals, respite
Office of the Aging	Lewis	Unknown	Provides support to caregivers over 60

<b>Program Name</b>	<b>Counties Served</b>	<b>Funding**</b>	<b>Program services</b>
Office of the Aging	Madison	Unknown	Support group, lending library
Office of the Aging	Otsego	Unknown	Information and referral to caregivers
Office of the Aging	Ulster	Unknown	Support group
PACE Women's Justice Center	Westchester	Hebrew Homes	Legal helpline
Presbyterian Senior Services	Bronx	OCFS \$134,000	Support groups, case management, counseling, respite, referrals, summer camp and after school program.
RAPP Relatives as Parents Program	Putnam	No current funding	Information and referral, support group.
SKIP Generations /Crestwood	Monroe	NCOA, MCOFA: 71,000	Support group, mentoring, PASTA series
Southampton Dept. of Social Services	Suffolk	N/A	Monthly support group
Southern Adirondack Relatives as Parent's Program (RAPP)	Warren, Washington, Saratoga (case by case)	Brookdale Foundation	Support group, resources and referrals
The Children's Village	Bronx	OCFS \$125,000	Case management, I &R, counseling
The Family Center	5 counties of NYC	OCFS \$150,000	Case management, advocacy, I &R, support groups, counseling, legal advice
The Kinship Support Project	Oswego	LDSS TANF funding	Case management for caregivers and families in Oswego County
Time Out Support Group	Genesee	Unknown	Support group for kinship caregivers
Ulster County RAPP	Ulster	RAPP	Case management and support for kinship families
	<b>Total</b>	<b>37**</b>	

\* Funding totals may have changed due to recent budget cuts.

\*\* Total counties served does not include the Navigator program, who provides Information and Advocacy to all counties New York State.

**NYS Counties Without Service Kinship Programs**

Cayuga

Chemung

Chenango

Delaware

Essex

Hamilton

Jefferson

Lewis

Livingston

Orleans

Otsego

Saratoga

Schoharie

Schuyler

Seneca

St. Lawrence

Sullivan

Tompkins

Washington

Wayne

Wyoming

Yates



## Appendix C: OTDA Data on Average Temporary Assistance Grant<sup>1</sup>

### Average Temporary Child Only Assistance Grant

(based on 4 budget scenarios: room and board, rent with electric, gas and oil)

County	1 child	2 children	3 children
Albany	\$446	\$566	\$742
Erie	\$434	\$555	\$724
Suffolk	\$541	\$699	\$879
Schoharie	\$439	\$581	\$731
<b>Average</b>	<b>\$465</b>	<b>\$600</b>	<b>\$769</b>

New York State has approximately 53,000 Child Only Cases and of those approximately 24,600 are Non-Parent Caregiver cases.

To arrive at the average TA grant per case:  $\$465 + \$600 + \$769 = \$1834 / 3 = \$611$

Approximate TANF grant costs statewide for one month:  $\$24,600 \times \$611.00 = \$5,030,600$

Approximate Monthly Administrative Cost for 24,600 Non-Parent cases:  $\$9,954,332$

Total TANF Non-Parent costs statewide for one month:  $\$24,984,932$

### Approximate Statewide TANF Non-Parent Costs for One Month:

	50% Federal	25% State	25% Local	Total
<b>Grant Costs</b>	\$7,515,300	\$3,757,650	\$3,757,650	\$15,030,600
<b>Administrative Costs</b>	\$4,977,166	\$0	\$4,977,166	\$9,954,332
<b>Total</b>	<b>\$12,492,466</b>	<b>\$3,757,650</b>	<b>\$8,734,816</b>	<b>\$24,984,932</b>

## Appendix D: NYS Child Welfare Laws Identifying Kinship Caregivers

These laws demonstrate:

- 1) that all relatives, not just grandparents are recognized as suitable caretakers, and
- 2) that relatives become involved in the formal foster care system in a variety of ways and need legal information/assistance and/or representation.

**18 NYCRR 443.1** provides the definition of relative for foster care: relative w/in the first, second or third degree of the parent or stepparent , through blood or marriage including: grandparents, great-grandparents, aunts and uncles (including spouses of aunts or uncles), siblings of the child, great-aunts and great-uncles (including those spouses), first cousins of the child (including spouses), great-great grandparents of the child AND unrelated persons where placement with such person allows half-siblings to remain together in an approved foster home and the parents or stepparents of one of the half-siblings is related to such person in the second or third degree.

**FCA 1017(1)** must search for grandparents and all relatives where a child is removed from the home of his or her parents, including any relative identified by any respondent parent or non-respondent parent or any child over the age of 5 as a relative who plays or has played a significant positive role in the child's life

**FCA 1028-a** – a relative may apply to become a foster parent and the court is required to hold a hearing to determine whether the child should be placed with a relative in foster care if the relative is related w/in the third degree of consanguinity to either parent (assuming a few other requirements have also been met, i.e. the child has been in foster care for less than one year, the relative was not previously rejected, etc.)

**FCA 1052-c** ACS must report to court the results of search for relatives of child, including all grandparents, all suitable relatives identified by parent and all relatives identified by a child over the age of 5 as relatives who play or have played a significant positive role in the child's life

**FCA 1055** placement of the child – can be with relative or other suitable person

**FCA 1055-b** after dispositional hearing, court may grant custody or guardianship to relative or suitable person; if parent does not consent, then relative must prove EC

**FCA 1089-a** – permanency plans (fit and willing relative)

**SSL 458-a** – prospective relative guardian (for subsidized kinship guardianship) is a person related to the child by blood, marriage or adoption who has been caring for the child as a fully certified or approved foster parent for at least 6 consecutive months prior to applying for kinship guardianship assistance payments

## Appendix E: 2005 and 2008 Kinship Summit Recommendations

With asterisked indicators:  
\*Accomplished                      \*\* Partially Accomplished                      \*\*\*Not Accomplished

### 2005 REPORT: ENABLING KINCAREGIVERS TO RAISE CHILDREN – RECOMMENDATIONS –

#### OVERARCHING RECOMMENDATIONS

- Recommendation 1:                      Create a statewide “Kinship Information Program.”\*
- Recommendation 2:                      Restore funding for the “Help for Caretaker Relative Programs.”\*
- Recommendation 3:                      Create a subsidized “Guardianship Program.”\*\*
- Recommendation 4:                      Create a state-level “Task Force on Kinship.”\*\*\*

#### TRAINING RECOMMENDATIONS

##### *Public Assistance System*

- Recommendation 5:                      Publish a guide to applying for “Child-Only” grants.\*\*
- Recommendation 6:                      Train staff of departments of Social Services.\*\*

##### *Education System*

- Recommendation 7:                      Train school-district personnel.\*\*

##### *Legal and Judicial System*

- Recommendation 8:                      Train court personnel.\*\*

#### STATUTORY RECOMMENDATIONS

##### *Public Assistance*

- Recommendation 9:                      Amend Social Services Law to create a “Good Cause” exemption from kinship caregivers’ cooperating in enforcement of support orders.\*

##### *Educational System*

- Recommendation 10:                      Amend Education Law as it relates to enrollment criteria, rights of legal custodians, responsibility of legal custodians for school-related activities, and the definition of “Person In Parental Relation.”\*\*

*Health Care System*

Recommendation 11: Amend Public Health Law definition of “Person In Parental Relation.”\*\*\*

*Legal and Judicial System*

Recommendation 12: Amend Domestic Relations Law to create a statutory period for “de facto” custody.\*\*

Recommendation 13: Amend Social Services Law to ensure placement of the optimum number of children with kinship caregivers.\*\*

**FUNDING RECOMMENDATIONS**

*Public Assistance System*

Recommendation 14: Increase “Child-Only” grants.\*\*

*Health Care System*

Recommendation 15: Mandate research of health care needs of kinship caregivers and best practices.\*\*

*Legal and Judicial System*

Recommendation 16: Provide legal representation for grandparents seeking custody based on “extended disruption of custody” under Domestic Relations Law § 72 and for kin in private adoptions.

