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# “We Have No Rights, We Get No Help”

## The Legal and Policy Dilemmas Facing Grandparent Caregivers

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Guided by an ecological perspective on family policy, this qualitative study used family life history interviews to document the legal and policy dilemmas faced by 26 grandparent caregivers residing in Montana. Most grandparents ( $n = 18$ ) were caring for their grandchildren in informal or private care arrangements. Findings revealed four legal or policy contexts that hindered informal grandparent caregiving, including the lack of a kinship care navigation system, the lack of legal rights, fear of the child welfare system, and disparities between informal and formal kinship care policies. Future policy directions, including expanding subsidized guardianship programs and granting informal grandparent caregivers' legal authority over their grandchildren, are discussed.

**Keywords:** *grandparent caregivers; grandparents rearing grandchildren; kinship care policies*

During the past 30 years, the number of grandparent-headed households with grandchildren present has more than doubled—from 2.2 million in 1970 to 5.8 million in 2000 (Goodman & Silverstein, 2002; U.S. Census, 2003). In the 1980s, much of the increase was because of three-generation

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households. The 1990s saw an increase primarily in grandparent-headed households without a biological parent present (Goodman & Silverstein, 2002). It is estimated that 2.4 million children are currently being reared solely by their grandparents (U.S. Census, 2003). The majority of these grandparents are providing care for their grandchildren in informal, private care arrangements without the involvement of the child welfare system (Jantz, Geen, Bess, Andrews, & Russell, 2002). Here, the *child welfare system* refers to the formal foster care system, which provides children and foster families with a host of financial assistance and social service programs, including child welfare agency supervision; specialized health-, mental health-, and school-related services; supplemental payments for caring for children with special needs; clothing allowances; Medicaid; food stamps; housing assistance; and child care (Geen & Berrick, 2002). When grandparents intervene on behalf of their grandchildren without child welfare involvement, they often find that there is no systematic response to help them or their grandchildren cope with family adjustments (Phillips & Bloom, 1998; Wallace, 2001). The lack of policy attention has left many informal grandparent caregivers (IGCs) in a legal and economic bind—they have few legal rights and limited access to financial aid or social service programs.

## Study Purpose and Theoretical Framework

Although researchers and policy analysts have noted the shortcomings in kinship care policies, particularly for those “grandfamilies” providing private, informal care (Geen & Berrick, 2002; Perez-Porter & Flint, 2000; Wallace, 2001), few have asked grandparent caregivers directly about their experiences outside the child welfare system. Thus, the purpose of this qualitative study was to document the legal and policy dilemmas facing IGCs. To guide our work, we draw on an ecological perspective on family policy (Bubolz & Sontag, 1993; Trzcinski, 1995), which recognizes that families or, in this case, grandparent caregivers and their grandchildren are embedded in and affected by larger systems, including legal and political systems. We recognize that grandfamily adaptation and survival strategies occur within environments or systems that pose differential constraints and limitations as well as opportunities and privileges for different families. We understand policies to be human-derived rules that yield both intended and unintended consequences for families. Using an ecological theoretical perspective, our intent is to understand how grandparent caregivers are differentially situated in the larger social systems and how policies create

differential constraints and opportunities for grandfamilies. We conclude our analysis with policy recommendations to address the disparities that exist between formal and informal kin care arrangements.

## Policy Context Affecting Grandparent Caregivers

According to a 2000 U.S. Department of Human and Human Services (USDHHS) Children's Bureau report, the two federal policy agencies that oversee kinship care (which includes grandparent and other relative caregivers) are income assistance and child welfare. Income assistance for kin caregivers was born out of a 1950 amendment to the Social Security Act, which provided eligible kin caregivers financial assistance for children in their care through the Aid to Dependent Children program (Jantz et al., 2002). If kin caregivers met income eligibility guidelines, they could apply to receive welfare benefits as a family unit. Non-needy families, regardless of their income level, could also receive a child-only grant for the related children under their care (Jantz et al., 2002). In 1996, the Aid to Families with Dependent Children (AFDC) program was replaced by the Temporary Assistance for Needy Families (TANF) program under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). PRWORA ended the entitlement to income assistance for all AFDC recipients, including relatives. TANF also imposed new work requirements and time limits on recipients (USDHHS, 2000). All states (with the exception of Wisconsin) have continued to offer eligible relative caregivers the child-only benefit, referred to as the TANF child-only grant (Jantz et al., 2002).

