

# The Effect of Youth Presence in Dependency Court Proceedings

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

By Miriam Aroni Krinsky

**D**ecisions 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

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



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

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 NCJFCJ's Victims Act Model Courts Project. Established in 1992 through NCJFCJ'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 NCJFCJ'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 NCJFCJ's Victims Act Model Court Project, please visit our website at [www.ncjfcj.org](http://www.ncjfcj.org) and click on Child Abuse and Neglect, or call (775) 327-5300.

— NCJFCJ staff report

experience,” stated an 18-year-old currently in care.

Efforts are underway on a national and state level to improve dependency courts, encourage collaboration between courts and child welfare agencies, better track the progress of children through the foster care system and, most importantly, to listen to the voices of the children in the child welfare system. [See sidebar on page 17.]

Creating a place for young people in the legal process is not, admittedly, a simple undertaking. For children to meaningfully participate in court proceedings, judges and lawyers need to change the very way they communicate and conduct court hearings. Courts may need to be “retooled” to enable

children and parents to participate in a meaningful way in their own legal proceedings.

Judges, hearing officers, and other child welfare professionals need to be informed by the people who will be most affected by their decisions—children, parents, siblings and other relatives, and foster and adoptive parents. Despite the current impediments to involving children and families in dependency court proceedings, the thousands of children in our foster care system deserve to have their voices heard and to be more fully included in the legal process that so deeply influences their future.

As one attorney remarked, “We’re making decisions about their lives—how can they not be a part of that?”

#### ABOUT THE AUTHOR:

**Miriam Aroni Krinsky** is executive director of both the nonprofit Children’s Law Center, which represents abused and neglected children in the Los Angeles dependency court system, and Home At Last, which promotes action based on the recommendations of the Pew Commission on Children in Foster Care.

**Editor’s Note:** Artwork on pages 16-18 is courtesy of Home at Last, and was previously published in their 2006 publication, *My Voice, My Life, My Future*.

## My Voice, My Life, My Future ~Mi Voz, Mi Vida, Mi Futuro

### “Thoughts to the Judge”

by Krystin, age 12

Childhood is: learning to jump as high as you can and not let your feet shake the floor. Childhood is drawing your dreams. Childhood is learning that taking your first grade teacher’s candy bar is stealing.

But, judge, childhood is also letting your voice be heard; whether you are screaming because your sister called you “stupid” or telling a judge like your high and mightiness what you need to say.

But how can I do that if you don’t even want to hear what I, one insignificant twelve-year-old, have to say? All I want for my birthday is a voice. And as I mature, I want to know one thing: How old do I have to be? Sixteen? Eighteen? Twenty-one? Elementary school? Junior high? High School? College? Old and wrinkled, my bones turning to dust as I crochet in my old rocking chair in the corner?

### “To the Judge”

by Antoinette, age 14

Let me stay in a home with loving parents that care for me. I want to be somewhere where I can live life as a child, in a better situation. Can you find a home that is truly good and where the people will help me? You are the one who makes the decisions, and I need to be heard so people may understand how I feel or what I need. Listen to me, since no one else will, and try to understand where I’m coming from. Maybe I am a child, but I’m not dumb; I know right from wrong. I need to know that you will make the right decisions for me, so that I can live life the way it’s supposed to be.

### “Mama, Carry Me Home”

by Khadijah, age 16

Still devastated from the day  
They took my brothers and I away  
Over time, I’ve grown emotionally stronger  
Yet still I miss those days.  
In my sleep, I can hear the songs  
You used to hum and sing to me,  
The melody making the belief it’s once again  
reality.  
These past three years haven’t been so easy;  
Although I know things can be worse  
Like some days, I feel I can’t walk on my  
own...  
I just need you mama;  
To carry me home.

