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## Webinar Series, Part 5:

# Kinship Diversion



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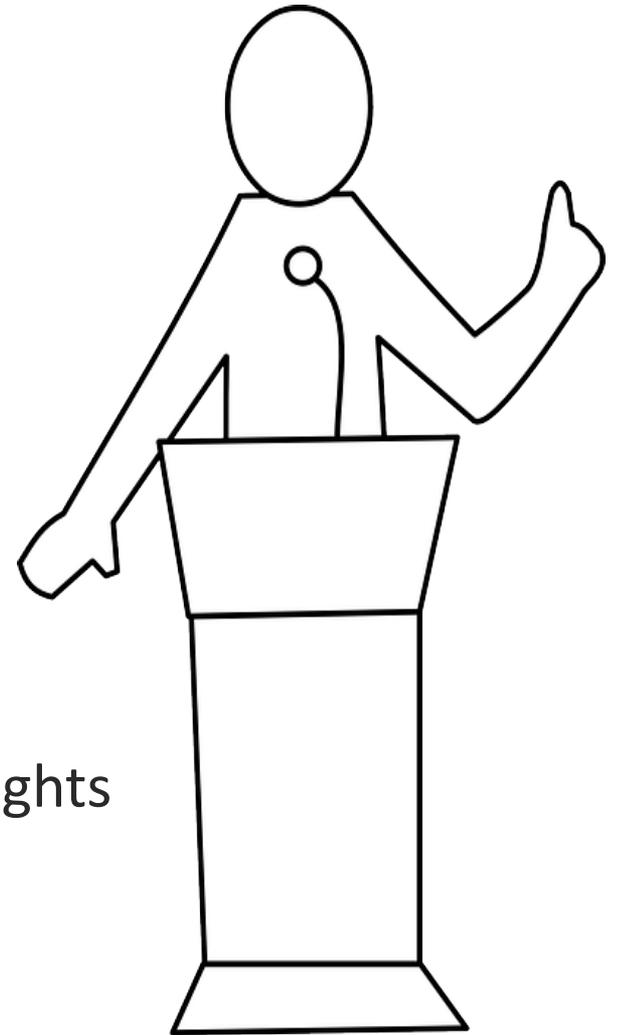


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# Today's Speakers

- Mary Bissell, Child Focus Partners
- Martha Matthews, Public Counsel
- Erin Palacios, Bay Area Legal Aid
- Melissa Brooks, YMCA of San Diego
- Angie Schwartz, Alliance for Children's Rights



# Kinship Care – Brief Recap



# Types of Kinship Care We Are Discussing

## Voluntary Kinship Care (informal)

- Child welfare system is/was involved, but **no formal foster care**
  - Child could be with relative through a Probate Court Guardianship or informal arrangement
  - Child welfare system is not involved in placement
  - May be caring for a child with or without legal custody or guardianship

## Kinship Foster Care (formal)

- Child placed in foster care with a relative either through **court removal or Voluntary Placement Agreement**

NOTE: We are NOT discussing **private** kinship care – when there is no child welfare involvement and parents/guardian arrange for care with kin directly

# Who is a relative?

For funding purposes, a relative is an adult related to the child by blood, adoption, or marriage within the fifth degree of kinship.

- Mother
- Father
- Stepparents
- Siblings
- Step-Siblings
- Grandparents (great, great-great, great-great- great)
- Aunts and Uncles (great, great-great)
- First cousins
- First cousins once-removed
- Nieces and nephews
- *Spouse of any relative on list (even if divorced or deceased)*
- For placement priority, only includes an adult who is a grandparent, aunt, uncle, or sibling of the child
- Non-Relative Extended Family Members are NOT relatives for funding but can request temporary placement

# Demographics of Kinship Caregivers – national data

- **Senior Citizens:** 15 – 20% of relative caregivers are over the age of 60
- **Fixed Incomes:** 39% of kinship households live below the federal poverty line
- **Disabled:** 38% of kinship caregivers have a limiting condition or disability
- **Limited advanced training:** Kinship foster parents receive little, if any, advanced preparation in assuming their role as caregivers.

# Grandparents Raising Grandchildren – Most Likely to be Among the Hidden Poor

- Federal Poverty Level is a poor measure of poverty – many more kinship caregivers are financially insecure
  - “Among households in which single older adults are the primary caregivers of their minor grandchildren, 35.3 percent of families had incomes below the FPL, but **72.8 percent had incomes below the Elder Index.**”
  - “incomes of older couples supporting minor grandchildren were below the FPL in 15.9 percent of families, while **26.7 percent of families had incomes above the FPL but below the Elder Index.**”

<http://healthpolicy.ucla.edu/publications/Documents/PDF/2015/HiddenPoor-brief-aug2015.pdf>

# Kinship families are the backbone of our child welfare system

- Hidden in plain sight - kinship families are the largest child welfare system in America
  - Extended family members and close family friends care for more than **2.7 million** children in this country
  - Over the past decade **the number of children in kinship care grew six times faster** than the number of children in the general population
  - **287,996** children in California live in homes with grandparent householders where grandparents are responsible for them - of these children, **80,248** have no parents present in the home.
  - **In California, 19,635** of our state's 63,000 foster children are in kinship placements