In contrast, child welfare policy historically kept kin caregivers out of the child welfare system by diverting them to AFDC (USDHHS, 2000). In 1979, the U.S. Supreme Court in *Miller v. Youakim* addressed the disparities between kin caregivers receiving AFDC and nonkin foster parents. The court found that states must make the same foster care payments to kin caring for children in state custody as they make to nonkin foster parents, provided that kin meet the same foster care licensing standards. Although this decision addressed pay equity concerns among some kin acting as foster care families, the decision fell short of addressing families who do not meet certain eligibility or foster care licensing standards or families who avoid child welfare involvement. For families who fall into those circumstances, financial assistance and other services can be difficult to obtain (Dougherty, 2003; Jantz et al., 2002).

In the late 1980s, as a result of increasing recognition that familial and cultural ties were important to foster children's well-being and that there

was an inadequate supply of “licensable” foster care families, kinship care grew substantially (Testa, 2004). As states began to rely on kin as foster parents, they often applied the same federal foster care licensing, supervision, and permanency planning requirements to kin as required of nonkin foster parents (USDHHS, 2000). More recent federal policies, including the Adoption and Safe Families Act of 1997 (AFSA) and PRWORA, have recognized the unique circumstances of kin care, encouraged states to give preference to kin when placing a child in foster care, and allowed states to waive some of the foster care requirements for kin under certain circumstances (Geen & Berrick, 2002). Although these policy shifts might serve the best interests of children and provide a “fix” for the shortage of nonkin foster homes available for child placement, an unintended consequence has been the differential treatment of kin versus nonkin foster families. In many states, including Montana, kin caregivers often do not receive foster care payments and are referred for, offered, and receive fewer services than nonkin foster parents (Ehrle & Geen, 2002).

### **Current Tensions in Kinship Care Policy Making**

Debate continues as to the role of the federal and state governments in the lives of kin caregivers. Tensions exist about how child welfare agencies should financially support kin (if at all) and how policy makers should assess kin care in meeting the child welfare goals of safety, permanency, and well-being (Ehrle & Geen, 2002; Geen & Berrick, 2002; Jantz et al., 2002). Some argue that kin caregivers should not be eligible for financial assistance, because it is the family’s responsibility to provide care for related children (Geen & Berrick, 2002). Others argue that offering foster care payments to kin may give parents an unintended incentive to abandon their children so kin can access foster care payments (which are higher than TANF payments; Mullen, 2000). Likewise, informal kin caregivers may have an incentive to involve the child welfare system to get higher payments. Still others, pointing out policy inconsistencies based on caregiver ties to children, argue that the government has an obligation to support all children in state custody regardless of who is providing for their care (Ehrle & Geen, 2002).

Yet the majority of kin care arrangements fall outside of the child welfare system, in private or informal arrangements (Jantz et al., 2002; USDHHS, 2000) composed mainly of grandparents rearing grandchildren (Ehrle & Geen, 2002). As compared to nonkin foster parents, IGCs are more likely to be older, single, less educated, in poor health, and living on income less than 100% of the federal poverty line (Ehrle & Geen, 2002). Children living with kin are more likely to experience traumas associated with abuse,

neglect, or parental abandonment, yet many do not receive services (Ehrle & Geen, 2002). All kin who meet the TANF definition of a relative are eligible for a child-only payment, and kin caring for a child in state custody are eligible for foster care payments if they meet state foster care requirements (Jantz et al., 2002). However, only about one fourth of all children in kin care live in families who receive a TANF child-only grant or foster care payment (Ehrle & Geen, 2002). IGCs may not receive other services and financial assistance provided to foster care families, including access to legal counsel, specialized physical and mental health services, respite services, supplemental payments for children with special needs, clothing allowances, housing assistance, and child care assistance (Geen & Berrick, 2002; Henderson & Cook, 2005; Wallace, 2001).