Recommendation 17: Collect and maintain statistics on third-party custody disputes.\*\*

LINK TO 2005 REPORT

<http://www.nysnavigator.org/sf/documents/2005report.pdf>

**2008 REPORT: KINSHIP CARE IN NEW YORK –  
A FIVE-YEAR FRAMEWORK FOR ACTION  
– RECOMMENDATIONS –**

Recommendation 1: Strengthen coordination of kincare services offered by OCFS, OFA and OTDA

Recommendation 2: Develop an inventory of general services and use a uniform common protocol for state and local agencies to identify and assess the needs of kincare families

- Recommendation 3: Provide training on kincare issues and cultural diversity to staff of government services programs
- Recommendation 4: Eliminate agency barriers to foster care for kincaregivers
- Recommendation 5: Make services similar to foster families available to non-foster kincare families
- Recommendation 6: Increase funding for short and long term child care
- Recommendation 7: Expand OCFS Kinship Programs to serve kincare families across New York State and to include model practices
- Recommendation 8: Expand OFA kinship programming by establishing regional caregiver centers and moving towards all AAAs using Title III-E Caregiver Support funds for kincare services
- Recommendation 9: Fund data collection and analysis of data to permit development of evidence based state and local agency policies
- Recommendation 10: Create permanent subsidized guardianship as a legal option
- Recommendation 11: Provide procedural protections for “N Docket” custodians
- Recommendation 12: Mandate an OCFS review of all Family Court Act Article Ten issues involving the use of kin as caregivers
- Recommendation 13: Create a statutory period for “de facto” custody and mandate age appropriate consultations in custody proceedings
- Recommendation 14: Include kincare circumstances in public assistance “good cause” exceptions
- Recommendation 15: Change public assistance budgeting rules to maximize benefits available to kincare providers
- Recommendation 16: Allow children with different parents to constitute separate filing units to obtain public assistance
- Recommendation 17: Allow parental designations to be granted for one-year periods

Recommendation 18: Create a statewide legal assistance network by enhancing current kincare legal resources and expanding other legal programs to include kincare representation through funding and other assistance of the Office of Court Administration

Recommendation 19: Mandate assigned counsel to kinship caregivers in Family Court Act 262

LINK TO 2005 REPORT

<http://www.nysnavigator.org/sf/documents/2008reportwithchanges.pdf>

## **Appendix F: New York Social Services Law § 392**

### **§ 392. Services for relative caregivers**

Notwithstanding any other provision of law to the contrary, local social services districts shall make available through the district's website or by other means information for relatives caring for children outside of the foster care system. Such information shall include but not necessarily be limited to:

1. information relating to child only grants, including but not limited to, how to apply for child only grants; and
2. information on department of family assistance or local department of social services funded resources for relative caregivers, including those that provide supportive services for relative caregivers.

## Appendix G: 2009 American Community Survey Grandparent and Grandchild Statistics

Below are selected statistical tables from the 2009 American Community Survey for the entire United States, New York State, New York City, and selected Counties in New York State. No data were available for the following Counties: Albany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Clinton, Dutchess, Jefferson, Madison, Niagara, Oneida, Onandaga, Ontario, Orange, Oswego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, St. Lawrence, Steuben, Sullivan, Tompkins, Ulster, Warren, and Wayne.

### United States

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
Living with own grandchildren under 18 years	6,687,495	+/-56,772	2,696,053	+/-35,609	1,815,092	+/-27,162	880,961	+/-17,864
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>								
One race	98.2%	+/-0.1	98.1%	+/-0.2	98.0%	+/-0.2	98.1%	+/-0.2
White	62.2%	+/-0.4	63.3%	+/-0.6	62.7%	+/-0.7	64.6%	+/-0.9
Black or African American	18.8%	+/-0.3	23.2%	+/-0.5	23.7%	+/-0.5	22.0%	+/-0.7
American Indian and Alaska Native	1.4%	+/-0.1	2.0%	+/-0.1	2.0%	+/-0.2	2.0%	+/-0.2
Asian	7.3%	+/-0.2	2.9%	+/-0.2	2.0%	+/-0.2	4.6%	+/-0.5
Native Hawaiian and Other Pacific Islander	0.3%	+/-0.1	0.3%	+/-0.1	0.3%	+/-0.1	0.3%	+/-0.1
Some other race	8.0%	+/-0.3	6.4%	+/-0.3	7.3%	+/-0.4	4.6%	+/-0.4
Two or more races	1.8%	+/-0.1	1.9%	+/-0.2	2.0%	+/-0.2	1.9%	+/-0.2
Hispanic or Latino origin (of any race)	24.7%	+/-0.3	20.1%	+/-0.5	22.0%	+/-0.6	16.2%	+/-0.8
White alone, not Hispanic or Latino	46.8%	+/-0.4	50.8%	+/-0.6	49.2%	+/-0.7	54.1%	+/-1.0

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	6,687,399	+/-56,760	2,696,053	+/-35,609	1,815,092	+/-27,162	880,961	+/-17,866
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>								
Income in the past 12 months below poverty level	15.1%	+/-0.3	20.4%	+/-0.5	21.5%	+/-0.6	18.0%	+/-0.
Income in the past 12 months at or above poverty level	84.9%	+/-0.3	79.6%	+/-0.5	78.5%	+/-0.6	82.0%	+/-0.
Grandparents living with own grandchildren under 18 years in households	6,683,123	+/-56,837	2,695,317	+/-35,582	1,814,480	+/-27,029	880,837	+/-17,899
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>								
Householder or spouse responsible for grandchildren with no parent of grandchildren present	13.5%	+/-0.2	33.6%	+/-0.5	27.8%	+/-0.6	45.3%	+/-0.



United States Continued.

Subject	Total	Margin of Error	With Grandparent Responsible			
			Total	Margin of Error	With no Parent Present	Margin of Error
<b>Grandchildren under 18 years living with a grandparent householder</b>	<b>5,345,635</b>	<b>+/-57,491</b>	<b>2,867,125</b>	<b>+/-43,157</b>	<b>943,356</b>	<b>+/-24,396</b>
<b>AGE</b>						
Under 6 years	49.2%	+/-0.4	46.1%	+/-0.6	23.9%	+/-1.0
6 to 11 years	28.6%	+/-0.3	29.1%	+/-0.5	34.6%	+/-0.8
12 to 17 years	22.1%	+/-0.3	24.8%	+/-0.5	41.5%	+/-1.0
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>						
One race	93.1%	+/-0.3	93.1%	+/-0.3	93.5%	+/-0.5
White	57.0%	+/-0.5	55.5%	+/-0.7	54.8%	+/-1.4
Black or African American	24.5%	+/-0.4	27.0%	+/-0.6	31.3%	+/-1.3
American Indian and Alaska Native	2.0%	+/-0.1	2.5%	+/-0.2	2.1%	+/-0.2
Asian	2.5%	+/-0.1	1.7%	+/-0.1	1.1%	+/-0.2
Native Hawaiian and Other Pacific Islander	0.3%	+/-0.1	0.3%	+/-0.1	0.2%	+/-0.1
Some other race	6.8%	+/-0.3	6.1%	+/-0.3	4.0%	+/-0.5
Two or more races	6.9%	+/-0.3	6.9%	+/-0.3	6.5%	+/-0.5
Hispanic or Latino origin (of any race)	26.4%	+/-0.5	24.0%	+/-0.6	16.1%	+/-1.0
White alone, not Hispanic or Latino	40.4%	+/-0.4	40.4%	+/-0.6	45.2%	+/-1.3

Subject	Total	Margin of Error	With Grandparents Responsible			
			Total	Margin of Error	With no Parent Present	Margin of Error
<b>Grandchildren under 18 years living with a grandparent householder</b>	<b>5,345,635</b>	<b>+/-57,491</b>	<b>2,867,125</b>	<b>+/-43,157</b>	<b>943,356</b>	<b>+/-24,396</b>
<b>PUBLIC ASSISTANCE IN THE PAST 12 MONTHS</b>						
Grandchildren living in households with Supplemental Security Income (SSI), cash public assistance income, or Food Stamp/SNAP benefits	43.2%	+/-0.6	46.9%	+/-0.8	39.9%	+/-1.2
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>						
Income in the past 12 months below poverty level	21.1%	+/-0.4	26.0%	+/-0.6	32.3%	+/-1.3
Income in the past 12 months at or above poverty level	78.9%	+/-0.4	74.0%	+/-0.6	67.7%	+/-1.3