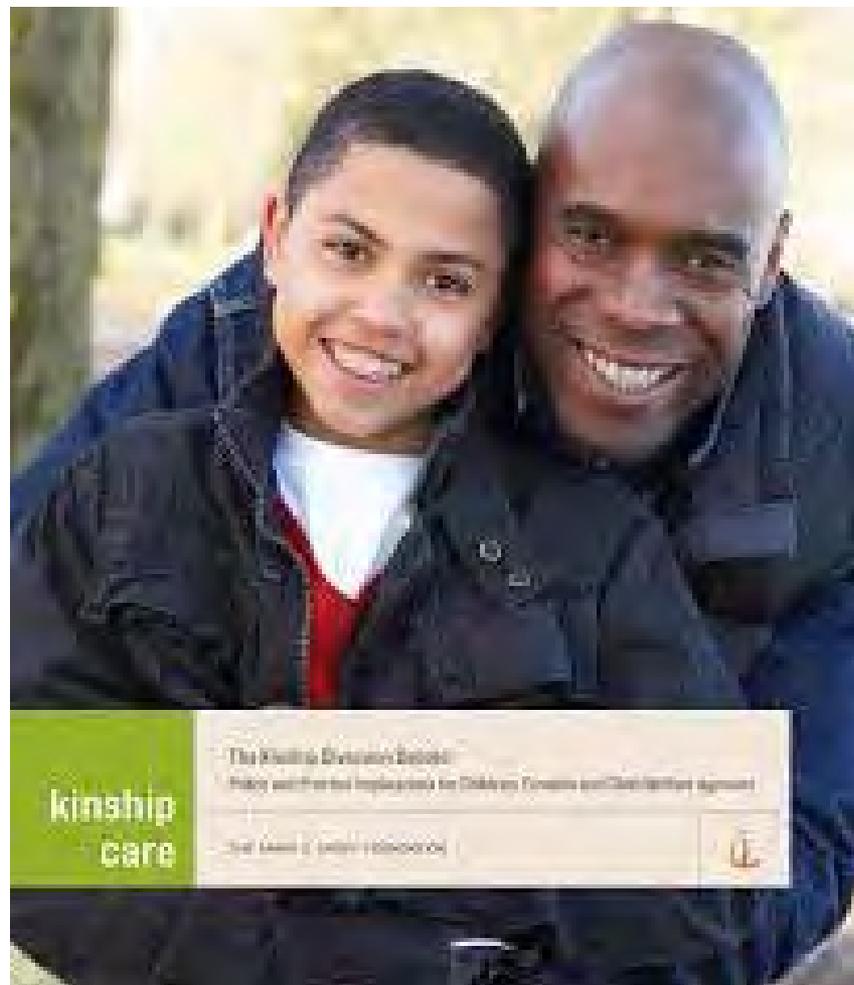
# The Kinship Diversion Debate – An Overview





# THE ANNIE E. CASEY FOUNDATION

- *The Kinship Diversion Debate: Policy and Practice Implications for Children, Families and Child Welfare Agencies*
- Based on 50 interviews with child welfare agency representatives, caregivers, lawyers, judges, state and national advocates and policy makers
- [www.aecf.org](http://www.aecf.org)



# National Working Definition of Kinship Diversion?

- Child welfare agency investigates a report of child abuse and neglect
- Agency determines a child cannot remain safely with parent
- Agency facilitates child's ongoing care with relative instead of bringing a child into state custody OR
- Court decides to dismiss petition and allow child to live with a relative
- Approximately **400,000 children** diverted from system each year – possibly higher
- Almost all jurisdictions engage in some type of diversion – level of services offered to families varies widely

# Kinship Diversion Project Goals

- For agencies who **oppose** kinship diversion, what is the rationale and how are these jurisdictions meeting family needs through licensed kinship foster care and other alternatives
- How are agencies who support kinship diversion:
  - Ensuring safety and permanence for diverted children and their families;
  - Offering services and financial support to children, birth parents and relative caregivers;
  - Protecting birth parents rights and safely facilitating reunification whenever possible; and
  - Providing families with comprehensive information about all state-supported options

# Kinship Diversion: Arguments **FOR**



- Whenever possible, kinship diversion is preferable option for children and families
- With the right supports, families are better able to care for children without the complications and uncertainty of government involvement
- Some relatives are safe but would not qualify for licensing as foster parents

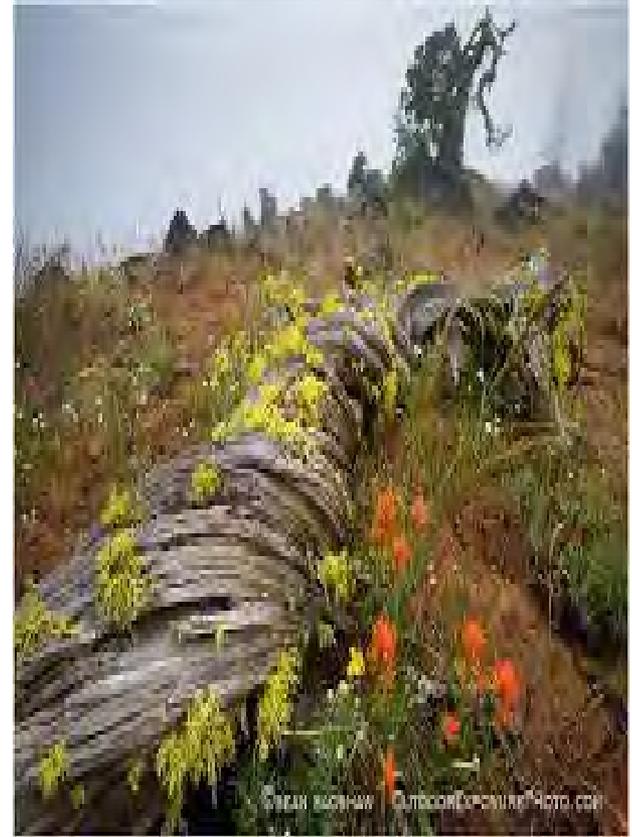
# Kinship Diversion: Arguments AGAINST

- Relatives are being unfairly pressured into caring for children without understanding their options or receiving appropriate services and financial support
- Without the protections of foster care, birth parents are not being given a fair chance at reunification
- Many relatives lack a legal relationship with the child and therefore cannot access services
- Few jurisdictions systematically track and analyze impact of diversion on children's safety, permanence and well-being



# Is There a “Middle Ground”?

- Is there a supported kinship care diversion model:
  - Limited to certain types of cases; and
  - Provide an alternative to state custody while ensuring both safety and the needed services to get families back on track?
- If so, what situations are appropriate for diversion?
- What types of supports should be provided and how should they be funded?
- Are there any jurisdictions currently using a supported diversion model? What do they look like?
- How do jurisdictions with supported diversion models ensure that they are only used for the “cases in between” and not as a default?



