

The Opioid Crisis and its Impact on Kinship Care

Testimony given at Senate Hearing on November 14, 2017

Gerard Wallace, Esq.

Director, NYS Kinship Navigator
Public Services Professor, U.
at Albany School of Social Welfare

Ryan Johnson, MSW

Program Development and Education
Specialist, NYS Kinship Navigator
Policy Coordinator, NYS KinCare Coalition

What is Kinship Care?

Kinship care refers to nonparents (grandparents, other relatives, and close family friends) who care for children when parents are unable or unwilling to care for their children. In New York State, most of these households provide care privately, and do not receive foster care supports.

How Prevalent is Kinship Care?

Nationally, as many as 2.6 million grandparents are caring for children.¹ According to the same American Community Survey data cited in that article, in New York State, there are more than 130,000 grandparent “kinship” families. Together with aunts, uncles and other family members, estimates are as many as 200,000 kinship families are raising upwards of 300,000 children in New York State, mostly without foster care supports.

Commonality of Causes for Foster Care and Private Kinship Care

Children live with kin for similar reasons as to why they might enter foster care with non-relatives, namely parental neglect (61% of foster care placements), parental substance abuse (32% of foster care placements), parental inability (14%), physical abuse (13%) and other safety concerns. See the discussion on Diversion from Foster Care, for data on child protection records and low kinship foster care utilization outside New York City.

Children in these homes experience similar special needs as children in foster care, such as emotional and behavioral disorders, educational disabilities, trauma, and loss. Caregivers tend to be single, older, and are more likely to be disabled and on a fixed income (36% of caregiver households in the Research Foundation study had an income of less than \$20k)².

¹ See also, “Young Victims of the Opioid Epidemic” (NY Times editorial, Jan. 16, 2017).

² In a 2013-15 survey of kinship children and caregivers conducted by the Center for Human Services Research Foundation in 5 demonstration counties in upstate NYS, as part of the NYS Kinship Navigator Children’s Bureau demonstration project (final report forthcoming).

How Drug Use Impacts Kinship Care

With the current epidemic of heroin use throughout the country, much research has been done by national groups regarding its impact on children entering into kinship care arrangements with family members. According to the Center for Disease Control, between 2002 and 2013 rates of heroin overdose deaths have quadrupled, often leaving children of those deceased in limbo. Below are some more recent reports and articles that further describe the issues. Recent articles continue the alarming reports on kinship care and the heroin crisis.

Data from the NYS Kinship Navigator federal demonstration project documents the high rate of causation between parental drug use and placements of children in kinship care. In a Center for Human Services Research child welfare study, over 55% of mothers whose children were living in kinship care had histories of drug abuse. As a result, kinship children have significant numbers of adverse childhood experiences (ACES) at the time they enter the care of a relative.

Recent Reports: Kinship Care and the Opioid Epidemic

Generations United 2016 Annual Report: Raising the Children of the Opioid Epidemic

This [23 page report](#) gives recommendations for public policy changes that would help support kinship families as they take on the role of caregivers of children affected by the opioid crisis, including funding Kinship Navigators, increasing access to financial assistance (TANF), and engaging Aging services to support kinship families who are elderly. Important facts to note from this report:

- Parental substance use accounted for one third of all foster care placements (2014)
- Opioid epidemic is responsible for increase in foster care placements, nationwide
- Kinship families who take on children, keeping them out of foster care, save the country \$4 billion dollars every year
- Children thrive when placed with kinship caregivers, in comparison to being placed in foster care with strangers

The New York Times: Children of the Heroin Crisis Find Refuge in Grandparents' Arms

This [NYT article](#), published May 21, 2016, gives firsthand accounts of grandparents throughout the country stepping in to care for their grandchildren in the face of great challenges. It follows stories from eight caregivers and how they deal with thwarted retirement plans, reshuffling family roles, and fears for the future. Some important facts from this article are:

- More than 2.6 million grandparents were responsible for their grandchildren nationwide in 2014, up 8 percent from 2000

- Heroin deaths have soared among white families in suburban and rural areas, while remaining level among blacks and Hispanics

The rise in addiction has caused a increase in child welfare interventions. Resulting in more removals and a greater need for non-parent placements. Without certified foster “beds”, more children are being placed in kinship.