New York State

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren				Margin of Error	
			Total	Margin of Error	30-59 years	60 years and over		
Living with own grandchildren under 18 years	426,978	+/-10,282	141,157	+/-6,545	86,852	+/-5,306	54,305	+/-4,359
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>								
One race	N	N	N	N	N	N	N	N
White	48.8%	+/-1.3	46.0%	+/-2.4	45.5%	+/-3.4	46.9%	+/-3.3
Black or African American	24.6%	+/-1.1	29.4%	+/-2.3	28.1%	+/-3.2	31.5%	+/-3.5
American Indian and Alaska Native	0.4%	+/-0.2	0.4%	+/-0.2	0.5%	+/-0.3	0.3%	+/-0.3
Asian	12.2%	+/-0.9	6.6%	+/-1.2	4.6%	+/-1.4	9.8%	+/-2.0
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N
Some other race	12.3%	+/-1.1	14.7%	+/-1.9	18.0%	+/-3.0	9.4%	+/-2.0
Two or more races	1.7%	+/-0.3	2.6%	+/-0.7	3.0%	+/-1.0	2.1%	+/-0.8
Hispanic or Latino origin (of any race)	25.4%	+/-1.3	27.7%	+/-2.4	30.9%	+/-3.4	22.6%	+/-3.2
White alone, not Hispanic or Latino	37.5%	+/-1.3	35.6%	+/-2.3	35.6%	+/-3.2	35.7%	+/-3.4

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren				Margin of Error	
			Total	Margin of Error	30-59 years	60 years and over		
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	426,978	+/-10,282	141,157	+/-6,545	86,852	+/-5,306	54,305	+/-4,359
<b>POVERTY STATUS IN THE LAST 12 MONTHS</b>								
Income in the past 12 months below poverty level	13.9%	+/-1.1	21.7%	+/-2.1	23.5%	+/-2.7	18.7%	+/-3.1
Income in the past 12 months at or above poverty level	86.1%	+/-1.1	78.3%	+/-2.1	76.5%	+/-2.7	81.3%	+/-3.1
Grandparents living with own grandchildren under 18 years in households	426,755	+/-10,289	141,053	+/-6,545	86,748	+/-5,314	54,305	+/-4,359
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>								
Householder or spouse responsible for grandchildren with no parent of grandchildren present	8.8%	+/-0.7	26.5%	+/-2.1	20.6%	+/-2.4	35.9%	+/-3.5

New York State Continued.

Subject	Total	Margin of Error	With Grandparents Responsible			
			Total	Margin of Error	With no Parent Present	Margin of Error
<b>Grandchildren under 18 years living with a grandparent householder</b>	<b>304,458</b>	<b>+/-11,330</b>	<b>140,185</b>	<b>+/-7,427</b>	<b>39,526</b>	<b>+/-4,409</b>
<b>AGE</b>						
Under 6 years	48.9%	+/-1.5	47.4%	+/-2.5	22.6%	+/-3.8
6 to 11 years	29.3%	+/-1.4	28.7%	+/-2.1	32.6%	+/-3.7
12 to 17 years	21.8%	+/-1.2	23.9%	+/-2.2	44.8%	+/-4.3
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>						
One race	94.5%	+/-0.9	93.5%	+/-1.3	94.3%	+/-1.9
White	41.9%	+/-2.0	38.0%	+/-2.5	37.6%	+/-4.9
Black or African American	32.8%	+/-1.8	34.4%	+/-2.7	39.2%	+/-5.3
American Indian and Alaska Native	0.5%	+/-0.2	0.6%	+/-0.4	0.5%	+/-0.8
Asian	6.1%	+/-1.0	4.2%	+/-1.1	3.5%	+/-1.8
Native Hawaiian and Other Pacific Islander	0.1%	+/-0.1	0.1%	+/-0.1	0.0%	+/-0.4
Some other race	13.2%	+/-1.5	16.2%	+/-2.2	13.5%	+/-4.7
Two or more races	5.5%	+/-0.9	6.5%	+/-1.3	5.7%	+/-1.9
Hispanic or Latino origin (of any race)	28.9%	+/-1.9	33.4%	+/-2.9	27.0%	+/-5.3
White alone, not Hispanic or Latino	29.1%	+/-1.8	24.7%	+/-2.3	25.8%	+/-3.9

Subject	Total	Margin of Error	With Grandparents Responsible			
			Total	Margin of Error	With no Parent Present	Margin of Error
<b>Grandchildren under 18 years living with a grandparent householder</b>	<b>304,458</b>	<b>+/-11,330</b>	<b>140,185</b>	<b>+/-7,427</b>	<b>39,526</b>	<b>+/-4,409</b>
<b>PUBLIC ASSISTANCE IN THE PAST 12 MONTHS</b>						
Grandchildren living in households with Supplemental Security Income (SSI), cash public assistance income, or Food Stamp/SNAP benefits	38.8%	+/-2.1	44.3%	+/-3.0	43.5%	+/-4.7
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>						
Income in the past 12 months below poverty level	18.9%	+/-1.5	26.2%	+/-2.8	34.9%	+/-4.8
Income in the past 12 months at or above poverty level	81.1%	+/-1.5	73.8%	+/-2.8	65.1%	+/-4.8

New York City

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren				Margin of Error	
			Total	Margin of Error	30-59 Years	60 Years and Over		
Living with own grandchildren under 18 years	224,085	+/-8,257	74,209	+/-5,620	44,727	+/-4,197	29,482	+/-3,293
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>								
One race	N	N	N	N	N	N	N	N
White	26.5%	+/-2.0	23.5%	+/-3.1	21.4%	+/-4.2	26.5%	+/-5.2
Black or African American	34.4%	+/-1.9	38.9%	+/-3.7	38.7%	+/-4.9	39.1%	+/-5.5
American Indian and Alaska Native	N	N	N	N	N	N	N	N
Asian	17.5%	+/-1.4	11.6%	+/-2.3	8.2%	+/-2.5	16.7%	+/-3.9
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N
Some other race	19.1%	+/-1.7	22.9%	+/-3.1	28.0%	+/-5.0	15.2%	+/-3.5
Two or more races	1.8%	+/-0.4	2.5%	+/-0.8	2.6%	+/-0.9	2.4%	+/-1.3
Hispanic or Latino origin (of any race)	35.3%	+/-1.9	41.4%	+/-3.4	47.4%	+/-4.9	32.4%	+/-4.8
White alone, not Hispanic or Latino	13.5%	+/-1.4	9.4%	+/-2.0	7.4%	+/-2.4	12.4%	+/-4.1

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren				Margin of Error	
			Total	Margin of Error	30-59 Years	60 Years and Over		
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	224,085	+/-8,257	74,209	+/-5,620	44,727	+/-4,197	29,482	+/-3,293
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>								
Income in the past 12 months below poverty level	18.8%	+/-1.9	27.9%	+/-3.5	31.4%	+/-4.7	22.5%	+/-4.3
Income in the past 12 months at or above poverty level	81.2%	+/-1.9	72.1%	+/-3.5	68.6%	+/-4.7	77.5%	+/-4.3
Grandparents living with own grandchildren under 18 years in households	224,011	+/-8,269	74,156	+/-5,632	44,674	+/-4,211	29,482	+/-3,293
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>								
Householder or spouse responsible for grandchildren with no parent of grandchildren present	7.1%	+/-1.1	21.4%	+/-3.0	15.4%	+/-3.4	30.5%	+/-5.2

New York City Continued.

Subject	Total	Margin of Error	With Grandparent Responsible			
			Total	Margin of Error	With no Parent Present	Margin of Error
<b>Grandchildren under 18 years living with a grandparent householder</b>	<b>169,251</b>	<b>+/-9,692</b>	<b>77,945</b>	<b>+/-6,938</b>	<b>19,404</b>	<b>+/-3,354</b>
<b>AGE</b>						
Under 6 years	50.6%	+/-2.2	50.2%	+/-3.5	25.8%	+/-6.6
6 to 11 years	28.6%	+/-2.0	27.1%	+/-3.1	28.9%	+/-5.5
12 to 17 years	20.8%	+/-1.5	22.7%	+/-2.8	45.3%	+/-7.4
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>						
One race	96.1%	+/-1.2	95.7%	+/-1.6	97.9%	+/-1.8
White	22.7%	+/-2.4	19.9%	+/-3.1	20.7%	+/-8.0
Black or African American	43.6%	+/-3.0	42.7%	+/-4.2	44.5%	+/-7.3
American Indian and Alaska Native	0.6%	+/-0.4	0.9%	+/-0.6	0.9%	+/-1.6
Asian	9.1%	+/-1.4	7.1%	+/-1.9	6.8%	+/-3.6
Native Hawaiian and Other Pacific Islander	0.2%	+/-0.2	0.0%	+/-0.2	0.0%	+/-0.9
Some other race	19.8%	+/-2.4	25.1%	+/-3.5	25.0%	+/-8.7
Two or more races	3.9%	+/-1.2	4.3%	+/-1.6	2.1%	+/-1.8

