

What Difference Can a Quality Lawyer Make for a Child?

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Kenya Mann Faulkner was spurred to action when she received an email in April 2008 from her firm's pro bono coordinator asking if someone could help a 16-year-old girl in Luzerne County, Pennsylvania. Cathy (minors' names have been changed for this article), an honor student who had never been in trouble with the law, had been sent to a boot camp by a judge for having less than one gram of marijuana in her car. Faulkner, then a partner at Ballard Spahr LLP in Philadelphia and now Pennsylvania's inspector general, was shocked to learn that Cathy was not represented by an attorney at her trial. "My first thought was, 'This is not a third-world country. These things go on in other countries, not here in the United States,'" she says.

Faulkner and her colleague Amy Shellhammer, then a Ballard associate and now a law clerk to U.S. Magistrate Judge Timothy R. Rice, quickly volunteered to get Cathy out of the boot camp and back to her parents. Shellhammer, herself a former public defender in Philadelphia, was equally appalled. "From my experience as a public defender, a child like Cathy—an honor student, who was active in 4-H and had a job, and who has

wonderful, supportive parents—would get 20 hours of community service without ever having to go to court," she explained. "That child would come in, show she completed the community service, and the case would get dismissed. Not only did Cathy get placed, but she also now had a delinquency record that could affect her future, including her ability to get federal financial aid to go to college."

Cathy's parents did not get a lawyer for her because they thought the judge would be fair and sentence Cathy to probation and community service, this being her first offense. Instead, Cathy's parents were asked by a probation officer to sign a piece of paper when they got to court for her hearing; they later learned that they had signed a waiver of counsel form. "But the rules of juvenile court procedure clearly require that the youth have an out-loud, on-the-record, in-court colloquy by the judge to waive the right to counsel," explains Shellhammer. "Parents cannot waive the child's right to counsel. If the child wants a lawyer, she gets it. A signed paper from probation outside the courtroom is irrelevant."

Shellhammer noted that the transcript also showed that Cathy entered an admission—the juvenile court equivalent of a guilty plea—without a required court colloquy. After making that admission during a hearing that couldn't have lasted more than two minutes, Cathy was led away in handcuffs and shackles, to the horror of her stunned parents.

"When we went to the facility to meet with Cathy, she was

shaking like a leaf,” recalls Faulkner. “And she kept asking us if we could get her out.” Less than a week after her hearing, the two attorneys filed a habeas petition on Cathy’s behalf and secured Cathy’s release from the boot camp, where she had been placed by the juvenile court judge, Mark A. Ciavarella Jr.

Corruption and Rights Violations

But it wasn’t until January 2009 that Faulkner, Shellhammer, and the general public learned that Cathy was just one of thousands of children whose constitutional rights were violated in Ciavarella’s courtroom. The announcement that month of federal criminal charges against two Pennsylvania Court of Common Pleas judges brought to light arguably one of the most notorious judicial scandals in U.S. history. The Luzerne County judges—Ciavarella and Michael T. Conahan—were at the center of a “kids for cash” scheme that made headlines worldwide. The now-former judges were accused of accepting nearly \$2.9 million in financial kickbacks from the developer and co-owner of private juvenile detention facilities in a quid pro quo exchange for contracting with and placing children in those same facilities. Conahan pled guilty to racketeering conspiracy and was recently sentenced to 17½ years in prison. Ciavarella went to trial and was convicted on 12 counts, including racketeering, money laundering, mail fraud, and tax fraud; he was sentenced to 28 years.