Although researchers have noted the legal and policy challenges facing kin caregivers (e.g., Perez-Porter & Flint, 2000), no studies have examined the ways in which the current policy context affects the ability of IGCs to meet the needs of children in their care. Using qualitative methods, this study begins to document how policies intentionally or unintentionally hinder informal kin caregiving. We also review legal and policy changes that are under way in many states and suggest policy directions to better, and perhaps more justly, support the needs of IGCs.

## Method

### Sample

For this study, we conducted 26 interviews with grandfamilies rearing grandchildren in Montana. Interviews were conducted one-on-one with a grandparent ( $n = 19$ ) or with a married couple dyad ( $n = 7$ ). In all, we heard from 23 grandmothers and 10 grandfathers. Grandparents ranged in age from 36 to 71 years, with a mean age of 56 years. Most (69%) participants were married at the time of the interview. The remainder was single, separated, divorced, or widowed. Grandfamilies in this study cut across all income levels, with annual household incomes ranging from less than \$15,000 to more than \$70,000. Participant education levels were also diverse, with 4 grandparents having less than a high school diploma, 9 having a high school diploma or general equivalency diploma, and 20 having some postsecondary education. Grandparents had been the primary caregivers of their grandchildren for an average of 5.5 years, with a range from 5 months to 24 years. The sample was primarily White, with the exception of 1 Native American grandparent.

Out of the 26 grandfamilies interviewed, the majority ( $n = 18$ ) had informal or private care arrangements. Of these families, 10 had hired attorneys to draw up documents establishing guardianship of their grandchildren (but had not gone to court), 5 had no legal ties to their grandchildren, and 1 couple had privately adopted their grandchild, and 2 had “mixed” informal arrangements, where 1 couple had privately adopted their granddaughter and had no legal ties to two other grandchildren under their care, 1 couple had legal guardianship of two grandsons and no legal ties to another grandson under their care. The remaining 8 grandparents were involved in the formal child welfare system as kin foster parents, but only 1 couple had gone through foster care licensure.

## Procedure

For this study, we conducted family life history interviews (Goodley, Lawthom, Clough, & Moore, 2004) to better understand how grandparent caregivers came to be, the quality of their intergenerational relationships, and how they navigated social systems (e.g., health care, schools) to meet the needs of their grandchildren. Interview questions also documented legal issues facing grandparents, child welfare involvement, and receipt of state-based financial assistance and services. We used purposive and snowball sampling strategies to recruit grandparent caregivers. We limited the geographic distance between the location of the grandparents and the university to approximately 90 miles because of resource and time constraints. Participants were solicited through local newspaper ads, radio stations, and support groups. Other grandparents then heard about our study by word of mouth and contacted the research team for an interview. Inclusion criteria stated that grandparents were the sole, full-time care providers of their grandchild(ren) and that biological parents of the grandchildren did not reside in the grandparent’s home. Only one interested grandparent was not included in the study because she provided part-time care for her grandchildren. All interviews were conducted by two trained interviewers, were held in the grandparents’ home, and lasted about 2 hr. Participants received \$100 for their time.

## Data Analysis

Data were content analyzed (Krippendorff, 2004) to document the ways in which policies and laws facilitated or constrained grandparent caregivers’ ability to create a safe and stable home for their grandchildren. Data

analysis occurred in three phases. First, we carefully reviewed each transcript to identify thematic categories reflective of our analytic goal. Three members of the research team read the transcripts and noted emergent legal and policy-related themes. Next, we met to discuss the results and to ensure that all conceptually valid themes were captured. Emergent themes were categorized into four areas: (a) the lack of a kinship care navigation system as a hindrance to IGC decision making, especially during familial crises; (b) the lack of legal rights as a hindrance to IGC functioning; (c) fear of the child welfare system as a barrier to accessing services and assistance; and (d) disparities between informal and formal kinship care policies. Last, we gathered direct quotations that represented each thematic category to provide a richer description of the phenomena and to establish trustworthiness of the analysis (Lincoln & Guba, 1985).