The Buffalo News: ‘It’s like a tsunami’: Opioid epidemic pushes kids into foster care

This [Buffalo News article](#) highlights the increased use of kinship families as a resource:

“...the Social Services Department has adjusted its strategy of how it places children who have been pulled from their parents' custody. Instead of looking first to available foster homes, caseworkers look increasingly to vet relatives – aunts, uncles, grandparents, older siblings – who can take in these children and ideally preserve the children's ties to their families, friends and community. “We have the highest percentage in the state of children who are placed with relatives rather than foster parents,” Rodwin said. Social Services Commissioner Al Dirschberger said the broader Social Services field is moving in this direction, with placement with relatives considered a best practice. Some relatives, though not the majority, go on to become certified foster parents so that they can receive additional financial support and services for the child they assume custody of. “We've become more focused on permanency, and the best permanent place is with their family,” Dirschberger said. “If not with their family, then with their relatives, their extended family. It's just the right thing to do.” It is also absolutely necessary, advocates say. Social Services has 165 certified foster homes in Erie County. That's a tiny number, compared to the hundreds of children who need a home. While the numbers of children needing foster placement has continued to rise, Social Services administrators say the number of local residents willing to become foster parents has not.”

The shortage of foster homes referenced above is not unique to NYS, but is in fact a national issues as recently reported in this Chronicle of Social Change report, “[National Shortage of Foster Care Homes](#)”, where about half of states struggle to keep up with foster care demand.

Other Recent Reports:

[NBC News: Opioid Crisis Forces Grandparents to Raise Their Grandkids](#)

[The Today Show: 'Heartbreaking': Opioid crisis forces grandparents to raise their grandkids](#)

[The Today Show: Grandparents raising grandkids: 3 things to know before taking on the new role](#)

[Vox.com: The opioid crisis is making grandparents parents again](#)

[The Wall Street Journal: The Children of the Opioid Crisis](#)

[The Washington Post: Grandparents raising grandkids grapple with retirement and college costs at the same time](#)

[Inside Edition: Grandparents of Children Orphaned by Opioid Crisis Say They Need Help](#)

[CNN: A Generation of Heroin Orphans](#)

What Services are Available for Kinship Care Families?

New York State funds a statewide Kinship Navigator (information, referral, advocacy, and education services) and 22 localized kinship service providers (case management and support groups) administered by the Office of Children and Family Services. In FY 2017-18, the executive budget Aid to Localities provided \$338,750 for OCFS local kinship programs and \$220,500 for the Kinship Navigator, with the legislature adding \$1.9 million for local programs and \$100,000 for the Kinship Navigator, totaling \$2,559,250 dollars for kinship services in NYS. For FY 2018-19 we recommend expanding Navigator services by an additional \$300,000 in order to reach additional families with services.

Federal Action and Kinship Care

Commission Report:

The [report](#) from the President's Commission on Combatting Drug Addiction and the Opioid Crisis makes the following recommendation:

Recommendation 47: The Commission recommends that HHS, the Substance Abuse and Mental Health Services Administration (SAMHSA), and the Administration on Children, Youth and Families (ACYF) should disseminate best practices for states regarding interventions and strategies to keep families together, when it can be done safely (**e.g., using a relative for kinship care**). These practices should include utilizing comprehensive family centered approaches and should ensure families have access to drug screening, substance use treatment, and parental support. Further, federal agencies should research promising models for pregnant and post-partum women with SUDs and their newborns, including screenings, treatment interventions, supportive housing, non-pharmacologic interventions for children born with neonatal abstinence syndrome, medication-assisted treatment (MAT) and other recovery supports. (The President's Commission on Combating Drug Addiction and the Opioid Crisis, p. 81; March 2017).

