

COVER STORY

The Effect of Youth Presence in Dependency Court Proceedings

*National Survey, Youth Summits Reveal Need for
Enhanced Foster Youth Voice*

By Miriam Aroni Krinsky

Decisions made in our nation's dependency courts play a critical role in the lives of the more than half a million children currently in foster care, often profoundly altering their future.

However, there is neither a standard of practice nor agreement in principle among judges and other child welfare professionals regarding the presence and participation of young people in dependency court proceedings.

In its 2004 report, *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care*, the national, nonpartisan Pew Commission on Children in Foster Care stated, "No child or parent should face the partial or permanent severance of familial ties without a fully informed voice in the legal process. Even when less shattering decisions are made, judges need to hear from the people who will be most affected by their decisions—children, parents, siblings and other relatives, foster and adoptive parents."

Calling for comprehensive dependency court reforms, the Pew Commission report recommended that courts should be organized to enable children and families to participate in a meaningful way in their own court proceedings. "Children, parents, and caregivers all benefit when they have the opportunity to actively participate in court proceedings, as does the quality of decisions when judges can see and hear from key parties."

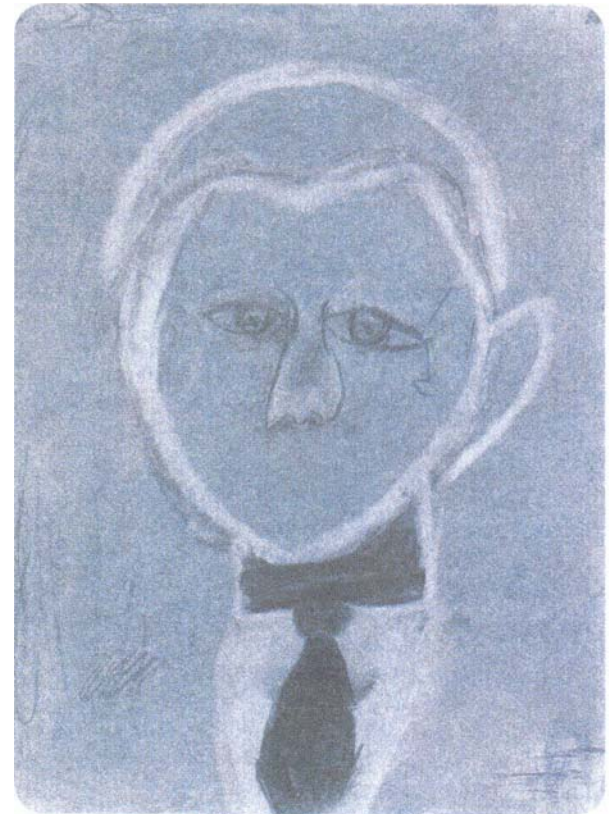
The results of a recent, first-ever national survey reinforce the need for courts to be organized to enable children and parents to take part and be well represented in their own legal proceedings. The survey was conducted by Home At Last, an outreach and educational effort to encourage action on the recommendations of the Pew Commission.

The survey of 248 current and former foster youths from 40 states and 1,794 child welfare professionals, including judges, lawyers, social workers, and others who work in the child welfare system from all 50 states, found that while both foster children and child welfare professionals feel there is value to having the young people participate in dependency proceedings, their participation is infrequent at best.

A majority of current and former foster youths reported that they would like to be present at their dependency court hearings. One former foster youth from South Dakota observed: "I never went to court. I have been in and out of foster care since I was a baby and I really resent that I never got the chance to speak on my behalf, or even be present when my future was being discussed."

More than one in four foster youths reported that they never attended their own court hearings. A former foster youth from Michigan said, "[If I had gone to court] I would have been able to understand exactly what was going on. When my caseworker said things to me, she would try to make it understandable for a child, but this just made it more confusing because I did not have the whole picture."

Of those young people who attended court at least some of the time, 60% stated that their presence yielded real benefits from having an opportunity to take an active role in decisions being made about their lives to simply being able to hear what transpires. Almost half (46%) said that their experience



Untitled - Marcus, age 14, and Clay, age 16

in foster care would have been different had they been in court more often. According to an Arizona youth, "It made me feel like I was important, considering that people (professionals) could put a face with the case number."

Often judges have only a short window of time to make life-altering decisions about children and families. As such, it can be invaluable to hear directly from the young, people whose lives are at issue. Youths are in the best position to provide accurate and compelling insights into their wishes, needs, and progress. Putting a human face to the discussion of these issues and experiences forces all concerned to see the system through their eyes.