## Results and Discussion

### Family Crises Leave Little Time to Navigate New Systems

When grandparents are called on to care for their grandchildren, their families are typically in crisis because of child abuse and neglect, substance abuse, mental illness, incarceration, or death, among other reasons (Cox, 2000; Hayslip & Goldberg-Glen, 2000; Phillips & Bloom, 1998). All study participants reported experiencing family crises that necessitated intervention on behalf of grandchildren. When asked about the cause of the crisis, the majority ( $n = 19$ ) reported their adult child had a substance abuse problem, such as methamphetamine addiction ( $n = 11$ ), alcohol abuse ( $n = 2$ ), or a combination of alcohol abuse and use of cocaine, crack, heroine, and/or marijuana ( $n = 8$ ). Five grandparents reported that one or both parents were in prison, primarily because of methamphetamine-related crimes. Five grandparents reported their adult child suffered from a mental illness, such as bipolar or borderline personality disorder; four cited teen pregnancy. These “causes” were not mutually exclusive—in fact, more than half of the grandparents reported multiple problems (e.g., the co-occurrence of drug, alcohol, and/or mental illness) leading to child abuse and neglect, which is consistent with findings from other studies (see Cox, 2000; Hayslip & Goldberg-Glen, 2000).

Regardless of the cause of the family crisis, almost all grandparents ( $n = 24$ ) related stories of being caught off guard or ill prepared for their role as surrogate parent, and many had little time to plan for the transition to full-time

caregiving. Emick and Hayslip (1999) reported similar findings, as grandparents typically do not expect to rear their grandchildren. Being caught off guard was exemplified by the story of a single 56-year-old grandmother, who shared the following:

I didn't even know [my daughter] was pregnant, and then one day . . . when [my grandson] was about 6 months old, she called . . . and said, "I got kicked out of my apartment. I don't have a job. I'm living out of my car. Family Services is about to take [my son] away from me. Would you come get him?" I said, "Absolutely."

The grandmother recalled further, "I didn't . . . prepare myself at all . . . and . . . once I got [my grandson] here, I knew I was in trouble. This poor little baby was sick and he cried all the time."

Because grandparents became caregivers in times of crisis, they often learned about the complex legal system and kin caregiver policies haphazardly. One IGC couple took over the care of their three grandchildren after discovering two of them panhandling in front of a grocery store. When they learned their daughter, who had a mental illness, was neglecting the grandchildren, they took them in and immediately began addressing their medical needs. The grandparents did not know about their grandchildren's TANF child-only and Medicaid eligibility and paid out of pocket for their health care for years until they exhausted their savings and ran into financial difficulties. As the grandfather recalled, "We almost lost the house. . . . We [paid out of pocket] until about a year ago when [we] got the kids on Medicaid [and TANF] because we didn't know anything about that." The financial challenges experienced by IGCs are well documented (Emick & Hayslip, 1999; Mullen, 2000), as is the need for advocacy assistance to help IGCs navigate the legal and social service systems that may benefit their families (Albert, 2000; Wallace, 2001).

Without advocacy assistance or legal counsel, many IGCs felt frustrated by the lack of information available to help them navigate the system. As a 64-year-old grandmother caring for her 10- and 14-year-old grandchildren stated, "I'm always wishing [information] was . . . more available. . . . People don't know where to go . . . and there are so many things that are available that you're not told about." Indeed, by our calculations and consistent with the research of Jantz et al. (2002) and Mullen (2000), some IGCs ( $n = 17$ ) were eligible for Medicaid and TANF child-only grants. Ten of 18 reported receiving no assistance from the state, 5 reported their grandchildren received Medicaid benefits, and 3 reported receiving both Medicaid and TANF child-only grants. Grandparents in the child welfare

system ( $n = 8$ ) did not fare much better: 3 received no assistance, 4 reported their grandchildren received Medicaid, and one grandchild received both Medicaid and a TANF child-only grant. No kin foster families received foster care payments. Such findings are consistent with studies showing that many eligible grandchildren do not receive TANF or foster care payments (Ehrle & Geen, 2002).

