

## Involving Youth Matters

by Lacy Kendrick Burk

*In this article, Lacy Kendrick, a former foster youth, shares her and her siblings' experiences in the child welfare system. She focuses on the critical role of involving youth in court and the difference it can make.*

### Our Story

#### Entering care

Due to my parents' drug and alcohol abuse, and neglect, I entered state custody when I was 15 with five siblings: April, 13; Sunnie, 11; Kolt, 9; Janson, 5; and Jaylon, 3. I didn't know what would happen and had heard horror stories about foster homes. This was a terrifying time. We were uprooted from the only community we had known and had no contact with our family. I did not know where we would live, what kind of people we'd be placed with, or if we would see each other again. The only thing I knew is that I had to do something.

As the oldest, it was my responsibility for the few years before entering state custody to care for my younger siblings: laundry, getting them to school, ensuring their homework was done, cooking dinner, and helping them to bed. This was probably where my responsibility as an "advocate" for my younger siblings came into play.

#### A family divided

Upon entering the system, I quickly learned no homes in my area could take a sibling group of six. We would be split up, some of us in good homes, some of us not. April was placed in my home with me. I wasn't sure what was happening to everyone else. As soon as I had the chance (and I was fortunate to connect with my siblings within a couple of weeks), I called Sunnie and Kolt to make sure they were okay. They weren't, but with some advocacy and maneuvering with my social worker, they eventually got

placed in good homes—Sunnie with me and Kolt in kinship care. Finally, I could rest easier, knowing they were safe. Within that year, the two youngest, Janson and Jaylon, returned home to live with my biological mother.

From age 15 to 18, I stayed in one placement. My foster parents turned out to be great people, a teacher and a factory manager, who signed up for fostering because they couldn't have children of their own. Initially, like many, they wanted to foster an infant that would lead to adoption. Little did they know they would be thrown three teenage girls, or that two of them would become their own.

#### Different paths and outcomes

My sister April did not adjust as well as Sunnie and me. Upon entering care, she stayed in our first placement for less than two months, then chose to move to another home. After one month at that placement, her worker showed up at school with her belongings with no warning and took her to a detention center an hour away. April had done nothing wrong, certainly nothing worthy of detention; nonetheless, she was treated like a prisoner, and in her words "decided to act like one." Her worker told her "there were no other placements available" and that "nobody wanted teenage girls."

April was moved to several different placements following that one, struggled through depression and suicide attempts, dropped out of high school, and aged out at 18 after becoming pregnant with her first child. April never attended a court

hearing. She was never asked what she wanted or what might help in her case.

#### Giving youth a say

Unlike April, I was not homeless, on drugs, pregnant, or in trouble with the law. I was "a success." At 18, I had graduated early from high school, started college, and was on my way to a college degree with great things ahead. My outcome was directly affected by a critical aspect in any case: *youth empowerment*.

I was fortunate to have a say in my case plan. I was the "annoying" youth on the caseload who always called caseworkers until I got what I needed, and knew my rights and opportunities better than some of the workers. I was very persistent in making sure that I had a say, not only in my case, but in my siblings' cases as well. If they were in a bad placement, or they needed something, I made sure to let my caseworkers know about it and followed through with my request until I was certain that it was completed. This was especially helpful when I began working as a youth worker in the Independent Living program at 18, and helped other youth do the same thing.

My involvement with my court hearings was a different story. I was fortunate enough to go to court, as this allowed me to feel somewhat involved in my case, but simply being there was not enough. I was on a path I wanted to be on regarding goals for college and my plan after aging out. I had chosen long before entering care that I was going to go to college, and I was going to make sure that happened. I was blessed with the skills to advocate for myself. Unfortunately, many youth age out of the child welfare system not

knowing they have a right to have a say in their case, or what the role of court is in their case plan.