Once the news broke and at the urging of lawyers for children, the Pennsylvania Supreme Court took special jurisdiction of the Luzerne County juvenile court. The supreme court appointed a special master to review all the delinquency cases heard by Ciavarella during the time he was on the take. The special master’s investigation revealed even more shocking information about Ciavarella’s “complete disregard for the constitutional rights of the juveniles who appeared before him without counsel, and the dereliction of his responsibilities to ensure that the proceedings were conducted in compliance with due process.” Some 1,800 youths who were adjudicated delinquent were not represented by attorneys. The reports detailed Ciavarella’s systematic failure to determine whether a juvenile’s waiver of the right to counsel was knowingly, intelligently, and voluntarily tendered; to advise the juvenile of the consequences of an admission of guilt and of forgoing trial; and to ensure that youths were informed of the factual bases for what amounted to peremptory guilty pleas. The corruption and rights violations were so egregious and pervasive that on October 29, 2009, the Pennsylvania Supreme Court took the unprecedented action of vacating the adjudications of all youths who had appeared before former judge Ciavarella from 2003 through May 2008, and ordering that the delinquency records

be expunged. All the cases were then dismissed with prejudice, barring any retrial of these youths.

Luzerne has received significant media attention around the world because of the shocking nature of the corruption and the large number of youths who were affected. Yet, many children in the juvenile justice and child welfare systems remain vulnerable because they lack attorneys who will fight for them and ensure that the very systems that are supposed to serve and protect them do not in fact harm them. For example, the American Civil Liberties Union of Wyoming reports that children as young as eight years old are being criminally prosecuted in adult courts in that state for typical child and adolescent misbehavior such as stealing a pack of gum, skateboarding in the wrong place, smoking at school, or drinking at a weekend party.

Research confirms the harsh realities that young people in these systems face when they are left to fend for themselves. Youths in the foster care system and those who have “aged out” of that system have higher rates of unemployment and homelessness, and more often fail to obtain educational degrees, than their non-foster-youth peers. Youths who have been adjudicated delinquent or criminally convicted also must contend with serious collateral consequences. “The consequences of juvenile adjudications are serious and long term; the lack of representation can reshape a child’s entire life,” explains Laurence H. Tribe, professor of law at Harvard Law School and former senior counsel for the Access to Justice Initiative at the U.S. Department of Justice. “Being found guilty can mean expulsion from school, exclusion from the job market, eviction from public housing, and exclusion from the opportunity to enlist in the military. It can affect immigration status.”

Children’s Bars

Given the severe outcomes that may await these children, it is absolutely critical that each has an advocate on his or her side to hold these systems accountable. Fortunately, in some parts of the country, a vibrant and dedicated children’s bar rises to the challenge of defending the liberty interests of youths charged with crimes, as well as protecting the interests of children in the abuse and neglect system. Composed of a diverse group of practitioners—public defenders, legal aid and legal services organizations, law school clinics, pro bono attorneys, and solo practitioners—the children’s bar demonstrates daily the difference that a lawyer can make in the lives of our most vulnerable youths. In this article, we will highlight key decision-making points in typical delinquency and dependency cases in which lawyers can and do steer their child clients to better outcomes.

“You’re talking about, in many states, the state being involved in the child’s life for up to 18 years—making decisions about who

their family will be, about whether they will be institutionalized, what health care they'll get, which siblings they can visit," points out Casey Trupin, an attorney with Columbia Legal Services in Seattle. "There really is no other process in which you can be cut off from your family forever. We would never tolerate an adult going into that situation without an attorney, and there's no reason why we should tolerate it for children who deserve even more protection."

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The role of the attorney is distinct from the best-interest advocate. The child's best interests guide the dependency court in its decision making, and courts often appoint best-interest advocates to help the court. The input of these court professionals can be extremely valuable to the judge, but it does not replace the need for a lawyer who can protect the child's legal rights. Whether or not a best-interest advocate is involved, children need a lawyer immediately when they are removed from their homes by the state. In those circumstances, "who would you want to counsel you and represent you in front of the judge?" asks Judge Rosemary Barkett of the U.S. Court of Appeals for the Eleventh Circuit. "A next door neighbor? Somebody who is well meaning and is trying to help you but who doesn't have expertise in the legal process? Or someone who knows all the available resources that the law provides, who can make arguments on your behalf, and to whom you can speak in great confidence and know that your confidences will not be revealed?" Appointment of a guardian ad litem, a best-interest advocate, or even an attorney for that guardian ad litem or advocate should never be considered an alternative to the appointment of an attorney for the child.