Although accessing benefits might have helped some IGCs, for others, researching their family's "policy context" and program eligibility seemed at odds with their hopes that their adult children would "get their acts together" and reclaim their parental responsibilities. Feelings of hope and ambivalence about the future are common emotions experienced among grandparent caregivers, especially when their adult children are abusing substances (Hirshorn, Van Meter, & Brown, 2000). Because some grandparents ( $n = 13$ ) anticipated returning their grandchildren to their parents once the crisis was over (i.e., when parents were willing and able to resume their parental role), they often found their families in a "holding pattern." As one grandmother shared, "I really didn't think I'd have [my grandson] this long. I figured I'd have him . . . 3 or 4 . . . or 6 months." When she realized that her situation was going to be permanent, she investigated state-based programs and found she was eligible for child care assistance. Such findings suggest that advocates and social workers might counsel grandparents to pursue financial assistance and services—even in the short run—to offset the financial and psychosocial (e.g., mental health, relational) costs associated with kin caregiving (Jendrick, 1993).

## The Legal Rights of Grandparent Caregivers or Lack Thereof

IGCs often assume they have the legal right to make decisions for their grandchildren. In reality, they have few to no rights and are often constrained in their efforts to navigate social institutions (e.g., health care, schools) to meet their grandchild's needs (Albert, 2000; Bruce, 2004). As one grandmother recalled,

I had [my grandson] for quite a while before I did anything legally, and then once I found out that grandparents really don't have any rights . . . I got the guardianship . . . because the school wanted everything legal.

State legislation varies as to whether IGCs have the legal authority to access medical or school records or to make medical or educational decisions on behalf of grandchildren (Generations United, 2005; Perez-Porter & Flint,

2000). In Montana, without parental consent or establishing legal custody or guardianship, IGCs have no legal authority over their grandchildren (National Conference of State Legislators [NCSL], 2006). If IGCs contact the child welfare system for help, many learn that because they intervened and their grandchildren are now safe, child welfare cannot get involved, as the grandchildren are not in immediate danger (S. Brown, administrator, Montana Child and Family Services Division, personal communication, January 10, 2007).

The frustrations of having no legal ties to their grandchildren ( $n = 5$ ) and receiving no assistance from the child welfare system (e.g., financial assistance, child care assistance;  $n = 18$ ) were common experiences shared by study participants. One grandmother stated,

I have zero rights. . . . I don't know whether [my daughter's] coming or going, and if she demands to take [my grandson], I can't stop her. . . . If I had at least custody of him . . . I could plan around that, but I don't.

The grandmother goes on:

Man, somewhere down the road they've got to give grandparents some more legal rights. . . . If I say I've got this baby to watch, [child welfare] don't want to hear it. They just go by their rules and . . . the mother can get all the help in the world she wants, all the babysitters, this, that, and the other thing, and I can't get anything. . . . I've put in every hour . . . every day into him for 9 months. I'm using my disability and what savings I had to take care of him. I'm the one that's loved him . . . but I have not one right in the world where he's concerned, not one. And no rights to get any help. . . . She takes the WIC [Women, Infants, and Children Program], the food stamps, and the Medicaid, and I get the baby.

Another grandmother rearing her grandchildren for the past 5 years also expressed frustration with the legal limbo that characterized their lives (Perez-Porter & Flint, 2000). She shared,

We got so frustrated we [tried to get] Family Services involved . . . but . . . they said, "Don't you bring anything to us unless we know that we got the goods on [the parents]." They said that we literally have to let the child be abused . . . before we can do anything.

Because of the informal nature of the care arrangement, grandparents often feared that parents would show up and take their children back (Jendrick, 1993). One grandmother stated,

Well, the minute [her daughter] would have gotten wind of [a report filed with child welfare], even though she would have had no help, and she would have been living on the streets, she'd have taken that baby and moved out of town. She doesn't want the baby, but she doesn't want anybody else to have the baby either.