### “Excuse Me, Your Honor”

by Paul, age 16

Excuse me your honor! You have to understand. Moving is not always better for the child. Don’t get me wrong. If they’re getting abused or sexually molested, then the children should surely be moved. But in my case, my mother made a few bad choices, and I understand that is probably the only way to make her learn her lesson, by taking her children away. But who knows how many times we’ll move around? I mean we have to make new friends, go to new schools, live in people’s houses that are pretty much strangers to us, and somehow keep adapting to all these different changes. Can you possibly look at this from the child’s point of view, and what we’re going to have to go through?



How I Feel About Foster Care - Valarie, age 14

# Hearing the Voices of Young Children and Children with Disabilities in Court

By Sue Badeau and Madelyn Freundlich

The national, nonpartisan Pew Commission on Children in Foster Care embraces the principle that ALL children should have a “direct voice in court, effective representation, and the timely input of those who care about them.” This recommendation and the principles that support it apply equally to very young children and children and youth with disabilities. Their voices, however, often have not been heard as a result of limited expectations regarding their participation in the judicial decision-making process and, even when there is an interest in hearing their voices, uncertainties as to how to ensure that they are heard in court proceedings.

There are several ways to promote the direct involvement of children in their court proceedings when it is determined that young children and children with disabilities will benefit from participation in court. Preschoolers may benefit from seeing the courtroom and being told what will happen there or from meeting the judge and then being present during some portion of the proceeding. Children with physical, communication, developmental, or mental health/behavioral health challenges may also be able to participate with appropriate accommodations.

When a child cannot be physically present in court and directly participate, it is critical that the child be brought “to life” for the court, so that the child is not simply a case number.

Following are some specific tips for judges to consider to ensure that all children, particularly the very young and those with disabilities, are given the opportunity to have a genuine voice in court proceedings:

- Let it be known that you expect to see children in court. When the judge sets an expectation, others are more likely to follow.
- Work with your court staff to create a

“child-friendly” space in the waiting area.

- Work with your court staff to develop time-specific calendaring for children’s cases; try to schedule school-age children after school hours and infants in the morning when they are most alert.
- Make yourself, your staff, and your courtroom facilities available for children to receive pre-hearing tours of the court building and to meet the judge.
- Consider holding occasional court hearings off-site in special settings to accommodate medically fragile disabilities.
- Consider creating a specific “infant day” in court, much like New York’s “Teen Day,” when multiple infant cases are heard and extra supports, information, or activities are provided for babies and their caregivers.
- Provide materials, such as the coloring book created by the Judicial Council of California, that de-mystify court and explain court proceedings in simple, child-friendly terms.
- When a child is present in court, spend a few moments talking directly to the child. Make eye contact and use a reassuring voice tone.
- When a child is not present in court, ask for pictures or video presentations—from the time the child came into care until the present, and in various settings. These help demonstrate the child’s growth, development, and unique personality.
- Directly engage others who know and care about the child in court proceedings. The court is more likely to develop an in-depth understanding of the child by hearing from birth parents, relatives, older siblings, foster parents, day care providers, teachers, and others who spend a lot of time with the child.
- Make specific and direct inquiries about the child’s health, development, and education using bench guides and checklists, such as NCJFCJ’s “Asking the Right Questions: A Judicial Checklist

to Ensure that the Educational Needs of Children and Youth in Foster Care are being Addressed” and “Ensuring the Healthy Development of Foster Children: A Guide for Judges, Advocates and Child Welfare Professionals,” created by New York’s Permanent Judicial Commission on Children.

- Support the development of, and participate in cross-system training on specific issues related to infants, young children, and those with disabilities who come into contact with the child welfare and dependency court systems.

When children have a voice in court and the opportunity to participate in the critical processes that profoundly impact their lives, the entire system benefits from better-informed decision making.

## ABOUT THE AUTHORS:

**Sue Badeau** is Deputy Director of the Pew Commission on Children in Foster Care and a child welfare policy consultant to agencies, courts, and organizations.