Judges can observe first-hand the child's appearance, demeanor, and personal interaction with parents, social workers, attorneys, caregivers, and others present. Having children in the courtroom provides bench officers with an opportunity to evaluate for themselves critically important nonverbal information that may help shape their ultimate decisions; their decision making is informed by a one-on-one personal interaction that gives life to an otherwise sterile report and file.

Although child welfare professionals agreed that foster youth participation is important, just 8% of child welfare professionals surveyed believed that youths should always be present, only 28% said that children should be present most of the time, and a majority (59%) of judges and other child

welfare professional respondents said youths should be present only sometimes.

Child welfare professionals with more experience are slightly more likely to advocate for regular youth presence in court. 42% of professionals with more than 10 years of experience reported that children should attend court most or all of the time, compared to 34% of professionals with 10 or fewer years experience who gave the same answer.

The vast majority of the child welfare professionals surveyed believed that the age and maturity of a youth should weigh heavily in determining whether or not he or she should attend court. They opined that older children should be present more often, because they are better able to understand the proceedings and less apt to be bored or disruptive. However, even teens' presence is sporadic: Just 29% of child welfare professional respondents reported that children 12 and older attend court most or all of the time. Moreover, only 9% of child welfare professionals surveyed believed that the child's own wishes about being present-or not being present-should be considered.

One judge observed, "Every case varies. Young children often don't understand what is going on. Some children are disruptive. Some children need to see and want to see what is happening and who the judge is that makes the decisions about them. Some children benefit from hearing the reality of their family. In some cases, the hearing can be traumatic."

To strengthen and promote foster youth involvement and empowerment in their own cases and the planning for their future, a series of Youth Summits and convenings sponsored by Home At Last were launched in May and are taking place nationwide this year. These events, featuring stories, insights, and experiences from current and former foster youths, are highlighting the need for young people to have a voice in the legal process that will leave a lasting imprint on their future.

One California teen made the following recommendation during a recent Youth Summit: "One thing I would change is I would want people to actually listen and actually be there, no matter whether you're a lawyer, a social worker, a judge, a mentor, a staff, a therapist. To... just listen."

Many youths who spoke out at the Summits displayed a resilient and positive view of the future. They were determined to help others avoid troubling experiences

they have undergone. "When I graduate, I want to become an advocate for children. I want to work with children. I want to be a children's lawyer and help them out from my



New Home, New Life, New Joy - Michael, age 17

NCJFCJ MODEL COURTS ADVOCATE GIVING CHILDREN A VOICE

Ensuring that children are both seen and heard in courtrooms is a fundamental goal of the NCJFCr s Victims Act Model Courts Project. Established in 1992 through NCJFCr s Permanency Planning for Children Department, the Model Courts Project has grown into a national network of 32 "Model Courts" serving a variety of communities around the country, ranging from large urban centers like New York, Los Angeles, and Chicago, to smaller jurisdictions and a tribal court in Zuni, N.M. By identifying impediments to the timeliness of court events and delivery of services for families with children in care, and designing and implementing court- and agency-based changes to address these barriers, the NCJFCJ and Model Court teams work to improve court processes so fewer children linger in foster care and find permanent homes in a timely manner.

Making sure that children's wishes are heard is among the key principles of NCJFCr s 1995 best practices bench book, *RESOURCE GUIDELINES: Improving Court Practices in Child Abuse & Neglect Cases*, a cornerstone of the Model Courts Project. Many of the recommendations outlined in this issue's articles about giving children a voice in court proceedings are echoed in the *RESOURCE GUIDELINES* and implemented through the Model Courts Project. For example, the *RESOURCE GUIDELINES* emphasize:

- The importance of having age-appropriate children attend proceedings, so that judges can:
 - Observe the child's appearance, demeanor, and interaction with others in the courtroom;
 - Talk with the child, explaining his or her rights and the judge's and stakeholders' roles and reviewing the court report for accuracy.
- The benefits of creating child- and family-friendly courts which provide:
 - Materials such as coloring books or books that help explain the court process;
 - An opportunity for children to visit the courtroom and meet the judge before the hearing.
- The importance of scheduling court proceedings with infants' and school-age children's regular routines in mind.

For more information about NCJFCr s Victims Act Model Court Project, please visit our website at www.ncjfcj.org and click on Child Abuse and Neglect, or call (775) 327-5300.

- NCJFCJ staff report