Echoing this sense of helplessness, a 43-year-old married grandmother stated,

You know . . . if there was some kind of government program, or something to help . . . so the mother can't come tear them out of your hands, you know? Because it ain't right to raise [your grandchildren] for 5, 6 years, 7 years, and then when they're 7, 8 years old, all of a sudden, some strange lady just comes in and jerks them out the door and there's nothing you can do about it.

Grandparent caregivers ( $n = 11$ ) also discussed the great efforts they made to gain some legal rights over their grandchildren. Some ( $n = 10$ ) pursued guardianship privately through an attorney, who drafted a document signed by the parents, grandparents, and notary public granting guardianship to the grandparents. One 71-year-old grandmother rearing her now 17- and 22-year-old grandsons pursued guardianship legally and recalled this to the interviewer:

We had to have guardianship if she wasn't going to come back because of school and medical purposes, and the school was going to charge us . . . \$4,000 to put these boys in school because we weren't parents. . . . So then we tried to get guardianship and we'd send her letters. . . . She told me later the reason she never signed the papers was because she felt that we were taking them away, and I says, "Anytime you can get your life together and take them, fine." So we had to go through an attorney and . . . hire a detective to find her, because we weren't sure where she was, and . . . they sent her a paper saying, "This is when the guardianship [hearing] will be held." She didn't show up, so we got guardianship.

Grandparents who either did not have any legal ties to their grandchildren ( $n = 5$ ) or were unsure if their guardianship papers would hold up in court ( $n = 10$ ) feared that their adult child could take their grandchildren back, potentially expose the grandchildren to abusive or neglectful behaviors, or refuse grandparents' access to their grandchildren. In Montana, policy makers likely empathize with the precarious situations of IGCs; however, they may feel constrained to address these complex family issues. In general, a

parent's right to care for his or her child is a fundamental right that has emerged on the basis of common law, legislative decisions, and court rulings (*Harvard Law Review*, 1980; Henderson & Moran, 2001). These rights can be taken away by the state if a parent is investigated and found to be unfit or if it is deemed in the best interest of the child (Perez-Porter & Flint, 2000). According to Bruce (2004), legislating grandparental rights may be seen as weakening parental rights and/or unconstitutional. Indeed, although some states have moved to enact grandparent visitation rights, the Montana Supreme Court recently determined that such rights were unconstitutional (*Polasek v. Omura*, 2006).

### Fear of the Child Welfare System

Beyond discussing their lack of legal rights, several IGCs ( $n = 5$ ) also expressed their distrust of and fear of losing their grandchildren to "the system" (see Cox, 2000). As a single grandmother rearing her grandson recalled, "I was so glad that we had him, because had he gone to [the child welfare system], who knows what would have happened. We'd have probably never seen him." Another grandmother of two granddaughters recalled, "When I talked to the caseworker . . . she said, 'You don't want [the state] to get custody, because it's really hard to get them away from the state. . . . You either need to get custody or [your son] needs to get custody.'" And another single, 45-year-old, disabled grandmother shared,

This is like the only stable person . . . he's ever known . . . and . . . I have no legal recourse and no money to hire a lawyer. If I called . . . Child Protective Services, they could come take him from me, you know? They could say, "Hey, you're disabled. We don't think you should have him either" and put him in foster care. . . . So I'm afraid to report [my daughter] on any of this [abuse or neglect] because who knows what they're going to do.

Whether grandparents were knowledgeable about the historical preference of the child welfare system to place children in state custody with nonkin foster families (USDHHS, 2000), several ( $n = 10$ ) reported experiencing negative interactions with child welfare or TANF caseworkers. These grandparents were familiar with the expression "the apple doesn't fall far from the tree," which refers to concerns that abusive and/or neglectful parents likely come from dysfunctional family systems, and felt as if they were perceived as being part of the problem rather than part of the solution. Such experiences may be emblematic of the ambivalent treatment of kinship caregivers within the child welfare system (Ehrle & Geen, 2002;

Geen & Berrick, 2002; Jantz et al., 2002; Perez-Porter & Flint, 2000). Although policy makers have been aware of the growing numbers of informal kin caregivers, there has been little systematic outreach to educate kin caregivers about child welfare policies and procedures, reduce kin caregivers' fear of the system, and help them navigate the system to access appropriate services (Generations United, 2005; Wallace, 2001). Likewise, there has been a lack of caseworker training on the unique circumstances of informal kin care arrangements (Beeman & Boisen, 1999).