# Overview of Kinship Diversion in California



# How does 'Kinship Diversion' occur in California

During or after a child abuse/neglect investigation ...

- Diversion to **VPA** –child welfare agency asks parent to enter into VPA where child lives with a relative while parent receives services.
- Diversion to **informal kinship care** – child welfare agency tells family that if child lives with a relative, no dependency case will be filed.
- Diversion to **probate guardianship** - child welfare agency tells family that if relative obtains guardianship, no dependency case will be filed (NOTE: non-relative guardians through probate court get foster care benefits)

# Legal Authority for Diversion?

- VPAs are authorized under California law (WIC §§ 301, 16506, 16507.3) and are limited to 6 months, after which time the child welfare agency must either close the case or file a dependency petition.
- The other forms of diversion (to informal kinship care and probate guardianship) have no explicit statutory basis. ***Are they legal?***



# Probate Code § 1513

- *Authorizes probate court to refer case to child welfare agency for investigation if guardianship petition or investigation shows child may be “a person described by WIC § 300” [abused or neglected].*
- *May limit child welfare agencies’ ability to divert cases to probate guardianship ...*



# Guardianship of Christian G. (2011) 195 Cal.App.4th 581

- Discusses **lack of due process protections** for parents in guardianship cases.
- Holds that probate courts must invoke Probate Code § 1513 and order a referral to the child welfare agency when guardianship case involves allegations of parental unfitness.

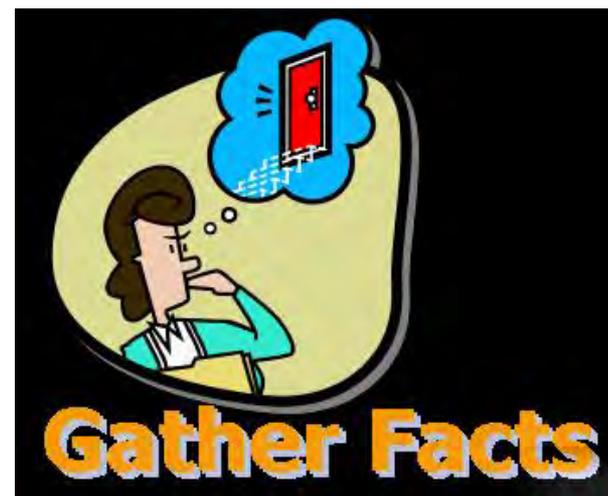


# Diversion – available California data

In 2014, there were about 500,000 reports of child abuse/neglect in California.

- 17% (about 82,000) of these were substantiated – the rest were evaluated out, or investigated and closed as unsubstantiated or inconclusive.
- Of the substantiated reports, 39% (about 32,000) resulted in foster care entries.

***What happened to the other 50,000 children with substantiated abuse/neglect reports?***



# Court-ordered vs. Voluntary Cases

As of January 2015, there were about 95,000 open cases in California.

- About 77,000 were dependency court cases
- About 14,000 were ‘voluntary’ cases
  - About 7000 of the voluntary cases were “no placement family maintenance” cases, and about 6000 were “permanent placement” cases.



***What is a ‘voluntary permanent placement’ case?***

# How Diversion Impacts for Kinship Families

## Positive Impacts

- Family in control of legal process and placement decisions.
- Child not stigmatized as “in the system.”
- No finding of abuse/neglect or court case against parent.
- ASFA approval not required.

## Negative Impacts

- Lower benefits (CalWORKs vs. AFDC-FC)
- No ILP or EFC for transition-age youth.
- No services (child care, respite, therapy, wraparound, etc.) or case management .
- No reunification services, hearings for parents.
- No tracking of long-term safety, wellbeing of child.

# How Dependency Impacts Kinship Families

## Positive Impacts

- Higher benefits (AFDC-FC)
- EFC, ILP benefits and services for older youth;
- Services and case management for child.
- Reunification services for parent and process for reunification/permanency decisions.
- Attorneys for parent and child

## Negative Impacts

- Child welfare agency and court—not family—make placement decisions and plan for child's future.
- Kinship caregiver may be denied ASFA approval, and child placed in nonrelative foster care or group home.

# Questions?



# Understanding How Diversion Impacts Practice: Focus on Los Angeles and Alameda



# A local perspective (Los Angeles)...

- Los Angeles County probate court guardianship clinic – assists over 2,000 caregivers (mostly relatives) each year.
- Clinic staff estimate that 25% or more of these caregivers have been referred by DCFS, and told they must obtain guardianship or a dependency case will be filed.
- **Almost all** are low income, many caring for children with special needs and/or large sibling groups.



# Case example

Robin's brother died suddenly, leaving four children, ages 4, 5, 7 and 10. (The children's mother had lost custody to father in a dependency case several years ago.) Robin and her husband are retired, and live in a 2-bedroom apartment with Robin's elderly mother.

The child welfare agency encouraged Robin to take custody of the children . The agency told Robin that her home was too small to be approved as a foster care placement, so she should get probate guardianship instead.

The children were grieving and traumatized, and had many unmet needs. The youngest two frequently wet the bed and their clothing. All the children needed clothes, shoes, and school supplies. The agency bought a washer and dryer for Robin, but they were placed in storage because they did not fit in her apartment.

## Case example, continued

Robin was granted guardianship. She tried to apply for CalWORKs and CalFresh for the children, but was denied because they received about \$300 each in Social Security Survivor benefits. These benefits plus Robin's retirement income were not enough to meet the family's monthly expenses.