Subject	Total	Margin of Error	With Grandparent Responsible			
			Total	Margin of Error	With no Parent Present	Margin of Error
<b>Grandchildren under 18 years living with a grandparent householder</b>	<b>169,251</b>	<b>+/-9,692</b>	<b>77,945</b>	<b>+/-6,938</b>	<b>19,404</b>	<b>+/-3,354</b>
<b>PUBLIC ASSISTANCE IN THE PAST 12 MONTHS</b>						
Grandchildren living in households with Supplemental Security Income (SSI), cash public assistance income, or Food Stamp/SNAP benefits	45.9%	+/-2.8	50.2%	+/-4.0	47.1%	+/-8.5
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>						
Income in the past 12 months below poverty level	24.7%	+/-2.3	32.7%	+/-4.3	40.7%	+/-8.8
Income in the past 12 months at or above poverty level	75.3%	+/-2.3	67.3%	+/-4.3	59.3%	+/-8.8

Bronx County

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
Living with own grandchildren under 18 years	43,977	+/-4,365	14,683	+/-2,021	9,427	+/-1,689	5,256	+/-1,292
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>								
One race	N	N	N	N	N	N	N	N
White	18.6%	+/-3.6	21.4%	+/-6.1	23.3%	+/-8.7	17.9%	+/-6.7
Black or African American	36.0%	+/-4.4	33.0%	+/-7.1	28.0%	+/-9.5	42.0%	+/-10.7
American Indian and Alaska Native	N	N	N	N	N	N	N	N
Asian	N	N	N	N	N	N	N	N
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N
Some other race	37.1%	+/-4.8	40.1%	+/-7.6	42.2%	+/-10.7	36.2%	+/-10.7
Two or more races	2.6%	+/-1.3	3.7%	+/-2.4	4.4%	+/-2.6	2.5%	+/-3.0
Hispanic or Latino origin (of any race)	58.2%	+/-4.3	67.7%	+/-6.9	76.2%	+/-9.3	52.5%	+/-12.6
White alone, not Hispanic or Latino	6.4%	+/-3.0	2.7%	+/-2.2	0.5%	+/-0.9	6.5%	+/-5.5

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	43,977	+/-4,365	14,683	+/-2,021	9,427	+/-1,689	5,256	+/-1,292
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>								
Income in the past 12 months below poverty level	29.3%	+/-5.3	47.1%	+/-9.1	53.2%	+/-11.2	36.3%	+/-11.7
Income in the past 12 months at or above poverty level	70.7%	+/-5.3	52.9%	+/-9.1	46.8%	+/-11.2	63.7%	+/-11.7
Grandparents living with own grandchildren under 18 years in households	43,977	+/-4,365	14,683	+/-2,021	9,427	+/-1,689	5,256	+/-1,292
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>								
Householder or spouse responsible for grandchildren with no parent of grandchildren present	8.6%	+/-2.5	25.8%	+/-6.6	17.1%	+/-6.8	41.4%	+/-11.6

Data on grandchildren in Bronx County were not available from the American Community Survey.

Erie County

Subject	Total	Margin of Error		Grandparents Responsible for Grandchildren						Margin of Error
		Total	Margin of Error	Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Living with own grandchildren under 18 years	12,596		+/-1,817	5,963	+/-1,341	3,181	+/-967	2,782		+/-846
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>										
One race	N		N	N	N	N	N	N		N
White	68.5%		+/-7.3	60.8%	+/-12.1	65.3%	+/-16.3	55.6%		+/-17.2
Black or African American	23.7%		+/-7.2	34.7%	+/-12.1	29.5%	+/-16.1	40.7%		+/-17.0
American Indian and Alaska Native	N		N	N	N	N	N	N		N
Asian	N		N	N	N	N	N	N		N
Native Hawaiian and Other Pacific Islander	N		N	N	N	N	N	N		N
Some other race	N		N	N	N	N	N	N		N
Two or more races	N		N	N	N	N	N	N		N
Hispanic or Latino origin (of any race)	N		N	N	N	N	N	N		N
White alone, not Hispanic or Latino	66.3%		+/-7.6	60.1%	+/-12.1	65.3%	+/-16.3	54.1%		+/-17.2

Subject	Total	Margin of Error		Grandparents Responsible for Grandchildren						Margin of Error
		Total	Margin of Error	Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	12,596		+/-1,817	5,963	+/-1,341	3,181	+/-967	2,782		+/-846
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>										
Income in the past 12 months below poverty level	10.6%		+/-4.7	13.9%	+/-8.2	3.6%	+/-4.4	25.7%		+/-15.8
Income in the past 12 months at or above poverty level	89.4%		+/-4.7	86.1%	+/-8.2	96.4%	+/-4.4	74.3%		+/-15.8
Grandparents living with own grandchildren under 18 years in households	12,596		+/-1,817	5,963	+/-1,341	3,181	+/-967	2,782		+/-846
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>										
Householder or spouse responsible for grandchildren with no parent of grandchildren present	22.2%		+/-7.4	46.9%	+/-12.3	33.9%	+/-16.3	61.7%		+/-15.1

Data on grandchildren in Erie County were not available from the American Community Survey

Kings County

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren						Margin of Error
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Living with own grandchildren under 18 years	69,073	+/-4,736	25,823	+/-3,307	14,054	+/-2,549	11,769	+/-1,980	
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>									
One race	N	N	N	N	N	N	N	N	
White	20.2%	+/-3.3	13.8%	+/-3.6	10.6%	+/-4.4	17.6%	+/-6.0	
Black or African American	49.9%	+/-3.8	53.5%	+/-6.7	54.3%	+/-9.1	52.5%	+/-8.8	
American Indian and Alaska Native	N	N	N	N	N	N	N	N	
Asian	18.0%	+/-2.5	16.1%	+/-3.7	9.9%	+/-3.9	23.5%	+/-6.6	
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N	
Some other race	11.0%	+/-2.4	16.1%	+/-4.9	24.8%	+/-8.6	5.8%	+/-3.5	
Two or more races	N	N	N	N	N	N	N	N	
Hispanic or Latino origin (of any race)	21.7%	+/-3.0	24.3%	+/-5.5	30.8%	+/-9.1	16.5%	+/-5.2	
White alone, not Hispanic or Latino	10.6%	+/-2.4	7.0%	+/-3.0	5.4%	+/-3.7	9.0%	+/-4.4	

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren						Margin of Error
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	69,073	+/-4,736	25,823	+/-3,307	14,054	+/-2,549	11,769	+/-1,980	
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>									
Income in the past 12 months below poverty level	19.1%	+/-2.6	30.1%	+/-5.5	33.6%	+/-8.2	26.0%	+/-7.0	
Income in the past 12 months at or above poverty level	80.9%	+/-2.6	69.9%	+/-5.5	66.4%	+/-8.2	74.0%	+/-7.0	
Grandparents living with own grandchildren under 18 years in households	69,020	+/-4,730	25,770	+/-3,318	14,001	+/-2,555	11,769	+/-1,980	
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>									
Householder or spouse responsible for grandchildren with no parent of grandchildren present	8.0%	+/-2.0	21.5%	+/-5.2	18.6%	+/-7.2	25.1%	+/-6.9	

Data on grandchildren in Kings County were not available from the American Community Survey.



Nassau County

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren						Margin of Error
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Living with own grandchildren under 18 years	35,178	+/-3,601	5,113	+/-1,328	2,763	+/-1,176	2,350	+/-745	
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>									
One race	N	N	N	N	N	N	N	N	
White	59.5%	+/-5.9	41.9%	+/-13.8	37.5%	+/-18.6	47.0%	+/-16.0	
Black or African American	17.4%	+/-4.1	41.5%	+/-13.8	38.0%	+/-22.1	45.7%	+/-16.2	
American Indian and Alaska Native	N	N	N	N	N	N	N	N	
Asian	N	N	N	N	N	N	N	N	
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N	
Some other race	N	N	N	N	N	N	N	N	
Two or more races	N	N	N	N	N	N	N	N	
Hispanic or Latino origin (of any race)	24.4%	+/-5.2	23.5%	+/-12.1	39.6%	+/-19.6	4.6%	+/-5.7	
White alone, not Hispanic or Latino	46.3%	+/-6.0	33.9%	+/-12.3	26.7%	+/-14.0	42.5%	+/-16.7	

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren						Margin of Error
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	35,178	+/-3,601	5,113	+/-1,328	2,763	+/-1,176	2,350	+/-745	
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>									
Income in the past 12 months below poverty level	5.8%	+/-2.6	17.8%	+/-10.3	16.6%	+/-12.7	19.1%	+/-15.6	
Income in the past 12 months at or above poverty level	94.2%	+/-2.6	82.2%	+/-10.3	83.4%	+/-12.7	80.9%	+/-15.6	
Grandparents living with own grandchildren under 18 years in households	35,178	+/-3,601	5,113	+/-1,328	2,763	+/-1,176	2,350	+/-745	
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>									
Householder or spouse responsible for grandchildren with no parent of grandchildren present	2.0%	+/-1.4	13.8%	+/-9.1	5.1%	+/-6.1	24.1%	+/-16.3	

Data on grandchildren in Nassau County were not available from the American Community Survey.