Even more important than having a say in my plan for aging out was being fully informed about my permanency plan. I knew my “plan” was to stay in my foster home until I aged out, and then move to independent living once I started college. But this was not meaningfully communicated to me. Looking back, I wish someone had explained what that meant and explained TPR, asked me about adoption, or at least informed me of my other permanency options.

At age 26, I am finally being adopted by my long-time foster parents. We are looking at having to undergo the TPR process even still. I don’t know why this was never addressed when I was in care, or why I was never approached and told that this was an option. I may not have been ready to make that decision at the time, but I wouldn’t have had to wait to find out inadvertently that my foster parents would have been willing to adopt me from the start.

Youth need to be meaningfully engaged and informed of the options throughout the process. I hope by sharing my story, judges, attorneys, and GALs can learn to better communicate with and serve the youth with whom they work. This article shares insights and tips from my perspective on: preparing youth to transition from care; how the Fostering Connections to Success Act of 2008 requires youth involvement in their transition plans; common misperceptions adults have about youth participation in court; and what youth need to know before and after hearings.

### Power of Involvement

When I was in care, I went to court when I chose. Sometimes I chose not to go if I had a school event. My court experience wasn’t always meaningful. I would show up, see my parents and sometimes my

siblings, and read the paragraph my social worker had written updating my case and my permanency plan. My GAL would show up five minutes before court and ask if the paragraph the social worker had written was okay. I would then sit in court while the social worker read the paragraph and the GAL said “I concur.” Then I would leave and return to school. I truly didn’t understand the importance of court in my case, or the purpose of a GAL until after I aged out of the system. I also never knew there were permanency options other than staying in my placement until I aged out.

Court involvement can have a major impact for youth who are preparing to transition out of the foster care system. Court is where major decisions are made about a youth’s life. By educating youth on the court process and effectively engaging them while there, the court can have a major impact on a youth’s outcomes. Giving youth a say—empowering them—is the most important way to make a difference in their outcomes. We would expect this for adults, why would we not want to give youth the same valuable learning experience before they age out of the system?

The court should also involve youth when making decisions about permanency. This can include having youth participate in the discovery process and directly questioning them about their permanency plans. Youth are the only ones who can say what they want, where they want to go, and what their goals are after leaving the system.

### Overcoming Barriers

Youth may be prevented from participating in court because of various concerns. These concerns are often rooted in myths, such as that participation is harmful or courts are not prepared to accommodate youth. The following concerns are adapted from “Establishing Policies for Youth in Court—

Overcoming Common Concerns,” by Andrea Khoury.<sup>1</sup> Having a youth’s perspective on these concerns helps dispel these myths.

#### **Myth #1: Participating in court proceedings will upset youth.**

If I am upset after a court hearing, that is not always bad, and certainly not an excuse for me to not be in court. When I went to court, I would get upset if I found out my mother had not been doing what she said she was doing. Other youth could be upset for other reasons. With proper guidance and support, this can be an opportunity for youth to process painful facts about their lives. It was always much better to be there than to be excluded and not know what was going on, which was also upsetting.

#### **Myth #2: No one can get the youth to court and the court facility is not youth friendly.**

There are many simple, cost-effective ways to make the court facility more youth and child friendly. These include:

**Use video conferencing.** With new free, online technologies, it is easy to include people at a distance. Youth with Internet access can be part of the court process through free online video services such as Skype. The court could have a laptop in the courtroom to connect the youth to the court proceeding from a distance.

#### **Get documentation stating why youth are not in court.**

While working with youth across the country, I have heard several reasons why youth have not been in court. Sometimes it is the youth’s choice. Often, the youth is not notified of hearings because the notice is sent to an old address, or the youth misplaced the notice, or the youth is unaware of the purpose of court or hasn’t been fully informed. One way judges can make

sure it is the youth's choice not to attend court is to request documentation before hearings, directly from youth, of their request not to attend court. This eliminates miscommunication and empowers the youth to make a fully informed decision whether to attend court or not.