### **Inequities Between Informal and Formal Care Arrangements**

Currently, kin caregivers, whether involved in the child welfare system or not, are often diverted away from the child welfare system to TANF and Medicaid programs (Jantz et al., 2002; Mullen, 2000). Indeed, in this study, no grandparent caregivers received foster care payments, 4 received a TANF child-only grant, and 13 received Medicaid benefits on behalf of grandchildren. As Jantz et al. (2002) note, such diversions are significant in terms of cost savings. For example, TANF payments are considerably less than foster care payments, and TANF child-only payments are prorated, which means they decline for each additional child and do not vary depending on the child's age. Foster care payments, on the other hand, are not prorated, increase with child's age, and may also include clothing allowances, transportation allowances, and supplemental payments for caring for children with special needs (Geen & Berrick, 2002).

Some grandparent caregivers ( $n = 16$ ) were keenly aware of the differences between their "informal" circumstances (e.g., the lack of access to foster care payments, services, or child care assistance) and "formal" nonkin foster parents' assistance and services. As an IGC of three grandchildren reflected,

So, to me, all grandparents are doing is stepping in where some of the foster families have always been . . . [but] one of the problems that grandparents have is that we do not qualify for any of the assistance programs foster families do.

The inability to access financial assistance and services can create significant hardships for kin who did not plan financially for the extra costs of food, clothing, child care, and health care, among other costs (Cox, 2000; Dougherty, 2003; Emick & Hayslip, 1999). One 42-year-old grandmother was hit particularly hard. She has three older children, ages 22, 21, and 18

years. Her middle daughter got pregnant at 18 while addicted to methamphetamines. When the grandmother took in her newborn grandson, she and her husband of 20 years separated. She shared,

It's been hard on me. . . . I have never been a crier until last year, and now I find myself sitting in the middle of my living room just bawling for no reason. . . . I am 42 years old. . . . My youngest daughter is 18 and I am starting over [as a single parent with a baby].

When the grandmother took in her grandson, she applied for TANF child-only assistance (and receives \$250 per month), WIC, and Medicaid. She was not eligible for child care aid to help with her \$400 per month expenditure or respite care. She cashed in her savings and retirement to cover expenses and is now living paycheck to paycheck (see also Henderson & Cook, 2005). She says, "It kind of scares me to think that if anything ever happened, there is nothing out there."

This study also found that formal kin caregivers within the child welfare system were not faring all that well either and were not receiving assistance or services. Such findings are consistent with the research of Ehrle and Geen (2002). One 46-year-old married, disabled grandmother, who had temporary custody of her 5-year-old grandson (because his mother was in prison), was working on her foster care licensure. She stated, "[We've been] unpaid foster care providers for the last two and a half years." When asked why that was, she said, "Don't know. We don't get food stamps, we don't get money, we don't get nothing. All [my grandson] gets is Medicaid. . . . We've received nothing through the services." Even after attending foster parenting classes, the grandmother assumed she would get some financial assistance. But she was aware of the perceptions of grandparents trying to take advantage of the system when she stated,

Whether we're his grandparents or not, we're still foster care . . . [but] I'm not going to raise the issue of it because I don't want to go back to court and I don't want anybody to think we want [our grandson] for money. . . . That's what foster care is all about, we thought, but we haven't [gotten any services]. . . . I think . . . we got lost in the system.

The treatment of kin caregivers within and outside the child welfare system has essentially created a three-tier system in which nonkin foster families have access to the highest levels of financial assistance and services (Jantz et al., 2002). Formal kinship care families may or may not have access to similar assistance and services as nonkin foster families, depending on foster care licensure, and may be diverted to TANF or

Medicaid programs or receive no assistance (Ehrle & Geen, 2002; Jantz et al.). IGCs appear to be the least likely to receive assistance and services from the state, which, according to Generations United (2005), yield enormous cost savings. Without informal kin care, as many as 2 million grandchildren would likely end up in the child welfare system, and states would have to expend significantly more resources to ensure the safety, stability, and well-being of these grandchildren (Pruchno & McKenney, 2002). Moreover, states would have to provide services, including substance abuse treatment and individual and family therapy, to parents in an effort to help them reunify with their children. Currently, such state-sanctioned support services are not available to informal caregiving families, unless they access them through private means (Geen & Berrick, 2002).

