



New York City Council General Welfare Committee
and Committee on Aging

**New York City Kinship Caregivers Need
Greater Support from City Agencies**

Testimony of
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Good afternoon. My name is Amy Roehl and I am the staff attorney for the Kinship Caregiver Law Project at MFY Legal Services and the Co-Chair for the New York City Kincare Task Force. MFY Legal Services is a legal services organization serving the poor of New York City and in the Kinship Caregiver Law Project, which is a city-wide project, we assist any non-parent relative caregiver in legal proceedings, including custody, guardianship, visitation and adoption proceedings where the child is not in foster care. MFY is one of the few programs in the entire city that provides full legal representation to kinship caregivers in Family Court proceedings.

We receive close to 100 calls per month from caregivers or relatives seeking basic information about their legal rights. Most caregivers are desperate to know their legal status in relation to the child. They have no legal order and would like to become a legal custodian. Some have an order and have been served with modification papers from a parent. Others would like to adopt the child in their care. Many are struggling financially to make ends meet and are seeking information on any benefits they are entitled to.

It is nearly impossible to know exactly how many caregivers are in New York City and what legal status they might have in relation to the child. The U.S. Census and the American Communities Survey make no differentiation between who does or does not have a legal order but estimate the number of children in the care of a relative at approximately 250,000, compared to approximately 5,400 children in kinship foster care.

Many kinship caregivers are caring for children for the same reasons that children enter foster care: parental illness or death, substance abuse, incarceration, young parents, or abandonment for a variety of reasons. However, without the resources that foster care brings, caregivers are left without services and a without a stipend, leading to an unequal system for similarly situated children. If only a small percentage of these children were placed in the foster care system, the system and the city's resources would be entirely overwhelmed. It is important that kinship caregivers are recognized for the valuable resource that they are.

As Dr. Langosch previously mentioned, the NYC Kincare Task Force surveyed approximately 140 caregivers on services they received from city agencies and barriers to those services in 2007. We surveyed kinship caregivers in seven different government areas, including HRA, ACS, and DFTA. Across all systems, caregivers felt that agency workers needed more training regarding kinship caregivers and their needs and wanted more written information explaining their rights, options and benefits available. Many also noted a lack of communication between

agencies about the needs of kinship caregivers. We created recommendations, based on feedback from the relative caregivers surveyed, for each organization. Given our limited time today I will focus on the agencies represented here today - HRA, ACS, and DFTA, as well as findings related to Family Court.

Overall, participants were satisfied with the services at DFTA. Several caregivers reported they wanted more services, including respite programs and educational/recreational opportunities for the children. They also wanted to continue to receive written information from DFTA.

For HRA, the main complaint was treatment by the workers. Workers were hard to get a hold of and treated the caregivers so poorly that many preferred not to apply for assistance or continue the application process rather than work with them. Many were grateful for the benefits but stated that the demoralizing process was not worth the resulting benefits. As Dr. Langosch noted, we have worked with HRA since the release of the report to implement some of the recommendations. We hope to continue to work with HRA and also hope that we can continue to schedule sensitivity trainings for their workers.

For ACS, the main complaint was about information and the incomplete, unhelpful, inaccurate information - or a complete failure to provide any information at all. Caregivers generally come into contact with ACS in one of two ways: either the child has been or will be removed from a parent's care and the relative is notified¹ OR a caregiver contacts ACS because a child has been left in his or her care by a parent or even another relative. One major area of concern is when a caregiver contacts ACS with questions about what to do with a child in his or her care. Caregivers surveyed found caseworkers to lack information about referrals or other resources for the caregiver, including benefits through HRA and giving incorrect information about kinship foster care and the effects of an order of custody or guardianship. Every caregiver raising a grandchild or a niece or nephew or sibling should be given the correct information by ACS about their options— and if ACS cannot provide the correct information, then they should be directing caregivers to other resources who can.

Caregivers are often asked for a legal order of custody in order to obtain benefits through HRA, to enroll a child in school, or to have access to medical records or consent to medical treatment. In many cases, an order of custody is not required for many of the above as long as the individual is a person in parental relation.²

¹ Under McKinney's Family Court Act § 1017, "when the court determines that a child must be removed from his or her home, or placed pursuant to section 1055 of this article, the court shall direct the local commissioner of social services to conduct an immediate investigation to locate any non-respondent parent of the child and any relatives of the child, including all of the child's grandparents, all suitable relatives identified by any respondent parent or any 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 and positive role in his or her life, and inform the of the pendency of the proceeding and of the opportunity for becoming foster parents if attempts at reunification with the birth parent are not required or are unsuccessful."

² Under McKinney's Public Health Law § 2164, "the term person in parental relation to a child shall mean and include his father or mother, by birth or adoption, his legally appointed guardian, or his custodian. A person shall be regarded as the custodian of a child if he has assumed the charge and care of the child because the parents or legally appointed guardian of the minor have died, are imprisoned, are mentally ill, or have been committed to an institution, or because they have abandoned or deserted such child or are living outside the state or their whereabouts"

That said, there are several reasons why a caregiver would want a legal order of custody or guardianship. First, they may need to have legal custody to include a child on his or her employer's health plan. They may need an order to consent to major medical treatment or to gain access to mental health records. And finally, many want to know that they will be able to continue to care for the child until a court rules otherwise, providing much needed stability to a child's life.

There is a great need for legal services. Most caregivers proceed in court unrepresented and are unable to uphold legal rights of themselves and the children in their care. As noted in the report, obtaining a legal order can be lengthy, daunting, and almost impossible process for a relative caregiver without an attorney. There are several legal obstacles in the caregiver's path and protections for the parent. Many caregivers have difficulties finding a birth parent in order to serve the parent with papers. If a parent is located, served and appears, the parent has a right to legal counsel if s/he cannot afford an attorney. A relative caregiver does not have the same automatic right to counsel.³ Many caregivers report that having an attorney to represent them would have made a difference in being heard in the courtroom and in ultimately proving their case. Again, MFY is one of the few organizations that is responding to this unmet legal need and we encourage more funding for these programs so that caregivers can obtain legal advice and representation in proceedings when necessary to stabilize families. As demonstrated by the report, caregivers are in need of a variety of appropriate services, including accurate information about their rights and options and legal representation where necessary. They also deserve to be treated in a competent and respectful manner.

Thank you for your time.

are unknown, or have designated the person pursuant to title fifteen-A of article 5 of the general obligations law as a person in parental relation to the child.”

Under McKinney's Public Health Law § 2504, which delineates who may consent for certain medical, dental, health and hospital services, “where not otherwise already authorized to do so, any person in parental relation to a child a child as defined in section 2164 of this chapter, and (i) a grandparent, an adult brother or sister, an adult aunt or uncle, any of whom has assumed care of the child and, (ii) an adult who as care of the child and has written authorization to consent from a personal in a parental relation to a child as defined in section 2164 of this chapter, may give effective consent for the immunization of a child.”

³ New York Family Court Act § 262.