Youths accused of criminal offenses have an absolute right to counsel under the U.S. Constitution, in keeping with *In re Gault*,

387 U.S. 1 (1967), and its long progeny. Yet, in the trenches of trial courts—where the main objectives are often to clear cases and empty overcrowded hallways—the guarantee of counsel is undermined. For example, arrest-day-only plea bargains, available only if a child admits guilt before counsel is able to investigate the case, encourage the waiver of counsel for seemingly light-end pleas to probation and other non-jail conditions. Judges allow these pleas and often fail to test extensively whether these children are knowingly waiving their rights.

In too many jurisdictions, children charged with delinquency offenses are pressured to waive counsel and plead guilty to charges without the benefit of a lawyer's assistance. "We know from careful national studies that juveniles who lack counsel are more likely to plead guilty without offering any defense or mitigating evidence," notes Tribe, who is alarmed by the trend of children forgoing representation by counsel. "[W]ithout any credible defense, those young people are far more likely to end up in detention or incarceration, where they're much more likely to be exposed to assault or abuse, much more vulnerable to suicide, and far more likely to commit further crimes after their release."

Guidelines

A critical first step to protecting the rights of children facing the consequences of state power is to provide them the same protections afforded adults and require that every child in every dependency or delinquency proceeding be appointed counsel immediately upon the initiation of legal proceedings. In addition, safeguards must be put in place to ensure that a child does not waive counsel unless the child has a meaningful understanding of exactly what he or she is giving up.

Next, counsel for children must practice in accordance with the Rules of Professional Conduct in their state, including zealously representing the client's express wishes. As outlined in the Model Rules of Professional Conduct, lawyers are bound by a unique set of obligations to their clients that set them apart from other professionals in the courtroom (such as guardians ad litem, case workers, and attorneys for the state) and their clients' parents. Accordingly, an attorney for a child must engage in the representation of a child in the same manner that he or she would represent any other client to every extent possible.

Children's lawyers, like lawyers for any client, have ethical constraints. The lawyer owes a duty of confidentiality to the child client and must keep the confidences of a child client, according to Model Rules of Professional Conduct R. 1.6. As with any client, there are limits to these guarantees of confidentiality in extreme situations. What does the lawyer do when the child client is in danger? Can or must the lawyer reveal information to an adverse party? Comment 8 to Model Rule 1.14 explains

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that limits exist when children are putting themselves or others in danger. Ethical considerations also come into play when a lawyer and client have different ideas regarding the goals or desired outcome of the representation. It is here that the counseling role of the lawyer is paramount. A lawyer's role is not merely to advocate for what a client wants but also to counsel and advise the client when the client's decisions are ill conceived.

"From very young ages, our children have a lot to offer with regard to their circumstances. They are not just victims but parties with a vested interest in the outcome of their cases," says Trenny Stovall, director of the DeKalb County Child Advocacy Center in Georgia, which represents about 1,000 foster children annually. "But it doesn't mean that if your child wants to live on the moon, that's what you go to court and you advocate," Stovall adds. "It's the attorney's job to counsel the client as to what's best and what is the most appropriate course of action." Just as they owe a duty to adult and corporate clients, lawyers owe child clients their opinion about whether the client's goals are reasonable and achievable. (The Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings, adopted by the ABA in August 2011, provides additional guidance for attorneys representing children in dependency matters.)