Nassau County

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren						Margin of Error
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Living with own grandchildren under 18 years	35,178	+/-3,601	5,113	+/-1,328	2,763	+/-1,176	2,350	+/-745	
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>									
One race	N	N	N	N	N	N	N	N	
White	59.5%	+/-5.9	41.9%	+/-13.8	37.5%	+/-18.6	47.0%	+/-16.0	
Black or African American	17.4%	+/-4.1	41.5%	+/-13.8	38.0%	+/-22.1	45.7%	+/-16.2	
American Indian and Alaska Native	N	N	N	N	N	N	N	N	
Asian	N	N	N	N	N	N	N	N	
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N	
Some other race	N	N	N	N	N	N	N	N	
Two or more races	N	N	N	N	N	N	N	N	
Hispanic or Latino origin (of any race)	24.4%	+/-5.2	23.5%	+/-12.1	39.6%	+/-19.6	4.6%	+/-5.7	
White alone, not Hispanic or Latino	46.3%	+/-6.0	33.9%	+/-12.3	26.7%	+/-14.0	42.5%	+/-16.7	

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren						Margin of Error
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	35,178	+/-3,601	5,113	+/-1,328	2,763	+/-1,176	2,350	+/-745	
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>									
Income in the past 12 months below poverty level	5.8%	+/-2.6	17.8%	+/-10.3	16.6%	+/-12.7	19.1%	+/-15.6	
Income in the past 12 months at or above poverty level	94.2%	+/-2.6	82.2%	+/-10.3	83.4%	+/-12.7	80.9%	+/-15.6	
Grandparents living with own grandchildren under 18 years in households	35,178	+/-3,601	5,113	+/-1,328	2,763	+/-1,176	2,350	+/-745	
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>									
Householder or spouse responsible for grandchildren with no parent of grandchildren present	2.0%	+/-1.4	13.8%	+/-9.1	5.1%	+/-6.1	24.1%	+/-16.3	

Data on grandchildren in Nassau County were not available from the American Community Survey.

New York County

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren						Margin of Error
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Living with own grandchildren under 18 years	25,251	+/-3,092	10,591	+/-2,159	5,622	+/-1,487	4,969	+/-1,351	
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>									
One race	N	N	N	N	N	N	N	N	
White	22.4%	+/-5.3	20.6%	+/-9.0	10.2%	+/-7.5	32.3%	+/-16.3	
Black or African American	27.3%	+/-5.6	32.2%	+/-7.5	40.6%	+/-12.1	22.6%	+/-10.7	
American Indian and Alaska Native	N	N	N	N	N	N	N	N	
Asian	N	N	N	N	N	N	N	N	
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N	
Some other race	34.6%	+/-6.9	32.4%	+/-9.8	38.8%	+/-14.6	25.2%	+/-10.8	
Two or more races	3.8%	+/-2.2	5.8%	+/-3.7	5.7%	+/-5.1	5.8%	+/-6.1	
Hispanic or Latino origin (of any race)	55.6%	+/-7.1	57.4%	+/-8.8	58.3%	+/-12.8	56.4%	+/-13.4	
White alone, not Hispanic or Latino	N	N	N	N	N	N	N	N	

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren						Margin of Error
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error	
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	25,251	+/-3,092	10,591	+/-2,159	5,622	+/-1,487	4,969	+/-1,351	
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>									
Income in the past 12 months below poverty level	27.5%	+/-5.7	23.3%	+/-7.2	25.4%	+/-10.5	21.0%	+/-10.7	
Income in the past 12 months at or above poverty level	72.5%	+/-5.7	76.7%	+/-7.2	74.6%	+/-10.5	79.0%	+/-10.7	
Grandparents living with own grandchildren under 18 years in households	25,230	+/-3,091	10,591	+/-2,159	5,622	+/-1,487	4,969	+/-1,351	
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>									
Householder or spouse responsible for grandchildren with no parent of grandchildren present	15.4%	+/-4.2	36.6%	+/-9.2	21.0%	+/-9.2	54.3%	+/-14.4	

Data on grandchildren in New York County were not available from the American Community Survey.

Queens County

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
Living with own grandchildren under 18 years	69,800	+/-5,107	19,793	+/-2,849	13,163	+/-2,064	6,630	+/-1,528
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>								
One race	N	N	N	N	N	N	N	N
White	29.2%	+/-3.7	32.7%	+/-7.1	30.9%	+/-9.4	36.2%	+/-11.8
Black or African American	26.1%	+/-3.2	31.3%	+/-6.0	31.7%	+/-7.5	30.3%	+/-9.3
American Indian and Alaska Native	N	N	N	N	N	N	N	N
Asian	27.4%	+/-3.0	16.5%	+/-6.1	14.4%	+/-7.0	20.8%	+/-11.1
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N
Some other race	13.7%	+/-2.5	15.9%	+/-4.6	19.0%	+/-6.5	9.7%	+/-5.8
Two or more races	2.3%	+/-0.9	2.1%	+/-1.9	1.6%	+/-1.8	3.0%	+/-3.1
Hispanic or Latino origin (of any race)	30.0%	+/-3.0	37.6%	+/-5.8	41.0%	+/-8.4	30.8%	+/-9.3
White alone, not Hispanic or Latino	14.0%	+/-2.7	13.5%	+/-5.5	12.5%	+/-6.4	15.3%	+/-7.7

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	69,800	+/-5,107	19,793	+/-2,849	13,163	+/-2,064	6,630	+/-1,528
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>								
Income in the past 12 months below poverty level	10.9%	+/-2.7	13.8%	+/-5.2	18.0%	+/-7.4	5.4%	+/-4.3
Income in the past 12 months at or above poverty level	89.1%	+/-2.7	86.2%	+/-5.2	82.0%	+/-7.4	94.6%	+/-4.3
Grandparents living with own grandchildren under 18 years in households	69,800	+/-5,107	19,793	+/-2,849	13,163	+/-2,064	6,630	+/-1,528
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>								
Householder or spouse responsible for grandchildren with no parent of grandchildren present	3.1%	+/-1.2	11.1%	+/-4.0	9.4%	+/-4.6	14.6%	+/-7.3

Data on grandchildren in Queens County were not available from the American Community Survey.

Richmond County

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren				Margin of Error	
			Total	Margin of Error	30-59 Years	Margin of Error		60 Years and Over
Living with own grandchildren under 18 years	15,984	+/-2,808	3,319	+/-1,317	2,461	+/-1,070	858	+/-793
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>								
One race	N	N	N	N	N	N	N	N
White	70.3%	+/-8.1	62.2%	+/-18.6	51.2%	+/-22.6	93.5%	+/-15.6
Black or African American	10.9%	+/-4.4	18.0%	+/-12.5	24.3%	+/-17.1	0.0%	+/-18.6
American Indian and Alaska Native	N	N	N	N	N	N	N	N
Asian	N	N	N	N	N	N	N	N
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N
Some other race	N	N	N	N	N	N	N	N
Two or more races	N	N	N	N	N	N	N	N
Hispanic or Latino origin (of any race)	22.1%	+/-7.9	30.6%	+/-17.7	41.2%	+/-21.7	0.0%	+/-18.6
White alone, not Hispanic or Latino	53.1%	+/-9.1	47.8%	+/-19.5	31.9%	+/-22.1	93.5%	+/-15.6

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren				Margin of Error	
			Total	Margin of Error	30-59 Years	Margin of Error		60 Years and Over
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	15,984	+/-2,808	3,319	+/-1,317	2,461	+/-1,070	858	+/-793
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>								
Income in the past 12 months below poverty level	8.6%	+/-4.6	23.9%	+/-16.2	21.2%	+/-17.9	31.7%	+/-42.0
Income in the past 12 months at or above poverty level	91.4%	+/-4.6	76.1%	+/-16.2	78.8%	+/-17.9	68.3%	+/-42.0
Grandparents living with own grandchildren under 18 years in households	15,984	+/-2,808	3,319	+/-1,317	2,461	+/-1,070	858	+/-793
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>								
Householder or spouse responsible for grandchildren with no parent of grandchildren present	2.9%	+/-2.8	13.9%	+/-12.6	10.3%	+/-11.3	24.2%	+/-38.5

Data on grandchildren in Richmond County were not available from the American Community Survey.