Robin asked the agency for help, but the agency refused to open a case (stating that the children could not be placed with Robin because her home was too small.) She filed a JV210 petition asking the dependency court to review the case, and the same decision was made.

# Alameda County Homeless Youth Demonstration Project



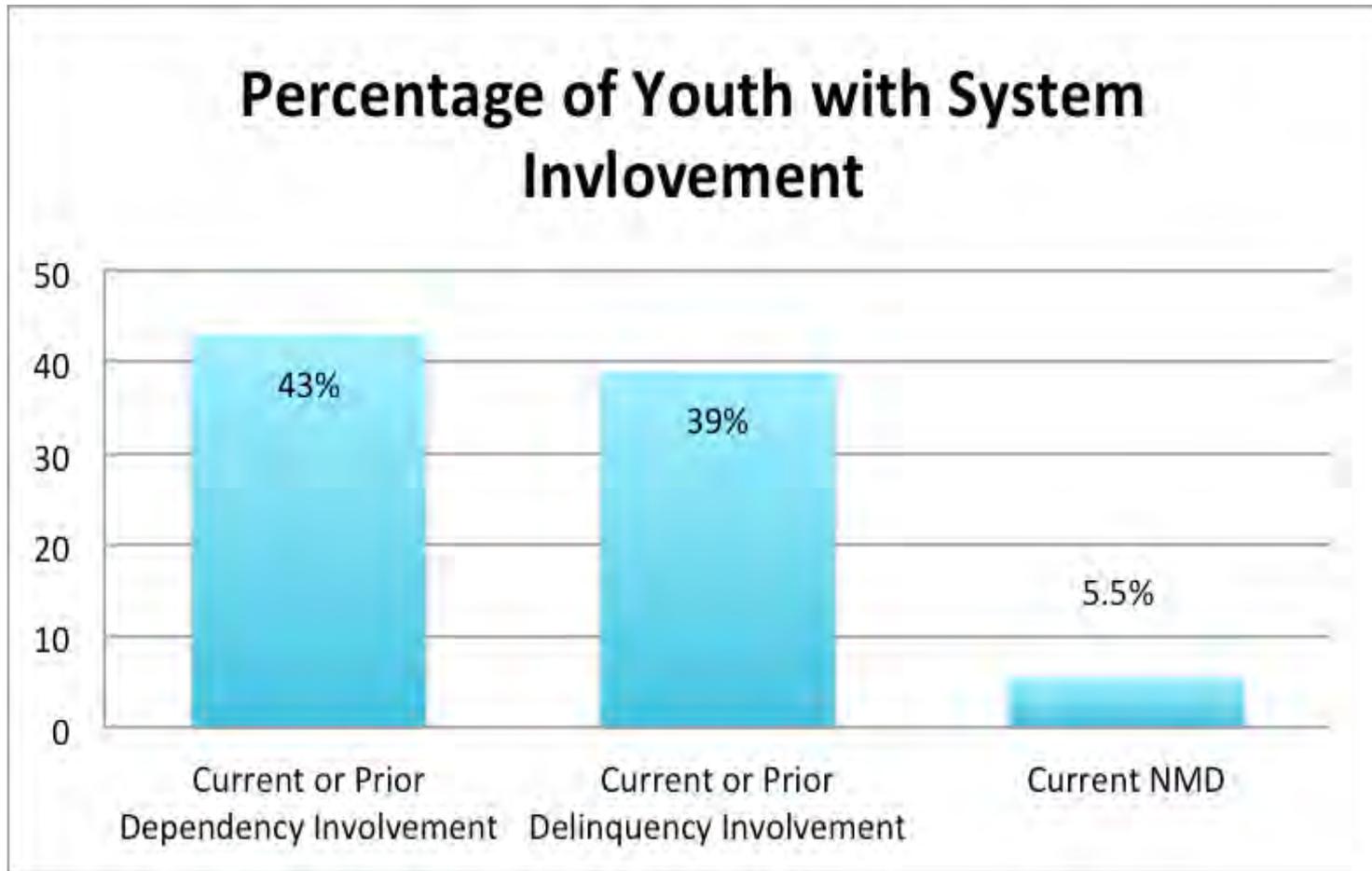
- Began as a partnership between Bay Area Legal Aid, DreamCatcher Youth Shelter, and the Alameda County Foster Youth Alliance
- One of the project's most successful components was the establishment of a weekly civil legal clinic on-site at the youth shelter
- To date the project has provided civil legal services to over 300 youth on more than 450 separate legal matters
- Building on the success of the project in Alameda County, Bay Legal expanded its homeless youth advocacy and now serves clients in the counties of Contra Costa, San Mateo, and San Francisco