## Conclusions and Future Policy Directions

Although this study is limited by its purposive sample of grandparent caregivers and findings are not generalizable to all kin caregiving families, there are a number of conclusions that can be drawn, many of which are consistent with extant literature. For example, we found that many IGCs have limited legal rights and may be unaware of their eligibility for services and financial assistance (e.g., TANF, Medicaid). Such findings are consistent with those of Albert (2000) and Wallace (2001). While some IGCs (as well as formal kin caregivers) recognize that they are not receiving the same benefits as nonkin foster families, they also fear the child welfare system because, as Perez-Porter and Flint (2000) suggest, the system ultimately has control over who gets to care for their grandchildren. We also found that although formal kin caregivers may not face the same legal issues as IGCs, they may resemble IGCs more than foster care families in terms of their access to services and financial assistance (Ehrle & Geen, 2002).

Based on these findings, there are a number of ways in which policy makers might bolster kin caregivers' ability to provide a safe and stable environment for children while addressing some of the inequities in current child welfare policy. First, because many grandparents report that finding information on existing programs can be difficult, especially during a family crisis, policy makers might consider implementing state-based Kinship Navigator systems (Generations United, 2005). These systems offer publications, hotlines, and help desks to link caregiving grandparents to available resources. Three states have started such programs, including Ohio, Washington, and New Jersey (NCSL, 2006). Second, because kin

rearing children in informal care arrangements often have limited legal authority, they may have difficulties enrolling children in school or getting them medical care. Thus, policy makers should consider passing medical and educational consent laws (Generations United, 2005). Medical consent laws are in effect in 24 states and the District of Columbia, and educational consent laws have been passed in 21 states. In 2007, the Montana legislature passed both medical and educational consent laws as well. In general, these laws may be rescinded by parents at any time (NCSL, 2006).

Third, to address the legal limbo experienced by many IGCs, policy makers might consider implementing *de facto* custodian policies. *De facto* custody arrangements (implemented in Kentucky and Indiana) name grandparents as primary caregivers of their grandchildren if they have lived with their grandparents for 6 months (for children younger than 3 years of age) or 1 year (for children older than 3 years). After the court finds that a caregiver is a *de facto* custodian, he or she has the same legal standing as a parent (Bruce, 2004). Fourth, policy makers should examine the feasibility of expanding subsidized guardianship programs (Perez-Porter & Flint, 2000; Testa, 2004). These programs primarily serve kinship care families in the child welfare system that are seeking legal guardianship as an alternative permanency option to adoption (Jantz et al., 2002; Testa, 2004). Some states also offer subsidized guardianship programs for IGCs. These programs appoint the caregiver as the child's legal guardian and provide financial assistance (Jantz et al., 2002).

Fifth, policy makers might consider broadening definitions of foster care licensing standards, such that kin caregivers could satisfy licensing requirements and qualify for foster care payments. Currently, states must meet minimum ASFA guidelines to receive federal reimbursement to cover costs associated with foster care placements (Jantz et al., 2002). Because many kin caregivers do not meet those standards, they are often diverted to TANF. Some states have addressed this issue by broadening licensing standards and allowing caseworkers more discretion in licensing kin caregivers (Jantz et al., 2002). And finally, because many IGCs are older and in poorer mental health than nonkin foster parents and are not currently eligible for many services and financial assistance (Ehrle & Geen, 2002), policy makers might provide grandparent caregivers with child care assistance, respite care, and mental health services. Because many grandchildren in informal care arrangements have experienced trauma associated with abuse, neglect, or parental abandonment, policy makers might also consider providing grandchildren with high-quality child care programs and mental health services (Generations United, 2005).

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