Suffolk County

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
Living with own grandchildren under 18 years	38,549	+/-3,876	9,687	+/-2,193	6,169	+/-1,766	3,518	+/-1,200
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>								
One race	N	N	N	N	N	N	N	N
White	74.6%	+/-4.5	69.0%	+/-9.5	68.4%	+/-13.1	70.2%	+/-12.7
Black or African American	11.6%	+/-3.3	18.0%	+/-8.1	13.1%	+/-10.6	26.7%	+/-12.4
American Indian and Alaska Native	N	N	N	N	N	N	N	N
Asian	N	N	N	N	N	N	N	N
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N
Some other race	N	N	N	N	N	N	N	N
Two or more races	N	N	N	N	N	N	N	N
Hispanic or Latino origin (of any race)	20.6%	+/-3.8	16.6%	+/-7.1	21.5%	+/-11.1	8.1%	+/-5.4
White alone, not Hispanic or Latino	57.9%	+/-4.5	59.1%	+/-9.8	55.8%	+/-13.7	64.8%	+/-12.5

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
Grandparents living with own grandchildren under 18 years for whom poverty status is determined	38,549	+/-3,876	9,687	+/-2,193	6,169	+/-1,766	3,518	+/-1,200
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>								
Income in the past 12 months below poverty level	4.4%	+/-2.5	8.2%	+/-7.0	6.7%	+/-6.3	10.9%	+/-14.1
Income in the past 12 months at or above poverty level	95.6%	+/-2.5	91.8%	+/-7.0	93.3%	+/-6.3	89.1%	+/-14.1
Grandparents living with own grandchildren under 18 years in households	38,498	+/-3,879	9,636	+/-2,191	6,118	+/-1,764	3,518	+/-1,200
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>								
Householder or spouse responsible for grandchildren with no parent of grandchildren present	4.9%	+/-2.4	19.6%	+/-9.5	11.7%	+/-9.3	33.3%	+/-16.1

Data on grandchildren in Suffolk County were not available from the American Community Survey.

Westchester County

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
<b>Living with own grandchildren under 18 years</b>	<b>15,234</b>	<b>+/-2,109</b>	<b>5,127</b>	<b>+/-1,303</b>	<b>2,707</b>	<b>+/-1,171</b>	<b>2,420</b>	<b>+/-793</b>
<b>RACE AND HISPANIC OR LATINO ORIGIN</b>								
One race	N	N	N	N	N	N	N	N
White	52.5%	+/-8.1	33.7%	+/-14.0	24.0%	+/-18.0	44.5%	+/-18.8
Black or African American	22.4%	+/-6.0	32.9%	+/-11.4	25.4%	+/-17.1	41.4%	+/-18.7
American Indian and Alaska Native	N	N	N	N	N	N	N	N
Asian	N	N	N	N	N	N	N	N
Native Hawaiian and Other Pacific Islander	N	N	N	N	N	N	N	N
Some other race	16.3%	+/-7.0	31.8%	+/-14.8	50.5%	+/-21.0	10.9%	+/-11.4
Two or more races	N	N	N	N	N	N	N	N
Hispanic or Latino origin (of any race)	27.8%	+/-7.0	32.8%	+/-13.7	46.5%	+/-22.3	17.4%	+/-14.6
White alone, not Hispanic or Latino	39.5%	+/-7.6	28.4%	+/-13.7	16.9%	+/-17.8	41.2%	+/-19.2

Subject	Total	Margin of Error	Grandparents Responsible for Grandchildren					
			Total	Margin of Error	30-59 Years	Margin of Error	60 Years and Over	Margin of Error
<b>Grandparents living with own grandchildren under 18 years for whom poverty status is determined</b>	<b>15,234</b>	<b>+/-2,109</b>	<b>5,127</b>	<b>+/-1,303</b>	<b>2,707</b>	<b>+/-1,171</b>	<b>2,420</b>	<b>+/-793</b>
<b>POVERTY STATUS IN THE PAST 12 MONTHS</b>								
Income in the past 12 months below poverty level	6.7%	+/-3.7	4.8%	+/-4.8	6.5%	+/-8.6	2.9%	+/-5.0
Income in the past 12 months at or above poverty level	93.3%	+/-3.7	95.2%	+/-4.8	93.5%	+/-8.6	97.1%	+/-5.0
<b>Grandparents living with own grandchildren under 18 years in households</b>	<b>15,234</b>	<b>+/-2,109</b>	<b>5,127</b>	<b>+/-1,303</b>	<b>2,707</b>	<b>+/-1,171</b>	<b>2,420</b>	<b>+/-793</b>
<b>PRESENCE OF PARENT(S) OF GRANDCHILDREN</b>								
Householder or spouse responsible for grandchildren with no parent of grandchildren present	7.7%	+/-4.3	22.8%	+/-12.5	21.2%	+/-20.5	24.6%	+/-14.6

Data on grandchildren in Westchester County were not available from the American Community Survey.

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## Appendix H: Cost/Benefit Analysis of Kinship Care Services

The fact that informal kinship care provides better outcomes for children<sup>2</sup> than foster care is no longer a compelling justification for funding kinship services in New York State. Given New York's budget crisis, the only compelling reason to continue funding is a demonstration that kinship services save budget dollars in the next fiscal year. Fortunately, kinship programming demonstrates such a benefit.

In the next year, without kinship services more caregivers will be unable to provide care and more children will enter more expensive foster care.<sup>3</sup> Based upon conservative estimates, this could cost the state an additional \$7 million to \$23 million dollars. In contrast, continuing the funding for kinship programming would cost just \$3 million dollars.

The difference between the cost of informal kinship care (including a public assistance grant)<sup>4</sup> and the average cost of all children in foster care is \$49,570 per child; the difference for a child placed in regular (or basic) foster care with a foster parent is \$14,595.

Depending upon which cost basis for foster care is used (\$49,570 or \$14,595), if 475 children left informal kinship care and entered foster care, that would equal \$23,545,750 or \$6,932,625. This is a significantly higher cost than the approximately \$3 million that is costs to fund for the NYS Kinship Navigator and the 21 regional kinship programs.

### A. Average Cost of Foster Care

The Office of Children and Family Services (OCFS) expends \$1.376 billion for foster care annually.<sup>5</sup> The overall funding is a combination of federal, state, and local contributions, involving 43 federal funding streams, wherein federal funding accounts for about half of the total expenditure. The largest federal program funding foster care is Title IV-E, which covers mostly foster care costs. Because of federal eligibility requirements, only 45% of children in foster care qualify for federal Title IV-E assistance.<sup>6</sup>

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<sup>2</sup> Archives of Pediatrics & Adolescent Medicine, June 2008. Demonstrating for the first time on a nationally representative sample of children from the National Survey of Child & Adolescent Well-Being that children in kinship care are not only more likely to attain early stability in out-of-home care than children in general foster care, but are also less likely to have behavioral problems than children in foster care three years later. See Appendix B in 2008 Summit Report. All three kinship summit reports provide examples of program supports that increase the well-being and stability of kinship families.

<sup>3</sup> The cost savings include administrative costs. However, actual administrative costs will depend upon staff case loads, re-assignment, and other administrative factors or the use of a contracting agency. While it is fair to say that the total direct and indirect costs for one child average over \$50,000 - for a child who leaves informal kinship care and is placed in foster care, the real cost savings are the amount that transfers to foster parents plus whatever real administrative savings would actually be incurred. Real administrative costs may only occur when a sizable increase in cases results in a case worker being hired or when payments to an outside contracting agency are made.

<sup>4</sup> Not all informal kinship families receive grants. However, for simplicity the calculation assumes that they do.

<sup>5</sup> Total annual expenditures for child welfare are \$2.7 billion.

<sup>6</sup> The State of Child Welfare in New York: Shaping Things to Come", OCFS publication p. 5.



Federal Title IV-E pays 50% of the cost for an eligible child and the balance is paid by state and local funds. State matching funds are limited to the annual appropriation under the foster care cap. Counties also use TANF funds for foster care, and for the residential costs for special education placements.<sup>7</sup> The complex funding streams and formulas plus the wide variety of foster care placements make it virtually impossible to generalize the costs associated with foster care placements. However, by dividing the number of foster children into the cost of foster care, it is possible to state an average cost per child.