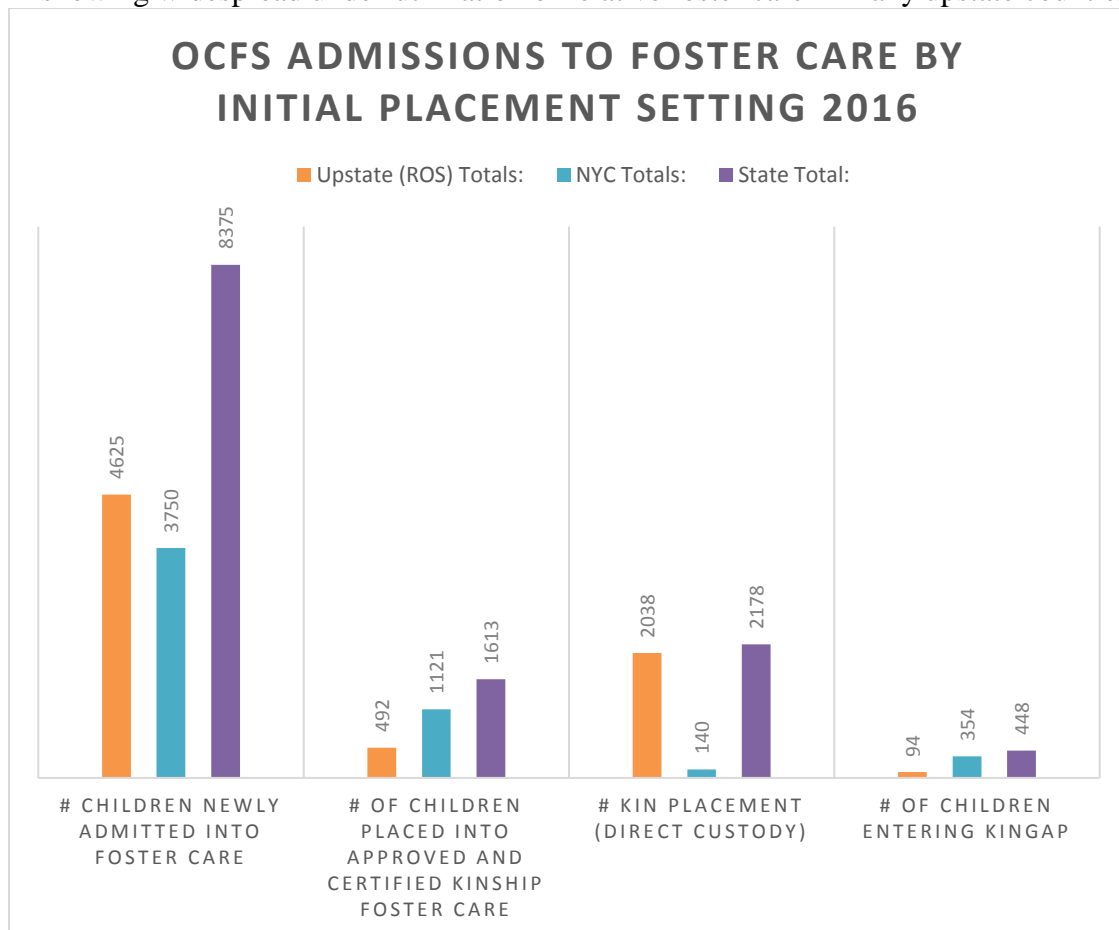
Legislation:

1. The [Supporting Grandparents Raising Grandchildren Act](#), introduced in 2017, proposes to establish a Federal Task Force to Support Grandparents and Other Relatives Raising Children ([summary here](#)). We recommend expanding the membership guidelines to include State representation from local Navigators and Child Welfare Departments.
2. The [Family First Prevention Services Act](#) of 2017 would create funding for evidence based kinship navigator programs and targeted grants to increase the well-being of children affected by substance abuse, but unfortunately, would also defund many Residential Treatment Programs for children, and is therefore opposed by NYS OCFS.

Diversion from Foster Care

In an evaluation of child welfare records conducted by SUNY Albany during the Federal Kinship Navigator Demonstration Project, of a sampling of 455 children who were living with relatives in informal (private) kinship arrangements, 80% had past or present involvement with Child Protective Services. None were in relative foster care. While some caregivers intervene on their own, many are engaged by child welfare agencies to become placement resources. Few become foster parents, in 2016:

- 3,750 children admitted into foster care in New York City; 4,625 in Rest of State (ROS)
- Of these, 1,121 children were placed in relative foster care in NYC (30%), 492 in ROS (10%)
- See OCFS 2016 data³ on relative foster placements, “direct” custody, and KinGAP, showing widespread under-utilization of relative foster care in many upstate counties.



³ OCFS Trends in Relative Placements 2012-2016 Report

Kinship Foster Care is Not Common Outside of New York City:

Despite statutory support for the use of kin as foster parents, only 19% of all children who came into foster care in 2016 were placed with relatives who were their foster parents. The disparity between NYC and ROS is alarming: 30% of all incoming children into foster care in NYC were placed with relatives, while only 11% of children in ROS were placed with relatives.

The kinship community has ongoing discussions with OCFS regarding the disparate county practices in utilization of kin as a resource for at risk children. OCFS is working on changing local practices through development of trainings and regular meetings with supervisors and has recently held meetings with Erie and Monroe County DSS Commissioners regarding these issues. However, the practice has a long history and appears to be increasingly utilized. More immediate solutions are needed. *See* NYS Bar Task Force on Family Court 2013⁴ recommending more uniform application of laws and practices to address the disproportionality. *See* recommendations.