# Where Had They Been?

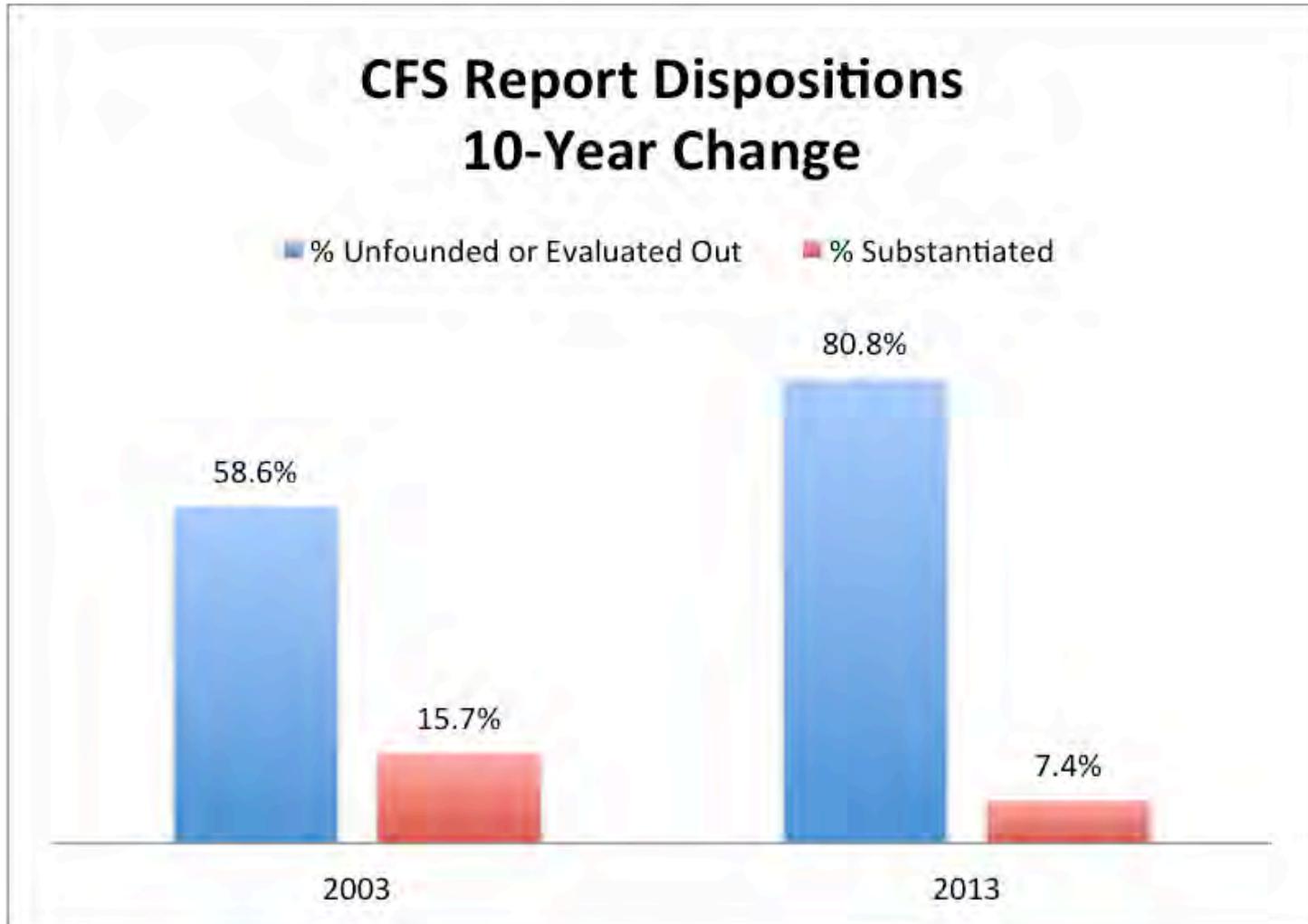
- High rates of current and prior system involvement
- 37% of girls Sexually Exploited Minors (SEMs)
- Youth frequently moved between counties throughout the state
- “AWOL” from foster care
- Living in informal arrangements with friends
- With relatives – often moving between different relatives’ homes
- Trying to reconnect with parents or family



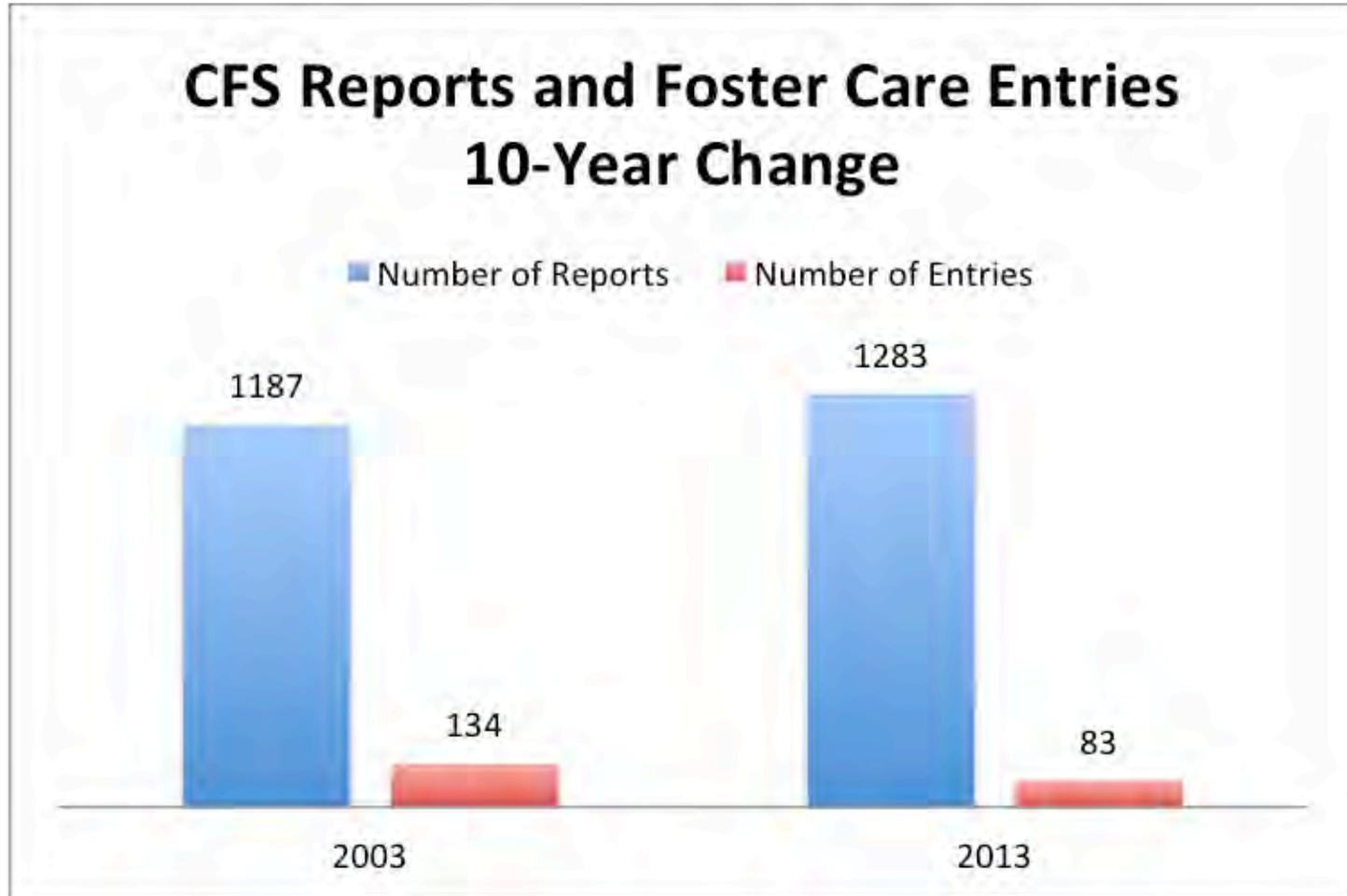
# Project Eligible Youth with System Involvement