The Model Rules also provide guidance for representing a client who has diminished capacity or is not able to direct counsel. For example, Section 1.14(a) mandates that the lawyer owes the child client the same duties of undivided loyalty, confidentiality, and competent representation that the lawyer owes to any other client. However, Section 1.14 also authorizes and even mandates that a lawyer take "protective action" if a client—even a child client—has diminished capacity. This means children's lawyers must have access to all available information about their child clients and that the lawyers themselves must determine whether a child has diminished capacity. The Model Rules envision that only a lawyer is in a position to observe the behaviors, decisions, habits, emotions, and other personal actions of a child and then determine the child's ability to comprehend and participate in his or her defense.

Moreover, when the child has diminished capacity and is at

risk of substantial physical harm, including physical or sexual abuse, Model Rule 1.6 authorizes the lawyer to take protective action. The rule provides that "the lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary: (1) to prevent reasonably certain death or substantial bodily harm." Physical or sexual abuse of a child falls under this exception. If the lawyer is truly fearful for his or her client's safety, the Model Rules allow disclosure.

Two hypothetical cases highlight just a few of the myriad ways in which lawyers for children are critical in both abuse and neglect cases, as well as in delinquency cases.

The Case of Ana and Gabriel

Ana is 8 years old; her brother Gabriel is 14. The state removed Ana and Gabriel from their home and placed them in foster care. Now Ana and Gabriel are appearing in dependency court, where their mother is represented by counsel, their father is represented by counsel, the state is represented by counsel, and the Department of Children and Families (DCF) is represented by counsel. The guardian ad litem (GAL) will report on the best interest of the children.

At the hearing in dependency court, the DCF social worker reports that the only relative whom the mother identified to care for the children is her own mother, the children's maternal grandmother. But because of the size of her house, the maternal grandmother is able to take only Ana. The DCF social worker also reports, based on her conversation with the mother, that the father of the children is in prison and not involved in the children's lives. Finally, the DCF social worker reports that she found a non-relative foster home for Gabriel.

The GAL interviewed the DCF social worker, the children, the mother's attorney, and the maternal grandmother. At the hearing, she informs the court that the maternal grandmother's home is an appropriate placement for Ana, though it is unfortunate that Ana and her brother will be separated. The GAL reports that Gabriel is a good student and will adjust well to a new school. While Ana and Gabriel told the GAL that they want to live with their paternal grandparents, the GAL believes that the DCF recommendation is in their best interest because the children have a relationship with their maternal grandmother, whom they see regularly. Plus, the grandmother will ensure that Gabriel and Ana see each other regularly as well. The GAL also informs the court that the children have not seen their father in several years, though they do visit their paternal grandparents.

The attorney for the mother agrees with the DCF recommendation. The attorney for the father has not yet spoken to him about the placement of the children and does not object to the DCF plan.

Ana and Gabriel are separated. Ana goes to live with her maternal grandmother. Gabriel goes to live with a non-relative foster family.

In our training to become lawyers and more specifically litigators, one of the key skills we learn is how to handle any given case most strategically—whether it involves a Fortune 500 company or an individual client. A key role we play as litigators is to develop case themes and theories, and to bring those themes and theories to life for the court so as to achieve our client’s objectives as best we can. As lawyers, we do this in myriad ways, including investigating, obtaining evidence, filing motions, examining and cross-examining witnesses, objecting to the introduction of evidence by our adversaries, and preserving legal issues for appeal. The lawyer is uniquely empowered to act in this capacity on behalf of the client.

In dependency cases, two key objectives are minimizing the number of times a child is moved from one placement to another and getting a child to a permanent home—whether that means returning the child to the home of the child’s natural parents, placement with an adoptive family, or long-term placement with a fit and willing relative. The lawyer’s duties are to make sure that the case moves along expeditiously, to advocate zealously for the client’s wishes, and to counsel the client regarding possible outcomes.

“We all want to believe that the Child Protection System is benign, that everybody is looking out for the best interest of those children,” says Shari F. Shink, founder and president of the Rocky Mountain Children’s Law Center in Denver. “Well, that system needs to act like an emergency room and it doesn’t. There is no sense of urgency. Children’s lives are put on hold. They are denied access to family and siblings. They are denied treatment. They are moved around like a piece of furniture.”