Diversion Placement Types

Kinship Children Placed in Private Kinship Care via Informal Arrangements (No Article Ten)

There is no data available regarding number of such placements, but OCFS and local counties acknowledge its use. Often used as part of a “safety plan,” called an “alternative living arrangement,” or “parole,” this practice places children directly with kin when their parent’s home is deemed unfit by a child protective services worker, but no Article 10 proceeding or official custody arrangement is made. Caregivers may seek Article Six custody or guardianship or may simply care for children without court orders.

Kinship Children Placed in Private Kinship Care via “Direct” Custody (Article Ten)

See above graph. This practice involves child welfare placing a child in the care of a relative without certifying them as a foster parent. In 2016, there were 2,178 custody placements: 140 in NYC and 2,038 in ROS. Between 2011 and 2016, In **New York City**, the number of children directly placed with relatives **decreased 45 percent**, from 273 in 2011 to 140 in 2015. In **ROS**, the number of children directly placed with relatives **increased 71 percent** from 1,186 in 2011 to 2,038 in 2016.

Kinship Children Placed in Private Kinship Care via Article Ten Conversions to Article Six

There is no data available from OCFS or the Office of Court Administration on the number of cases, but OCFS and local counties acknowledge its frequent use. Navigator case records and reporting from family court attorneys also indicate numerous instances of this practice.

⁴ NYSBA Task Force on Family Court Final Report (2013) can be found at: <https://nysba.org/TFFCFinalReport/>

Recommendations for Kinship Care Services in New York

Recommendation 1: Declare September as Kinship Care Month

Since 2014, both the Assembly and Senate have passed resolutions that declared September as Kinship Care Month. Governor Cuomo also issued declarations each of the last three years. Since New York issued this resolution in 2014, eight other states and multiple municipalities throughout the country have issued declarations. Nationally, on September 30th, 2015, the U.S. Senate passed a resolution declaring September as Kinship Care Month, and while efforts fell short to have the President sign a declaration last year, multiple national organizations have come together to push the Congress to pass a resolution this year. In other states and at the federal level, New York's resolution is being used as a model.

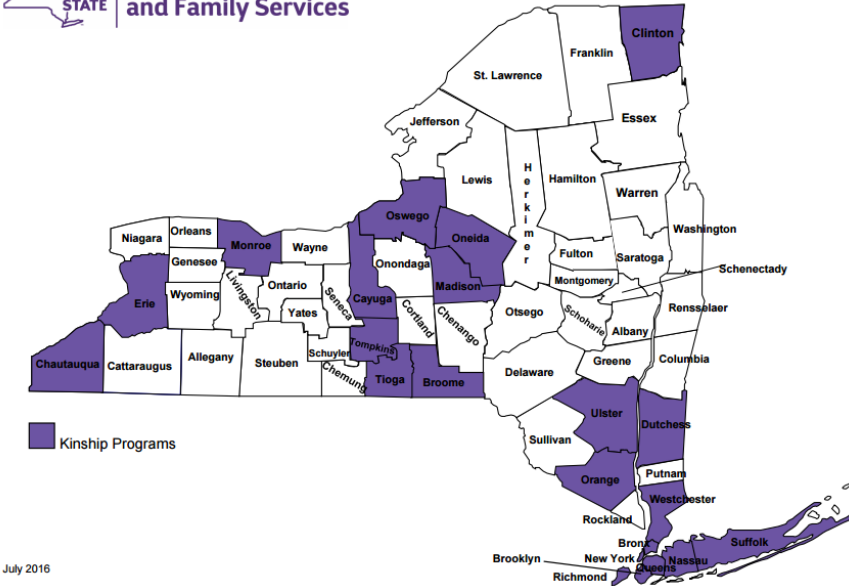
Kinship Care Month is both a celebration and an advocacy strategy. It is a well-deserved opportunity to hold events that acknowledge the tremendous contributions of kinship families and to provide outreach to the kinship community. It is also an opportunity to educate policy makers.

Action by state legislatures and state governors is a simple measure that costs no money nor requires complicated legislation. Supporting proclamations in honor of kinship families opens the door for the dialogue that must begin. A dialogue that begins with the premise that children raised in kinship care must be afforded the supports and services they require to live safe and fulfilling lives. A proclamation is a way for NYS legislators and the Governor to say they are listening and that the citizenry of their state appreciates and honors the commitment and sacrifices of kinship families. A simple voice vote in the legislatures can yield a proclamation or the stroke of a pen can create a gubernatorial executive proclamation.