***Overall costs of foster care (\$1,376,000,000) divided by the total number of children in foster care (24,541) = \$56,060 child per year.***

The average cost of a child in foster care is based upon a range of foster care placements from institutional care with very high costs to placements with foster parents with relatively modest costs.<sup>8</sup> Assuming that children in informal care would be placed across the full spectrum of foster care,<sup>9</sup> for every child in informal kinship care who enters foster care, the average cost is the same as the average cost of one child in foster care – over \$56,000 per child.<sup>10</sup>

## **B. Placement with Foster Parents**

However, most children entering foster care will be placed with foster parents, and thus provides a lower cost calculation. According to OCFS, regular foster parent placement costs an average of \$9,855 annually, with average administrative costs of \$11,680.<sup>11</sup> Based on these figures, a child in informal kinship care who does not require specialized services would cost a total of \$21,535 per year if placed in foster care.<sup>12</sup> Since approximately 60% of children in kinship care reside in New York City where administrative costs are passed through to contracting agencies, for New York City and for other counties using contracting agencies, the actual cost would also be \$21,535 per year.<sup>13</sup>

<sup>7</sup> In 2006, federal Title IV-E funding to NYS was \$585,236,149. Child Trends: “Federal, State, and Local Spending to Address Child Abuse and Neglect in SFY 2006”, December 2008, Appendix A.

<sup>8</sup> Institutional placements average \$81,441; group emergency \$98,747; and “hard-to-place” \$81,441. Foster parents caring for children with exceptional needs are paid significantly higher maintenance. The exceptional rate can be as high as \$1,449 per child per month, a yearly cost of \$17,388 for maintenance. See Appendix G in 2005 Report.

<sup>9</sup> The number of children in informal kinship care who may fit into these categories is unknown. Numerous studies claim high rates of disabilities for kinship children. See, Kinney, J., McGrew, K., Nelson, I. (2003). Grandparent Caregivers to Children with Developmental Disabilities: Added Challenges. New York: Springer Publishing Company. Smithgall, C., Mason, S., Michels, L., LiCalsi, C., & Goerge, R. (2006). Caring for their Children’s Children Assessing the Mental Health Needs and Service Experiences of Grandparent Caregiver Families Chapin Hall Center for Children: Summary Sheet 103. A study conducted in 1994 found that 70 percent of grandparents reported caring for a child with one or more medical, psychological or behavioral problems. Lai, D. & Yuan, S. (1994). Grandparenting in Cuyahoga County: A report of survey findings. Cleveland, OH: Cuyahoga County Community Office of Aging. “Over a quarter of the caregivers (27.5%) indicated that the child had a disability.” Gleeson et al. (2008). Individual and social protective factors for children in informal kinship care. Jane Addams College of Social Work, University of Illinois at Chicago.

<sup>10</sup> Additional indirect costs could actually amount to more than \$50,000 per year. Indirect costs include investigations, forensics, etc, plus costs not attributable to the child welfare agency (e.g. a family court judge’ average salary \$120,000 per year, attorney for the child hourly rate \$75 per hour, plus court personnel, legal services, law enforcement, criminal investigations, incarceration, etc).

<sup>11</sup> Over 12% of children placed with kinship foster parents receive the specialized or exceptional rate. OCFS data, April 2009.

<sup>12</sup> Kinship foster children = 6,573, of which 5,853 are in NYC, 720 upstate; with 5,777 non-specialized, 575 specialized, 221 exceptional. OCFS data, April 2009.

<sup>13</sup> See discussion on contracting agency cost savings, “For counties that now pay administrative overhead fees to contract foster care agencies, the administrative cost savings resulting from the LOS reduction could be as much as \$18.8 million (= \$32.87 x 573,000) over the full four years.” Pursuing Permanence for Children, Mark F. Testa, PHD, Univ. of School of Social Work, Univ. of North Carolina, June 2010, p. 58-59.

***Annual Cost of One Child Placed in Regular Foster Care = \$21,535.*****C. Cost of OCFS Kinship Program**

The Office of Children and Family Service funds the statewide Kinship Navigator and 21 direct service kinship programs serving 30 counties in the state (See Appendix B for list of all NYS kinship programs).<sup>14</sup>

In 2005, New York appropriated \$1.4 million for nine regional kinship programs. Later, the state added another \$750,000 for four more regional programs and the statewide Kinship Navigator. In 2009, another nine programs were funded, bringing the total funding to just under \$3 million. But in the FY2010-11 budget, TANF funding is cut from \$1,998,000 to \$250,000 and the general funds are cut over 11%. Funding provided in the FY2010-11 budget for kinship programming is less than one million dollars (for comparison, we are using \$3 million as the cost of the entire OCFS kinship program).<sup>15</sup>

Prior to the 2011-12 cuts, the average cost of a regional program was about \$140,000. With more than 300 kinship children served by each program (as well as caregivers), the average cost of a kinship program per child is about \$466 per year.<sup>16</sup>

***Annual Cost of One Child in a Kinship Program = \$466.*****D. Cost of Public Assistance (TANF) Child-Only Grants**

Children in informal kinship care are very likely to qualify for a special public assistance grant based only upon their income and resources. The Office of Temporary and Disability Assistance (OTDA) estimates that of its 53,000 child-only cases, 24,600 are these special non-parent cases. Non-parent cases are invariably informal kinship families (See Appendix C for OTDA data).<sup>17</sup>

According to OTDA, the average monthly payment for a kinship family with two children is \$600. The average administrative cost per case is \$404.11 per month. Together the cost is \$1,004, which is an average cost per year of \$12,048 (two children) and \$6,024 per child (See Appendix C for OTDA child-only costs).

<sup>14</sup> New York's Area Agencies on Aging provide kinship services via discretionary "Caregivers Support Act" funding, administered by the Office of Aging. About 22 counties have programs.

<sup>15</sup> FY2011-2012 NYS budget is not determined at the time of publication.

<sup>16</sup> The 13 original programs serve an average of 300 children per year. The Navigator serves over 3,500 children. The eight new programs started up operations in December 2009. Annual data is not yet available. The report's cost analysis relies on the average number of children served and average cost in the 13 regional programs.

<sup>17</sup> Over 36% of caregivers calling the NYS Kinship Navigator have two or more children in their care.

**Annual Average Cost of Public Assistance Per Child = \$6,024.**

When adding \$6,024 cost per child of public assistance together with the \$466 average cost per child in a kinship program, the annual total cost per child for informal kinship care services is \$6,490.

**Facilitation of Enrollment Reduces Cost of Local Districts**

The OCFS Kinship Program provides a wide range of assistance for families seeking child-only grants. For local districts, these efforts reduce agency staffing, time, and labor.

**Funding for Non-Parent Public Assistance Grants: New York's Share**

In New York, the federal TANF dollars pay half of the Child-Only public assistance grants, while the state pays 25%, and the local district pays 25%.

**E. Summary of Costs Differences**

Subtracting the cost of informal care from the cost of foster care, the annual cost difference between the two equals \$49,570 for each foster care placement or \$14,595 for each regular foster care placement with foster parents.

<b>Foster Care</b>	<b>Informal Kinship Care</b>	<b>Cost Difference to Leave Informal Kinship care and Enter Foster Care</b>	<b>Cost for 475 Children</b>
\$56,060	\$6,940	\$49,570	\$23,545,750
<b>Regular foster care</b>	<b>Informal Kinship Care</b>	<b>Cost Difference</b>	<b>Cost for 475 Children to Leave Informal Kinship care</b>
\$21,535	\$6,940	\$14,595	\$6,932,625

While the differences are substantial, the real cost of informal kinship care is lower than \$6,490 and the real cost of all foster care or of regular foster care is higher. Not every child in informal kinship care receives public assistance, since some families choose not to apply, while others have children who are on SSI or who have other types of income, and others receive Social Security dependent benefits.

For foster care, the real costs are higher because there are indirect costs attributed to other state agencies that are very significant (e.g. courts, law enforcement, corrections, etc). Lastly, since children remain in kinship foster care for an average of 2.65 years,<sup>18</sup> the actual cost for each child who leaves informal kinship care and enters foster care should be multiplied by the length of stay in foster care.

<sup>18</sup> Pursuing Permanence for Children, Mark F. Testa, PHD, Univ. of School of Social Work, Univ. of North Carolina, June 2010, p. 59.

## F. More Children will Enter Foster Care

Kinship advocates and caregivers are certain that many more children, possibly thousands more, would be in foster care were it not for the intervention of family caregivers. However, proof of this fact is only indirectly available via statistical and anecdotal evidence.