**Have the attorney/GAL provide a written interview with the youth (to ensure meaningful contact was made).** Although I hear stories about great GALs who meet frequently with youth outside court, attend personal graduations, family team meetings, etc., this was not the case for me. I would meet with my GAL five minutes before court. I never knew what the GAL's role was in my case, or what my options were. It would have helped to meet with my GAL outside court to ensure he understood my case and my needs, and to learn how he could have advocated for me.

I advocated quite well for my needs and wants during care, and for the needs of my younger siblings, but this was unusual. Youth need someone who can help them advocate for themselves and step in when necessary. Meeting with youth regularly and documenting these meetings empowers and includes them in the court process.

**Make courts youth-friendly.** I have heard of courtrooms that, through donations from the community or personal funds, have obtained age-appropriate toys, videos, DVDs, games, and study areas for youth and children who are waiting for their cases to come up in court. This helps alleviate stress that some youth experience before court.

**Involve youth advisory boards, youth in trainings, etc.** Most states have youth advisory boards at the state and local levels. Youth leaders serving on these boards are great resources to assist in speaking engagements and trainings. They

can help provide ideas to make the court in your area more youth friendly. For more information on youth advisory boards in your state, contact your state independent living coordinator. This information can be found at [www.nrcyd.ou.edu](http://www.nrcyd.ou.edu).

**Ensure court hearings are held at a youth-friendly time.** Because youth in foster care already struggle with school, at times this is used as a reason to keep youth from attending court. Address this issue by holding court hearings during the late afternoon or evening. Cook County, Illinois has benchmark hearings specifically for older youth and are held in the afternoon, usually after school hours, when youth can be available.

**Have youth write a letter.** Many youth who are unable to attend court, or who choose to not attend for various reasons feel that writing a letter to the judge is an acceptable way to have their voice heard. This is not the same as having a conversation directly with the judge, but it still allows the youth's voice to be heard.

**Listen to the youth's desires (even if they are not realistic or possible in a given situation).** There is a story of two brothers in Missouri who wanted to go to auto-mechanic school in Arizona. The judge was uncomfortable sending them without a plan. Instead of ordering another permanent placement, and dismissing the desires and goals of the youth, the judge instead asked the brothers to present how they would make it in Arizona—what their plan was for school, living arrangements, and for funding the cost of education.

Three months later, the first brother presented his plan and was approved. The second brother took several months to get his plan together, but eventually presented his plan to the judge and was also ap-

proved. What would have happened if they had failed to give the presentation? Nothing. The decision of the court would have been to keep them in the same placement until they aged out and the brothers would have focused on simply 'making it' through the system. But because they were allowed to present a plan, the brothers became empowered and had input into their futures.

**Myth #3: Attending court will disrupt the youth's schedule.**

Youth have work, school, and social events. It is a life skill to learn to juggle these events and schedule them in a way that works for the youth. Youth should choose what they put on their schedules. A court event where decisions are made about their lives should be no exception.

**Myth #4: Youth can't see the parent.**

If a court order prevents contact between the parent and youth, this needs to be observed. However, if the court hearing deals directly with the youth, the youth should not be the one barred from attending. Youth shouldn't miss an opportunity to direct their lives. They have already experienced major, life-altering changes because of the actions of their parents. Judges can give youth a say in their situations while allowing parents to have their own hearings at times that do not conflict with youths' hearings. Hearings can be bifurcated to allow youth the opportunity to be in court and speak with the judge, and then parents can come in after the youth leaves. As always, youth should be informed about the process and why it is happening so they don't feel excluded or talked about.