A lawyer representing a child client has the opportunity, education, and legal expertise to take a look at all the laws and bring to the judge’s attention laws that the judge might have overlooked or might not be aware of that will give the child additional protections. Lawyers hold the state accountable for ensuring that the children in state custody receive all the protections to which they are entitled under law and for meeting all deadlines imposed on the state. Indeed, a study in Florida demonstrated that children who had lawyers were being placed in permanent homes more quickly than children in other parts of the state who did not have lawyers appointed to them.

In the case of Ana and Gabriel, a lawyer for each child could have made a huge difference. A lawyer would have had several attorney-client protected conversations with Ana and would have learned that the maternal grandmother’s house is not an appropriate placement for Ana because of the sexual abuse inflicted on Ana by the maternal grandmother’s boyfriend. Moreover, the lawyer could have filed a protective order

prohibiting any contact between the boyfriend and Ana. Had Ana been assured by a lawyer that this information would not have been disclosed to the court without her permission, she would have felt more comfortable disclosing it. Ana’s lawyer could then have counseled Ana and worked with her to develop a strategy for ensuring Ana’s safety, including how and when to disclose the issue to the court. “Being able to assure the child of confidentiality as their lawyer and developing a rapport with them allows the child to disclose things to me that others are not privy to,” notes Alfreda D. Coward, a practitioner in Broward County, Florida, and executive director of One Voice Children’s Law Center. Some of Coward’s clients have disclosed instances of sexual abuse in facilities, something she feels that they never would have done if they did not feel they could trust her as their attorney; the disclosures in turn allowed Coward to get her clients away from the abuse and into safe situations.

By conducting a thorough investigation, the lawyer is also in a better position to understand and advocate for the child’s wishes. For example, during the course of his investigation, the lawyer would have learned that Ana and Gabriel want to stay together and live with their paternal grandparents. The effective lawyer interviews the children (on more than one occasion) to understand why the children prefer to go to their paternal grandparents and not stay with their maternal grandmother. “Many youth who come into the child welfare system have been the ones to take care of their siblings, so their desire to remain connected is completely understandable,” explains Trupin of Columbia Legal Services in Seattle. The effective lawyer asks the court to order the guardian ad litem, the social worker, or both to interview the paternal grandparents. (Alternatively, the lawyer cross-examines the guardian ad litem and the social worker to establish that they did not extensively interview the paternal grandparents prior to recommending the other placement.) Moreover, the lawyer presents direct evidence of the suitability of the paternal grandparents’ home through the testimony of the paternal grandparents, neighbors, relatives, and others. A lawyer elicits evidence to support Gabriel’s desire to stay in the same school, including Gabriel’s own testimony and that of teachers and mentors at the school, as well as expert testimony about moving children between schools, especially during the middle of the academic year.

“If the child’s desire is inconsistent with what the other parties want and the child doesn’t have a lawyer, then there is no other person who will bring that to the court’s attention,” notes Coward from Florida. “The lawyer for the child is the only person who can represent that child’s interest and the only person who has both the relationship with the child and the legal expertise to articulate the child’s interest to the court.”

Coward recounts a recent case in which she was appointed to represent a seven-year-old who wanted to change her

placement, but no one would listen to her request. The child told Coward that she had spoken with several people, including her teacher and guidance counselor, to explain why she wanted to change placements. “As her counsel, I was able to subpoena the necessary records and take the depositions of those individuals and communicate that information to the court in support of her position.”

In child welfare cases, it is especially critical for the court to obtain a comprehensive understanding of the child’s life. “A judge needs the best possible information to make an informed decision,” asserts Diane C. Geraghty, director of Loyola University Chicago’s Civitas ChildLaw Center. “In our legal system, that information is largely funneled through attorneys in the courtroom—people who have been trained in substantive law and courtroom advocacy skills, in communication with clients and conveying the client’s interests and wishes to the court, and in obeying the ethical mandates of the profession.”