# CFS Report Dispositions



# CFS Reports Resulting in Foster Care



# What Went Wrong?



# The Diversion Difference

- Informal Placement or Probate Guardianship with a Relative
  - CalWORKS
  - CalWORKS linked Medi-Cal
  - A guardianship order if done through probate court
  - No legal relationship if done informally



# Formal Placement through Foster Care

- AFDC-FC application filed with eligibility
- Case Plan
  - Permanency Planning
- Credit Checks
- Beginning at 16
  - TILP
  - ILSP and Chafee Eligibility
  - THPP Eligibility
- Beginning at 16.5
  - Screening for SSI eligibility
- Beginning at 17.5
  - Possible eligibility for 450 Transition Jurisdiction
- Beginning at 18
  - WIC 391 process (including documents and screening)
  - THP+FC and SILP Eligibility
  - Medi-Cal Eligibility (until 26)
  - AB 12 EFC Eligibility (until 21)
  - THP+ (until 25)



# Diversions to Homelessness



- Informal Kinship Care
  - Youth who have been living with relatives since they can remember
  - Social services informally arranges for a child to live with a family member in order to avoid a dependency court filing
- Youth released to a non-guardian relative through the delinquency system whose delinquency cases have been dismissed
- **CASE EXAMPLE** – Calvin (age 17) appears at the shelter after his grandmother passes away. He has lived with his grandmother since he was 5 years old, and only sees his mother on occasion. He moved in with his grandmother because of his mother’s drug use. He knows his mother is still using, but he doesn’t know much more because he hasn’t been living with her. He does not know any other family members.



## • Probate Guardianship

- Providing care and supervision becomes more difficult as children get older
  - Some youth move back to a parent's home leaving a formal probate guardianship in place with another relative
- Many relatives are financially struggling to raise their own children and were expecting social services to provide assistance both with monetary support and other services
- CASE EXAMPLE 1 – Corey (age 18) comes is at the shelter after being kicked out of his aunt's house. He has been with her since she became his guardian at age 12. His mother is incarcerated. His aunt is also raising his two younger siblings and does not have the patience or financial resources to have Corey living with her anymore.
- CASE EXAMPLE 2 – Barbara is 65 years old. She and her husband live on his SSDI income. Six moths ago she got a call from the police in the middle of the night. The officer told her that her daughter was arrested and that she needed to pick up her 5 grandchildren otherwise they would be sent to live with strangers in foster care. After a couple of weeks she called social services and asked for assistance figuring out what to do next. On their advice : gets a probate court guardianship. She is now calling because she has just learned tha social services will not be providing any further assistance even though she was led to believe they would still be working with her family.



## • Voluntary Placement Agreements

- Clients report abuse or neglect while at the shelter and social services declines to provide services citing parents' unwillingness to sign VPA or "terminate their parental rights"
- Youth who were the subject of a VPA that did not result in a dependency petition

○ **CASE EXAMPLE – Christine is 17 ½ years old. She has Crohn's Disease. She is at the shelter because her mother kicked her out of the house. Her mother does this regularly, and Christine has finally had enough of staying on couches while her mother "cools off." Christine called the police and they tried to talk to her mother. When that did not work the police called social services and received a referral to the shelter. Christine's mother is still refusing to allow her to come home, and has not refused to provide her with her insurance information or medication. The shelter has made several calls to social services and learned that Christine's mother is unwilling to "sign over her rights." Social services tells the shelter that in this situation there is nothing more that they can do to assist.**

## • Reversion

- A youth is removed and placed in foster care, subsequently the youth is made a ward of the delinquency court and is placed in a group home, having spent years in foster care the youth is discharged from the group home and returned to a parent with little to no review of the family's history
- Appropriate services are not in place when youth's returns home
- Case is dismissed or youth turns 18 during the "honeymoon period"
- **CASE EXAMPLE – Julia (age 18) is at the shelter. At age 11 she was removed from her mother and placed in foster care. At age 16 she was placed in a group home by the delinquency court. At 17 and 9 months she left the group home and returned to her mother's home. Things went well for a little while, but when she had trouble getting back into school problems began to pile up. Her mother started to disappear just like she used to when Julia was 11. Julia confronted her mother about things and after a long argument her mother kicked her out.**



# Once Homeless the Problems at the Front Door Continue

- Older adolescents have a more difficult time accessing foster care
- Youth, particularly minors, may also be denied access to emergency benefits
- Foster care has been so stigmatized in theory that worse alternatives are sometimes pursued in practice
- Some youth who are seeking assistance from the foster care system are viewed with suspicion as trying to take advantage of “benefits”
- The additional stigmas associated with the delinquency system creates yet another barrier for probation youth who are victimized or maltreated



# YMCA KINSHIP SUPPORT PROGRAM

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YMCA of San Diego County

Presenter: Melissa Brooks, MSW



# YMCA Kinship Support Program

- YMCA contracts with San Diego County Health and Human Services Child Welfare Services and Aging and Independence Services departments to operate the Kinship Support Program
- **Goal:** Ensure that kinship caregivers (both **formal** and **informal**) are able to continue in the role of caregiver by enhancing their overall sense of well-being and effectiveness.