In a Kinship Navigator sampling of OCFS kinship programs,<sup>19</sup> out of 1,152 children, 690 (59.9%) had past or current contact with Child Protective Services.<sup>20</sup> While a report to CPS does not necessarily result in the removal of children (in 2009, there were 24,591 children in foster care and approximately 170,000 CPS reports),<sup>21</sup> a caregiver's *contact* with CPS is likely to result in a placement with kin. Kin become a resource and children are placed with them via one of three methods: "temporary placements" prior to removals, "1017" placements post removals (also called diversion), and Article Six private court placements post removals.

### ***Temporary Placements***<sup>22</sup>

Because there is no formal removal of children from the home, temporary placements are not statistically tracked by OCFS. Such placements typically happen when CPS is called in to investigate and attempts to find a "temporary" placement in order to avoid an Article Ten proceeding. Parents are asked if there is a relative who can care for the children, a call is made – often by CPS or some professional familiar with the children's circumstances, and the relative is asked to take the children into their care.

### ***Diversion***

Diversion is a common practice in upstate counties and while there are no absolute clear statistics for the number of children involved, OCFS estimates that over 2,400 children were placed using "direct" custody pursuant to Article Ten.<sup>23</sup> Diversion refers to FCA 1017 where courts can order a child to be placed in foster care or in the "direct custody" of a relative but pursuant to the Article Ten proceeding. Since outside of New York City there are roughly 600 children in kinship foster care (out of the approximately 6,000 in kinship foster care in the state), child welfare agencies admit that diversion is a common practice in upstate counties. This fact is confirmed by numerous interviews with local district workers, family court attorneys, and kinship programs.

### ***Article Six Placements***

Private custody orders pursuant to Family Court Act § 1017 are another way in which children may have contact with CPS and be placed in informal kinship care (See also Family Court Act § 1089-a and 1055-b), where children in foster care may exit to private care via an Article Six custodial proceeding.

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<sup>19</sup> Aggregate data from the 21 OCFS kinship programs is available from the NYS Kinship Navigator. Catholic Family Center in Rochester operates the Navigator program and has instituted a web-based data collection system (ETO or Efforts to Outcomes) which is utilized by all the OCFS kinship programs.

<sup>20</sup> NYS Kinship Navigator aggregate data on OCFS kinship programs.

<sup>21</sup> "The State of Child Welfare in New York: Shaping Things to Come", 2010 OCFS publication.

<sup>22</sup> See McKinney's commentary to Family Court Act 1028-a for a discussion on local district tactics to avert foster care placements.

<sup>23</sup> Connections database, April 2009.

***Local Districts Increasingly Rely on Kinship Programs***

In all three instances, local districts are increasingly referring kin to the OCFS kinship programs. For instance, Chapter Law 518 of 2010 Laws of New York mandates that local districts advertise these programs; OCFS’s “Having a Voice & a Choice” booklet advises kin to contact kinship services; the newly published OCFS “Know Your Options” brochure suggest that kin contact the NYS Kinship Navigator.

The result is that the OCFS kinship programs are more embedded in the child welfare response and are the most likely resource for kin to rely upon when seeking to become informal caregivers.<sup>24</sup>

***Number of Children Entering Foster Care if not for Informal Care***

Considering that a majority of the kinship families served by OCFS’s kinship programs had contact with CPS, it is likely that many of their children would become foster children were it not for the placement with kin. For the twelve months ending in October 2010, the Kinship Navigator served over 3,500 children and the 21 regional programs served over 6,000 children. If as few as five percent of these children entered foster care, these numbers would increase by 475.

Additionally, there is no statistical data comparing informal kinship care recidivism in counties without an OCFS kinship program versus the counties with a program. The only evidence is the assertions of caregivers served by the programs. Many declare unequivocally that they could not continue to care for children without the assistance of the OCFS kinship program.

**475 children entering foster care equals \$23,545,750 or \$6,932,625 in additional costs to the state, and a far greater expense than the approximately \$3 million in funding for the NYS Kinship Navigator and the 21 regional kinship programs.**

**G. Conclusion**

Public assistance and kinship services provide a cost effective alternative to foster care. But without kinship services, many children would very soon exit informal care and enter foster care. A conservative estimate that at least 475 children will enter foster care will cause a significant increase in child welfare costs in the next fiscal year.

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<sup>24</sup> The implementation of KinGap (kinship subsidized guardianship) in April 2011 will eventually lead to more kinship foster children leaving foster care and being served by the OCFS kinship programs.

## Appendix I. Summary of Cost Benefit Calculations

### Fiscal Year 2011-12 Savings

If the OCFS Kinship Programs are not funded:

- If **60** children enter all foster placements, the cost will equal the entire \$3 million for full funding of the OCFS Kinship Program.
- If **200** children entering regular foster care, the cost will equal the entire \$3 million for full funding of the OCFS Kinship Program;
- Without these programs, an estimated 475 children will leave informal kinship care and enter foster care during FY2011-12. At an increased cost between \$23,545,750 (foster care placements minus informal cost) or \$7,146,375 (regular foster parent care minus informal cost).

### Average Cost of (Formal) Kinship Foster Care

Annual overall costs of foster care = **\$1,376,000,000** (OCFS foster care budget).

Number of children in all foster care placements = 24,541).

- Average cost of all foster care placements (institutional, special and exception needs foster parents, etc, plus administrative costs); = **\$56,060** per year
- Average cost of one child placed in regular foster care (basic foster parent payment plus administrative cost) = **\$21,535 per year**.

### Average Cost of Informal Kinship Care

Annual cost of one child in a OCFS kinship program (\$140,000 per program, over 300 children served per year per program) = **\$466**.

Annual average cost of public assistance per child (OTDA payment plus administrative costs) = **\$6,024**.

- Total cost per child of informal kinship care = **\$6,490**.<sup>25</sup>

### Average Difference in Cost

- Difference between average cost of children in all formal foster care placements (\$54,060) and the cost for children in informal kinship care (\$6,490 – including a public assistance grant) = **\$49,570**.
- Difference for a child placed in regular foster care with a foster parent = **\$14,595**.

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<sup>25</sup> Not all informal kinship families receive these grants. However, for simplicity the calculation assumes that they do.

## Appendix J: Kinship Care in New York: Overview

- An estimated 250,000 to 300,000 children live with grandparents or other relative caregivers in New York State. This system of care is termed “informal” or “private” kinship care.
- New York spends \$1.37 billion dollars on foster care. New York spends approximately \$3 million on private kinship care for the Office of Children and Family Services Kinship Program (statewide Kinship Navigator and 21 regional programs). The FY2011-12 funding for the Kinship program is cut to about \$1 million.
- Kinship programming provides case management, respite, benefit and legal information, advocacy, and other supports, that enable children to stay out of foster care.
- ***Kinship programming facilitates enrollment of kinship families in public assistance programs. Saving local districts resources and keeping children out of foster care.***
- Without these programs, conservative estimates are that at least 475 children will leave private care and enter foster care during FY2011-12. To place these children in foster care, it will cost the State between ***\$6,932,625 (for children entering regular foster parent care) to \$23,545,750 (for all foster care placements).***
- At an average cost of \$14,595 to \$49,570 per child, if 200 children enter regular foster care or if only 60 children enter all foster placements, the cost equals the funding of \$3 million for the OCFS Kinship Program.
- Children live with grandparents and other relatives for the same reasons that children enter foster care – parental abuse, neglect, mental illness, abandonment, and for other reasons such as military deployment, illness, and temporary relocations.
- A representative sample of private kinship families shows that 60% of the children in private kinship families served by the programs had contact with Child Protective Services, either informally or pursuant to Article Ten neglect proceedings (690/1152). These contacts led to placements in private kinship families who were supported by the OCFS Kinship Program.
- According to the 2000 Census, 143,000 grandparents are solely responsible for children in their care - 58% are in the metropolitan area, with the other 42% living upstate (ACS shows 7% growth in last three years). Grandparents make up 61% of non-parent caregivers, other relatives make up 29%, and non-relatives or fictive kin, which includes foster parents, are 10% of non-parent caregivers.
- According to the Council on Children and Families Kids Well-Being Indicators Clearinghouse, in 2008 25,925 children were in foster care in New York State, with 6,192 placed in kinship foster care (5,565 in NYC; 627 in the rest of the state).
- National studies prove conclusively that children who live with grandparents and other relatives achieve more permanency, better well-being, and better outcomes than children in foster care.
- National studies also show that children who live with grandparents and other relatives have significant special health needs, including psychological and emotional, similar to children in foster care.

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