**Myth #5: Allowing youth to speak to the judge privately raises ethical issues.**

Often, youth are not given the



opportunity to speak up about their cases and placements. If they try to speak up, they are shut down quickly. The court should be the place where youth can be heard freely without repercussions from adults who may be present. This can be an emotional time for youth and they can feel pulled in many directions—afraid to hurt their foster parents, biological parents, etc. At times they can be scared to open up and let the judge know what is really going on, so they say nothing. At times, they need the opportunity to speak with the judge without fear of repercussions from adults. Having a court reporter or a trusted adult present while speaking privately with the judge are simple ways to overcome these concerns.<sup>2</sup>

**Myth #6: Youths' wishes are not court ordered.**

If properly informed about the court process, youth understand that they will not get their way just because they are in court. Most youth understand that just because they want something to happen doesn't mean it will. Simply having the opportunity to have their voices heard, and have the judge consider their wishes will make a big difference in how they approach their plans. Giving them the opportunity to speak lets them be involved in their cases, regardless of the outcome.

**Myth #7: Parents' privacy rights will be infringed if the youth is present.**

Often youth are protected to their detriment. If the concern is that they will hear things that their parents have done, they already know because they lived through it. They have seen the drug use, the abuse, the treatments or failed treatments. It is better for them to see how their parents are actually doing, because it is better than not knowing. When they don't see what is going on, they often come up with the worst-case scenario. Allowing their pres-

ence helps clear up fears and gives an accurate view of the case. If their parents are lying about holding up their end of the case plan, they need to hear that and understand their parents' actions are affecting the case plan. Youth are less likely to act out against the system if they have a realistic view of what is happening.

**Myth #8: The court hearing will not be meaningful for the youth.**

If youth are properly prepared, understand what goes on in court, and have a chance to speak about their cases, the court hearing will have meaning for most youth. If youth understand the court process and elect to not attend because their views are being represented through other means, then youth may not see attending as necessary. Again, this should be the youth's choice. Whether a youth attends court or chooses not to because of adequate representation, a follow up meeting should be held, either with the social worker, GAL, or advocate to follow up with what happened in court. This allows further meaningful involvement in their case.

**Myth #9: If the youth is present, the court hearing will take longer.**

Courts need to identify what they value most. Is it more important for court hearings to be on time, or to do everything possible to ensure positive outcomes for the youth they serve. If youth have the chance to present their views on their case plans, this doesn't have to take more than five minutes per youth. The little time invested can make an immeasurable difference for youth down the road.

**Myth #10: Youth do not want to attend court proceedings.**

If a youth does not want to attend court hearings, ask follow-up questions and find out why the youth does not wish to attend. There were a few court hearings that I

elected not to attend in high school. Sometimes I had a test at that time, or I had a soccer game later that day. Sometimes I felt that my voice was being accurately represented through my social worker. The point is that I understood what the court proceeding was, and I decided that it wasn't necessary for me to attend. Judges can make sure that proper documentation is provided to ensure that youth are choosing to not attend court for appropriate reasons. Often when I speak on the subject, I ask how many adults in the room would not want to attend a court hearing where decisions were being made about their lives. I have yet to see a hand raised in response to this question.

**Preparing Youth for Court**

When youth understand the importance of court, and have a meaningful experience, they will likely want to attend. However, simply having youth attend court hearings is not sufficient for meaningful youth involvement.

Youth should be prepared before court (how to dress, what the proceedings are, what to say, when to speak, what their permanency options are, what is going to be said about their case plan, etc.) and debriefed after attending court. If it is the youth's first time attending court, the youth may have questions about the court proceedings, or what some of the language meant. Youth may also have questions about why certain decisions were made and what will happen to them next. If the decisions were not what the youth wanted, a session with a trusted adult may help the youth process emotions.

**Share court guides with youth.**

Several guides help inform youth about the court process.<sup>3</sup> Attorneys or GALs can ensure youth receive this information and understand it and how it relates to their cases. It is important that youth have the

opportunity to ask questions about what they do not understand before and after going to court.

### **Meet youth before hearings.**

Advocates should meet youth before the court hearing, preferably in a neutral setting to explain the role of the advocate and discuss what the youth wants to say in court. Write it down, practice it, and ask questions so the youth feels prepared before going to court.