## Services include:

- Navigation
- Support Groups
- Respite Care
- Emergency Funds
- Family Events

# Navigation

- Individual, home-based services
- Intake and exit assessment to determine family needs and strengths
- Case Plan development
- Information and referral for resources including support groups, respite care, healthy development services, public benefits, mental health services, guardianship and adoption support, special education services, parent education, housing resources, child care resources, and basic needs items
- Orientation training for kinship caregivers involved with Child Welfare Services regarding navigating the Child Welfare system and parenting children who have experienced trauma
- Advocacy for caregivers when experiencing barriers to accessing resources

# Support Groups

- **Weekly support groups**, available throughout the County, which provide:
  - Education and training
  - Peer support
  - A light meal
  - Childcare (with YMCA Behavior Support Services staff)
- Groups are facilitated by Kinship Navigators and Grossmont College Foster Adoption and Kinship Care Education Program Educational Trainers

# Respite Care

- A temporary break or rest for caregivers (age 55 and over) via coordination of respite opportunities including:
  - Day camp
  - Overnight camp
  - Special needs camps
  - Childcare
  - Before and after school care
- Caregivers are eligible for up to **120 hours of respite care per child** per fiscal year
- Hours must be requested and approved in advance

# Emergency Funding

- Administration of flexible funding for the purpose of removing barriers to making and maintaining successful kinship placements
- Funds are limited to \$500 maximum per child (over \$500 requires County approval)
- Funds can be used for formal and informal families, however, priority is given to requests from County Social Workers
- Funds are often used to purchase items like:
  - Beds
  - Cribs
  - Security deposits
  - Pool fences

# Family Events

- Provide one family event per quarter in a different region of the County
- The purpose of the family events is to enhance social connections among caregivers
- Examples include:
  - Holiday party with Santa
  - Horse ranch event
  - BBQ at the park with games
  - Hiking and crafts at Mission Trails Regional Park

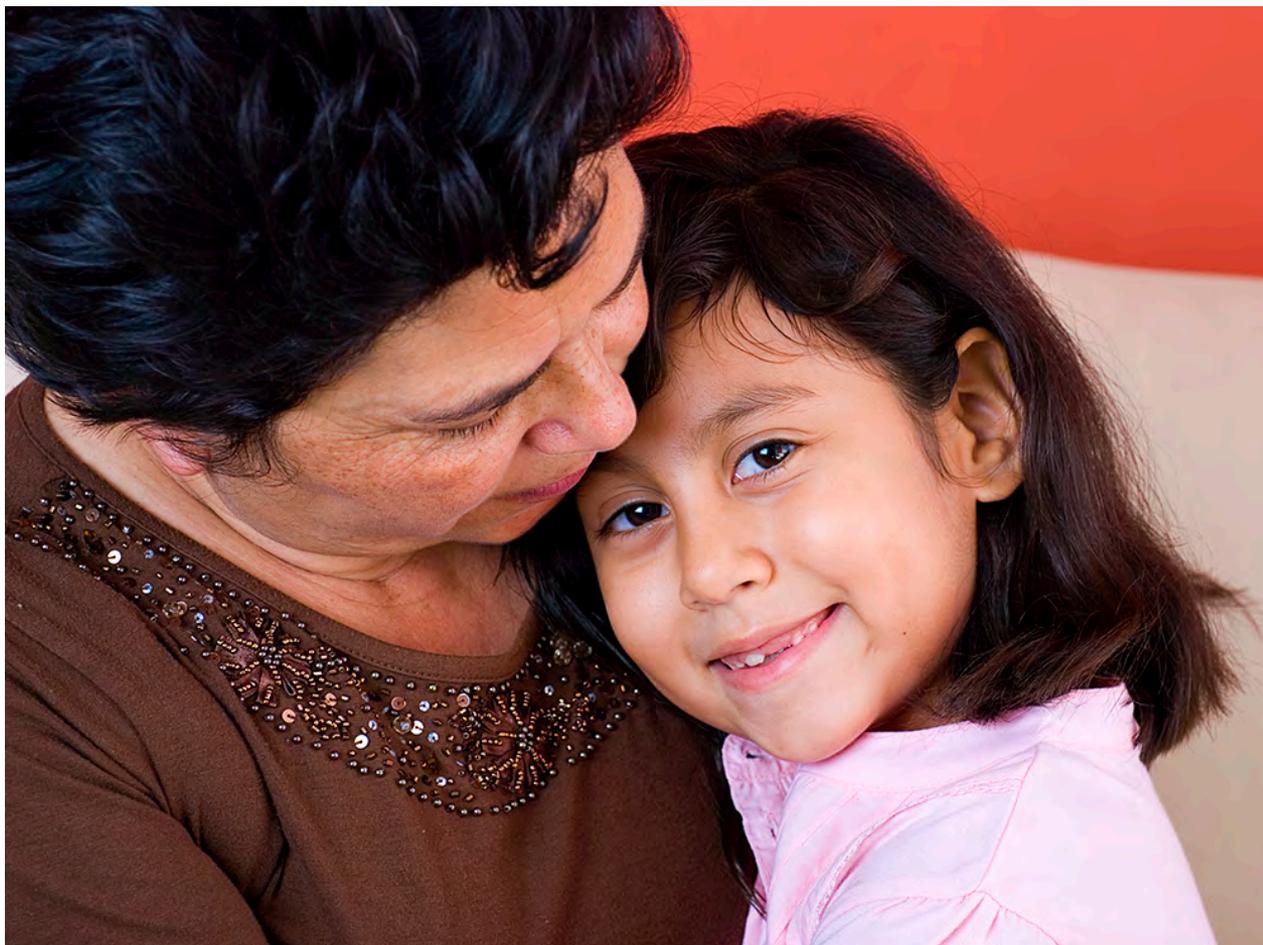
# Kinship Services Work!