Recommendation 2: Support kinship families by funding local programs at \$2,238,750 & the Kinship Navigator at \$620,500.

Kinship caregivers, outside of the foster care system, have little or no supports despite the fact that children live with their kin for many of the same reasons that children enter foster care. Many of these families need access to additional resources especially when they first take on the responsibility of caring for children, and this is where kinship care programs provide help.

Last year, the NYS legislature added \$1.9 million to the Governor's \$338,750 (Aid to Localities) for local kinship programs. The funds allowed The Office of Children and Family Services (OCFS) to fund 22 local kinship programs in FY 2016-17, up from 13 programs in FY 2015-16, and 8 programs in FY 2014-15. **The legislature also added \$100,000 to the**



Governor’s \$220,500 budget allocation for the statewide Kinship Navigator. Currently, the 22 OCFS funded kinship care programs cover 22 counties (see map), with the Navigator covering the remaining 40, including most of rural NYS. The local programs and the Kinship Navigator are vital to the local kinship communities, enabling new kinship families to care for children,

especially those whose parents have succumb to drug/opioid abuse. We expect the Governor’s proposed FY2018-19 budget to once again provide \$338,750 for local programs and \$220,500 for the Kinship Navigator (Aid to Localities pp. 363 & 365).

In order to maintain the progress the state has made in the last 3 years in kinship care services and to address the opioid crisis in rural New York, it is important for the state to maintain level funding for kinship support services and add \$300,000 for the Kinship Navigator to expand outreach to rural counties. *See* attached enhanced Kinship Navigator services memo for more information on proposed service expansion.

Recommendation 3: Legislature Should Resolve to Review Diversion Practices and Enact Reforms

Diversion in New York State has a long history. This year the State Comptroller is conducting an audit of the practices. The commentary to McKinney’s Family Court Act Section 1017 referred to “ruses” committed by local departments to convince kin not to become foster parents. Year after year, the Navigator’s director, Gerard Wallace, has testified to the Legislature about it. OCFS has acknowledged the issue, as has the New York State Bar, and numerous kinship summit reports.⁵

Despite this, little is done to develop new directions in policy and practice to reform current practices. While there are good reasons why kinship families should care for their own, it is a

⁵ For summit reports, see http://www.nysnavigator.org/?page_id=273

fact that low foster care entry rates mean that many children who need foster care services are not receiving them. The solutions are complex and can only be addressed by a focused effort on the part of the Legislature. In this effort, there are many advocates and agencies who understand the issues and the need for solutions and who would offer their assistance. In September 2016, at the State University at Albany, a national kinship summit made recommendations for national child welfare kinship reforms. With legislative leadership and the partnership of OCFS and the kinship community, it's time to set a new direction.

The Legislature should hold hearings on diversion and learn firsthand from caregivers and advocates the impact of this practice, and the Legislature should take action to review current child welfare practices and make recommendations for reform.

Recommendation 4: Amend Social Services Law 392 to Require Local Departments of Social Services to Refer Kinship Caregivers to Kinship Services

Reforming child welfare agencies practices will take years to accomplish. Even if achieved, there will still be need for most children to remain in private kinship families. While diversion practices may decline, kinship families will continue to exist mostly on their own. Their main supports will be the OCFS administered kinship services programs. Given that most kinship families have contact with local departments of social services either through applications for benefits or through engagement with child welfare staff, local departments should ensure that kinship families have full access to kinship supports by connecting them to kinship services.

In the Kinship Navigator federal demonstration project, the most successful lesson was the collaboration with local departments of social services which led to a 600% increase in referrals to kinship services. With the current upsurge in kinship families now caused by opioid crisis, it is imperative that families receive specialized kinship services. Given the barriers to outreach (cost, rural isolation, reluctance of caregivers, etc.), implementing a requirement for referrals is a low cost solution which will cause many more kinship families to be connected to kinship services.

Social Services Law section 392 was enacted to require local departments to make available information about public benefits and kinship services. See Office of Temporary and Disability Assistance informational letter [OTDA 12-ADM-01](#) (Requirement to Make Information Available to Non-Parent Caregivers Relating to Available Services and Assistance Programs). The statute reads:

§ 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.*

Implementation is inconsistent and does not include connecting caregivers to kinship services. Requiring local departments to make referrals to kinship services is a necessary step to ensure that no caregiver falls “between the cracks.” We no longer want to hear, “CPS gave me my grandchild eight years ago, and this is the first time I’ve found out there’s help for me.”