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# Making **Youth** a Meaningful Part of the Court Process

By Judge William G. Jones (ret.)

Children under the abuse and neglect jurisdiction of the juvenile court have great needs and face daunting challenges. They are understandably frustrated when they are excluded from court proceedings in which their family relationships, physical safety, health, education, and where they will live are all at stake.

Foster youths need and deserve the opportunity to participate as partners with the court in making decisions that have enormous impact on their lives. Their concurrence in the life path the court has directed for them is critical to their ability to enjoy a successful and stable adult life.

Many judges, however, have a well-intentioned concern about youth participation in court proceedings and believe that the court process is too complex for them to participate effectively. This concern can be alleviated by communicating with children on their own terms and by explaining clearly the intricacies of the court proceedings that determine their future.

Another concern is that children who come to court will miss valuable school time; however, court hearings can be set on days or at times that minimize school disruptions. For courts to be truly youth-focused, we need to design more creative courtroom schedules to accommodate the young people we seek to serve. If we place a high value on a youth's presence in court, we need to treat that time commitment with the same degree of seriousness associated with doctor, dentist, and other appointments that routinely result in time away from school.

The concern that information discussed in court may be disturbing and upsetting to children is another argument often associated with the view that their presence in court is ill-advised. Judges, however, and attorneys too, should keep in mind that children are involved in the court process because of real-life events they have experienced. They have already been exposed to and survived the harsh realities of their lives that will be discussed in court. And if some issues are not appropriate for discussion in a child's presence, then he or she can be excused from the courtroom during that part of the hearing.

Indeed, youths often report that the

ability to be present in court and to participate in decision making that will chart their future is exactly what they need to heal and move on. Hearing difficult information in an appropriate setting, with support available and the opportunity to express how they feel about their life experiences can help them come to terms with what they have suffered.

The presence of children in court proceedings that affect them is invaluable, even when they are too young to express themselves. The child's presence alone can give a face to what would otherwise be simply words on paper. Nothing can substitute for personally observing and engaging a child.



We can give abused and neglected children a better chance to flourish by ensuring that their presence and participation is welcomed in court and in the judicial decisions that are so important to their lives.

There are several techniques for creating a child-friendly court:

1. Help children understand, in simple terms, the purpose of the hearing, what issues might be discussed, what type of information might be helpful for them to share, and what issues are appropriate to raise in court. Explain courtroom etiquette and how to request a private meeting with you.
2. Review the court report with the youth for any inaccuracies, clarifications, or additions. Youths should have the chance to add and respond to information contained in the report.

3. Explain your role as a judge and the issues you can address. Also, educate youths about their rights.
4. Provide information on how children can advocate for themselves if they have concerns about the legal or social services they are receiving.
5. Provide a list of legal terms and definitions that may be used in the hearing.
6. Describe the roles of adults who take part in the hearing, including attorneys and family members. Explain what these individuals may say or do at the hearing.
7. Discuss how long the hearing will last and the time frames for future hearings.
8. Ensure that youths have therapeutic and relational support both before and after the hearing to deal in healthy ways with any strong reactions or emotions that surface as a result of the hearing.

Judges can choose to exclude young people from court proceedings, but by doing so, they send a message that youths have no meaningful role in the process. Judges are, however, also able to empower young people by providing them with the opportunity to attend and actively participate in court proceedings that affect them.

The judicial community must endeavor to see that a more positive message to children and youths becomes the norm. We can give abused and neglected children a better chance to flourish by ensuring that their presence and participation is welcomed in court and in the judicial decisions that will shape their future. They deserve no less.

## **ABOUT THE AUTHOR:**

When he retired after 25 years on the bench, **Judge Bill Jones** was Chief District Court Judge in Charlotte, N.C. He is currently a consultant for the National Resource Center for Legal and Judicial Issues at the ABA Center on Children and the Law and for the National Council of Juvenile and Family Court Judges.

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