Judge Barkett concurs. “If you give every party to the proceeding a voice and an opportunity to cross examine other parties and their positions,” she says, “you are going to more accurately receive a picture of the totality of the circumstances. And it is then the judge’s responsibility to decide how much weight to be given to what a child wants.”

Stovall from Georgia points out that when children, particularly older children and teenagers, feel that the court has considered their input, they are more invested in making the ultimate outcome work, even if it isn’t the one they would have chosen. Indeed, Trevor Wade, a former foster youth from Denver, recounts what it was like as a young child not to have people in the system consider his ideas or thoughts about what was best for him: “When they make decisions without listening to your side, it feels like you’re not a person. It makes a kid feel like they are not important.”

But as Judge Barkett notes, “A child who knows that his or her voice has been heard will more easily live with whatever result is ultimately achieved . . . as opposed to a child who has never been heard at all.”

Brian’s Case

Brian is 14 years old and has been charged in juvenile court with aggravated battery of a school official, a charge that carries with it a mandatory minimum of five years’ probation. Brian is alleged to have punched his special education teacher in the face, breaking her nose and causing severe bruising and swelling. The incident occurred at the end of the school day on a Friday when the teacher intervened in an altercation between Brian and another student.

Due to the seriousness of the allegations and the injuries to

the victim, Brian was immediately taken into custody and held in the detention center over the weekend. This was Brian’s first offense. The police did not interview the teacher before taking Brian into custody, relying instead on the statements of other school officials. What the police therefore did not know was that Brian had acted out of self-defense. Another student had verbally assaulted Brian, accusing Brian of copying his class notes. Brian responded verbally, whereupon the other student punched Brian. In response, Brian raised his fist to punch the student. At that moment, the special education teacher intervened and Brian’s punch landed on her face, instead of on the other student.

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Brian’s sole focus over the weekend was to get out of the detention center, no matter what. At the initial hearing on Monday morning, Brian learned that the public defender assigned to his case was running late. The judge told Brian he could either go back to the holding cell and wait, or waive counsel and proceed with the initial hearing. Brian waived counsel. The judge informed Brian of all of his rights and told him that the court could hold him in detention until the trial takes place. The judge also advised Brian of his option to plead guilty and face a minimum sentence of five years’ probation, in which case he would be released immediately. Eager to get out, Brian pled guilty and was released to his grandmother, the only adult present in court for him that day.

In delinquency cases, the objective is to obtain the least restrictive outcome possible for your client. All too often our delinquency courts allow children like Brian to commit to completing a sentence that they may not be equipped to accomplish because they lack the understanding, tools, and familial and community support to fulfill those court-imposed obligations. As a result, these children show up just a few weeks later in the same court, having failed at a course of probation they could not have accomplished in the first place.

In Brian’s case, and in so many others, a lawyer would have made a huge difference. First, a lawyer would have met with Brian prior to the initial hearing. Within minutes of hearing Brian’s version of events, the lawyer would have known that Brian had a potential self-defense claim and that the charge was not warranted based on the facts. The lawyer could have explained this to Brian and could have advised him against

taking a plea at that time. Brian, like almost all youths, could only see the short-term gain of making an admission that day instead of going to trial—he could get out of detention and go home. But it is the job of lawyers to counsel their clients as to what it means to be on probation and how they can end up being locked up when they fail to obey the most basic probation conditions, such as being in by curfew. An effective lawyer could have explained to Brian all the long-term consequences of having an adjudication on his record, including barriers to getting a job, enrolling in the military, and getting federal financial aid. Through the counseling function, the lawyer could have advised Brian about the pros and cons of taking a plea, of going to trial, and of the intermediate course of taking it step by step, including getting discovery and determining whether there is a defense to the charges, such as self-defense in Brian's case.