### **Ensure the youth understands what happened after the court hearing.**

As soon as possible after the court hearing, youth need to a chance to debrief what happened in the hearing with a trusted adult. The youth's attorney/GAL should take the lead, but depending on what happened and what the youth needs help understanding, other people may also play a role in debriefing the youth. Key people include:

**Attorney/GAL on court process**—The attorney or GAL should be available to meet with the youth to ensure the youth understood the proceedings. They should also regularly contact the youth to give updates on the case and answer any questions.

**Therapist/Counselor on youth's emotional responses**—Some court hearings can cause youth to experience severe emotional responses, especially if biological parents or unexpected events were involved. A therapist or counselor can help the youth work through and understand these responses. This helps youth process these emotions and can lead to a greater understanding of their case and situation.

**Social worker on transition planning goals identified by youth**—The social worker can debrief the youth about any details in the case plan that the youth is unsure of or

wants to make sure happen. With passage of the Fostering Connections to Success Act of 2008, transition plans will become increasingly important to youth. A provision of this Act requires that transition plans be youth driven. Social workers can assist in this process.

### **Supportive adult identified by the youth for general support/guidance**

—This can include foster parents, caseworkers, group home staff, independent living workers, teachers, coaches, peers, mentors, etc. Mentoring is used in some places that matches youth with a peer mentor who has been through the court process and can guide the youth. Who can be of greater help to a youth than one who has already been there?

## **How Fostering Connections Promotes Youth Involvement**

The Fostering Connections to Success and Increasing Adoptions Act of 2008 strengthens how courts and the child welfare system prepare youth who are transitioning out of the child welfare system. The Act requires that a transition plan be developed no later than 90 days before youth age out of care. This builds on the idea of the Foster Care Independence Act of 1999 that the plan be "youth driven." There are several models available that help youth identify a transition plan that works for them. Key to these plans is that youth identify their goals, resources, supports and connections. Ideally, youth will have the chance to fail, learn from their mistakes, and succeed *before* aging out of the system.

Court leadership is essential to this process. Transition plans should be addressed at permanency hearings and courts must ensure the transition plan is a working plan and not just another document placed in the case file.

- Judges can ensure transition planning meetings are happen-

ing, and can speak with the youth to ensure they are youth driven.

- Youth should be in court to present their transition plans. This empowers youth to take control of their lives.
- Attorneys and GALs can attend transition planning meetings and advocate on behalf of the youth to ensure the transition plan will help youth to succeed once they leave the system.

## **Conclusion**

Success can only be measured in each foster youth's terms. How will you ever know how a youth defines success if you don't ask? How will you ever ask if the youth is not present and engaged in court? There are limited ways in which judges can have contact with youth outside the courtroom. Through written testimony, client-directed attorney representation, or youths' presence in court, their opinions can be represented in meaningful ways. This protects their constitutional rights and is essential to their well-being and development, and their ability to become productive citizens.

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*Lacy Kendrick Burk* is a foster care alumna, advocate, and consultant. For more information about Ms. Kendrick Burk and her work, visit [www.YESolutions.org](http://www.YESolutions.org)

### **Endnotes**

<sup>1</sup> Available at [www.americanbar.org/groups/child\\_law/projects\\_initiatives/bar\\_youth\\_aging\\_out\\_of\\_foster\\_care/youthincourt.html](http://www.americanbar.org/groups/child_law/projects_initiatives/bar_youth_aging_out_of_foster_care/youthincourt.html)

<sup>2</sup> See Kendall, Jessica R. "Ex Parte Communications between Children and Judges in Dependency Proceedings." *ABA Child Law Practice* 29(7), September 2010, 97, 103-106.

<sup>3</sup> See, e.g., ABA Bar-Youth Empowerment Project with Florida's Children First, Inc. *Hearing Your Voice: A Guide to Your Dependency Court Case*, 2008. <[http://www.abanet.org/child/empowerment/booklet\\_v3\\_2.pdf](http://www.abanet.org/child/empowerment/booklet_v3_2.pdf)>