- **“Navigating the System: Research Summary of the YMCA Kinship Navigator Program,”** found Kinship Navigator model is effective for addressing the needs of families, promoting long-term placement stability and avoiding entry/re-entry into formal system
  - Need of caregivers decreased from intake to follow-up (25% reporting a high-level need at intake vs 7% at 3-month follow-up.
  - Caregivers with guardianship status increased from 23.3% at intake to 61.3% at follow-up.
  - YMCA also strengthened the level of collaboration among kinship service agencies over the three year period.
  - Link to full report available on **Step Up Website**

# Next Phase: Family Group Conferencing

- The YMCA just received a new federal demonstration grant from the Administration for Children and Families – Children’s Bureau – to provide Family Group Conferences to kinship families.
- The YMCA Families United Family Group Conferencing Project will further evaluate Family Group Conferencing (FGC) as a model of Family Group Decision-Making (FGDM) and whether it is an effective intervention to promote permanency and prevent children from entering or re-entering Child Welfare Services.
- YMCA Families United will serve children at risk of entering or re-entering the child welfare system for whom Kinship care has been identified as the best option. The San Diego Child Welfare System (CWS) has made Kinship placements a priority, but there is a need for innovative interventions in the continuum of care to ensure long-term permanency for these children.

# Policy Perspective: Best Practices for Supported Diversion



*“Kinship caregivers are often required to provide the same nurturance and support for children in their care that non-kin foster parents provide, with fewer resources, greater stressors, and limited preparation. This situation suggests that kinship care policies and practices must be mindful of and attentive to the many challenges kin caregivers face.”*

-- Rob Geen, “The Evolution of Kinship Care Policy and Practice”

# Adequately Supporting Relatives Strengthens Our Child Welfare System

**Relatives are the backbone of our child welfare system** – both in supporting children that come into care and enabling children to avoid foster care

Adequately supporting relatives is critical to the health of our system:

- Improves child well-being
- Increases placement stability
- Reduces reliance on restrictive congregate care settings
- Enhances permanency
- Improves child safety

# Kinship Diversion: **Role of the Court**

- Make sure placement with relative is safe, appropriate and stable
- Help establish legal relationship between the relative caregiver and the child
- Assist kinship care families in obtaining needed interventions, services and supports
- Help ensure that all kinship care practices appropriately protect birth parent rights and maximize the chance for successful reunification

# Best Practices: Supported Diversion

“Good” diversion is possible if accompanied by:

- Appropriate risk assessment
- Team decision making and full disclosure of options
- Appropriate needs assessment and services for kinship care triad (kin, child, parent)
- A “way home” for birth parents via reunification services
- Caregiver legal status and permanency considerations
- Appropriate tracking of diverted children and families

# Develop a seamless system to leverage available funding for relatives

There are many underutilized funding streams that could support youth with relatives

Securing available funding often requires state action systems be put in place

- SSI
- EPSDT
- Special Education Services
- Extended Medi-Cal
- Adoption Assistance

# Voluntary Placement Agreements

AFDC-FC or ARC is available when a child is voluntarily placed

- Agreement between child welfare agency and bio parent/guardian
- Allows child to get services, benefits and support for up to 180 days
- No court involvement
- Prior to expiration of 180 days child must be:
  - ✓ Formally removed
  - ✓ Released for adoption/guardianship
  - ✓ Returned to parent

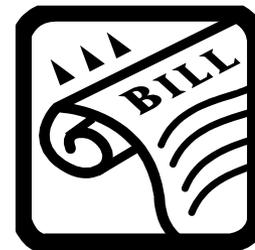
# Best Practices – SSI Screenings and Applications

## AB 1633



- (1) Development of best practice guidelines
- (2) Counties manage benefits in youth's best interests
- (3) Assist youth in receiving direct payment of finding payee
- (4) Inform youth of process of maintaining eligibility as adults

## AB 1331



- (1) Screen every youth for SSI eligibility between age 16.5 and 17.5
- (2) Make an SSI application on behalf of likely eligible youth
- (3) Goal to have SSI in place by age 18!

# Approaches From Other States

- **Virginia** – legislation regulating agency to create regulations on diversion (informed consent by parents; case planning; data collection; caseworker training)
- **Arkansas** – potential legislation prohibiting agency from coercing parents into agreeing to kinship care.

# Potential New Federal Role in Supported Diversion?

## The Family First Act:

- Bi-partisan Senate Finance Committee bill to be marked up in January
- Has several kinship care provisions, including:
  - Opening up federal Title IV-E foster care funding on a time-limited basis for child or youth who is a “candidate” for foster care
  - Allows states to draw down federal funding for specific service array (short-term financial support and kinship navigator services) for kin caregivers
  - Provides enhanced support under Title IV-B for short-term crisis intervention assistance to stabilize a family or facilitate a kin placement

# Food for Thought



- Is supported diversion an acceptable alternative? If so, when should it be used? What are its most critical elements?
- Is kinship diversion used by the child welfare agency in your jurisdiction? What are its advantages and limitations?
- What national, state and local funding sources can jurisdictions use to pay for supported diversion?

# Resources

“The Kinship Diversion Debate” (Casey Foundation, 2013).

<http://www.aecf.org/resources/the-kinship-diversion-debate/>

“TANF Child-Only Cases” (ACF, 2012) – states may be using TANF-funded kinship care as low-cost substitute for foster care.

<http://www.chapinhall.org/research/report/tanf-child-only-cases-who-are-they-what-policies-affect-them-what-being-done>

# Questions?