Moreover, at the initial hearing, the lawyer would have zealously advocated for Brian's release pending trial. A well-trained lawyer would have presented evidence to the court, or at least an argument, about the adverse effect of keeping a first-time offender locked up over a weekend, offered home-based alternatives to detention, and painted a favorable picture of Brian to the court.

After the initial hearing, the lawyer would have conducted a full investigation, not only into the charges, but also into Brian's life. The lawyer would have discovered that Brian has an auditory-processing disability and does not fully comprehend what is being said to him, so that putting questions, answers, and other information in writing greatly aids his comprehension and the lawyer's ability to gather information about Brian and his case; that the victim in this case (Brian's special education teacher) did not want to press charges or testify against Brian at trial; that Brian is a great student and had never been in trouble in school; and that Brian has a valid claim of self-defense.

As a result of the investigation, the lawyer would have filed a motion with the judge for special accommodations for Brian so that he could understand the proceedings, thereby also informing the court about Brian's auditory-processing disability and the role it played in the incident at school. To support the motion, the lawyer could have included an affidavit from Brian's special education teacher, who knows what a great student Brian is and feels strongly that charges against Brian should be dropped. If the state continued to pursue charges against Brian, the attorney could have presented a well-supported case of self-defense, including the testimony of Brian's special education teacher.

In delinquency as in dependency cases, an effective lawyer presents to the court a well-thought-out disposition package that the lawyer has developed in consultation with the client, the client's family, other child-serving professionals who are familiar with the child's strengths and needs in various areas (such as education, and physical and mental health), and provider agencies. The effective lawyer does not solely rely on other

agencies—such as the state child welfare agency, in dependency cases, or the juvenile probation office, in delinquency matters—to put together a disposition plan; the lawyer is instead an active participant and leader in this planning. Moreover, once in court, the effective litigator presents evidence to convince the court to order the proposed disposition plan. Just as in an adjudicatory hearing, at the disposition hearing, the lawyer calls witnesses, both lay and expert, to testify to the benefits of the proposed disposition plan. By cross-examining witnesses and challenging evaluations, the child's lawyer also holds other parties to their burden of demonstrating to the court why their proffered plan is the preferred alternative to the child's. In Brian's case, for example, an effective lawyer would advocate for a disposition that maximizes Brian's chances for success, so that he doesn't violate a term of his probation, or reoffend, and end up going deeper in the system. The fact that Brian is in a special education class should be a flag to his lawyer to bring in experts who can evaluate Brian and determine whether he has special needs that are not currently being addressed. If, for example, Brian has auditory-processing deficits or other disabilities that make it harder for him to process social cues from others, he may need an aide to help him at school. Without such intervention as part of his disposition, Brian is likely to have another problem with his teacher or another student in the future and will fail the terms of his probation.

"We see a lot of issues in education where youth are frustrated because they are not getting what they need at school or they have been moved so much," observes Seattle's Trupin. "An attorney can make sure there's educational continuity and they get the special education they need."

Fundamental to our system of justice is the right of the party at risk of losing his or her liberty to participate fully in the proceedings that will determine his or her future. In dependency and delinquency matters, the right to participate requires that a child have counsel, so that it is meaningful participation and not just rhetoric.

If you have to fix a car, you need someone trained and able to fix your car. You need a mechanic. In a courtroom, where your rights need to be protected and secured, the tool you need is a professional trained in the courtroom setting. You need a lawyer. Especially when you are a child, you need a voice that only a lawyer can provide. And the rewards to the lawyer, in turn, are immense. "Nothing feels better, nothing in life can replace the feeling you have when you make such a significant difference in a child's life—that you were able to move a child from a place that was potentially dangerous and harmful to a place where they are safe and happy," explains Coward. "And they look up to you like you're their biggest hero, like you just saved the world, because you listened to them and you made a difference." ■