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A Voice of Their Own: Youth-Centered Representation at EBCLC

Rosa Bay, Fanna Gamal, Whitney Rubenstein, & Kate Weisburd*

Mari wore her baggy pants, a blue polo shirt, and a new pair of sneakers to her suspension meeting. Her hair was cut short, revealing her bright, sixteen-year-old face. We all sat around the table—Mari, her guardian, her assistant principal, and I. The new school year had begun only two days before, and the school was already trying to kick her out. After a verbal altercation with a school security officer on her second day, Mari had been arrested, handcuffed, and brought to a cell no bigger than a parking space. She spent two nights there. At the suspension meeting, the assistant principal leaned over the school discipline records laid across the table, reviewing Mari’s twenty-two suspensions from the previous year.

“Twenty-two!” Mari glared at him, “For what?”

“Willful defiance.” He replied.

“Defiance.” Mari repeated, with an almost-smile on her face.

The assistant principal wasn’t necessarily wrong; Mari was defiant. When a teacher assigned her rote busywork, she defied. When a school security officer used a homophobic slur to describe her, she defied. And when her classes taught her nothing about surviving in her real, lived experience, she defied. After the assistant principal read Mari’s infractions aloud, he signed her suspension paper and slid it toward her. Mari paused for a moment. She took the paper in her hand, crumpled it up slowly, and threw the ball to his feet.
“What?” She was staring directly in his eyes, defiantly. “What else can you do to me?”

Mari is our client, and her story reflects the experiences of many of the young people we represent.

At the East Bay Community Law Center (EBCLC), the young clients we represent teach us every day about resilience and resistance. Even when the stakes are high, and the meetings and hearings are anxiety producing, our clients never hide who they are—they bring their authentic selves.

In the Education, Defense and Justice for Youth program (known—for fittingly—as “EDJY”) at EBCLC, we represent young people pushed out of school and into the juvenile justice system. This means advocating for our young clients in special education, school discipline, and delinquency proceedings throughout Alameda County, California.

Every day our young clients’ childhood behaviors and mistakes are criminalized. Every day our clients and their families, almost all of whom are Latinx or Black, fight back against institutions and systems that further the legacy of racism and Jim Crow. Every day our teenage clients struggle to make sense of a “justice” system that jails them for talking back to school security officers while setting free police officers who kill unarmed Black people. Every day our clients are reminded that their lives are valued less.

At EBCLC, the voices of our clients matter most. This Essay highlights examples of our clients’ attempts (sometimes successful and sometimes not) to be heard in systems that, while theoretically youth-focused, rarely listen to young people. Our goal is to elevate our clients’ voices, not just in their individual cases, but also in our policy work.

At the district office, everyone files into the small conference room and sits around a long, oval-shaped table. I sit next to my client, 16-year-old Jessie. Two district administrators glance briefly across the table at Jessie, who is staring down at his hands. His teacher tells the team that Jessie is “contemplative” and academically capable—albeit a bit rusty. He’s been enjoying working with Jessie one-on-one at home. One of the district administrators abruptly volunteers that she just received notice the previous night that Jessie has been rejected from yet another nonpublic school—a school that is supposed to specialize in working with students who struggle with mental health issues. She’s not sure why they won’t take him.

Jessie looks up. He tells her that he doesn’t want to go to one of these schools. He explains that he wants to be in a school that will challenge him academically. He doesn’t want to be in a place with low expectations or a place where he will be physically restrained in the classroom. He earnestly asks for an explanation as to why he cannot go back to his public high school. The room is silent. After a few moments, the other administrator speaks cautiously, as if he’s trying to disarm a bomb. The administrator says that while he’s glad that Jessie is currently sober and stable on his anti-psychotic medications, what’s to prevent
him from relapsing and falling into a downward spiral again? After all, administrators have to consider the safety of other students. Jessie’s shoulders slump. He looks defeated and resigned. Again, the room is silent. No more words; Jessie walks out.

All too often our clients feel like no one really listens to them or respects their opinion. Those in power too quickly dismiss what they have to say and instead base decisions on stereotypes and generalizations. Despite the odds, our young clients persevere and create opportunities to be heard even when all the signals suggest that they stay silent.

“Calling case number 18622.” This is how every case is announced. On any given day in juvenile court, dozens of cases are processed; each hearing lasts just a few minutes. Some children are in court for detention hearings, progress reports, or restitution determinations. The pace is fast, the courtroom is filled with adults, and the complex legal vernacular used by the judge and lawyers is incomprehensible. Despite this being juvenile court, the one person that has the least (if not no) opportunity to talk directly to the judge is the child— the “minor.”

But that does not stop our clients. Often clutched in a sweaty, nervous palm or shoved deep in a pocket is a handwritten note to the judge. Our young clients slowly unfold the note and ask that it be passed to the judge. The notes are often a desperate plea to be released from jail, to get off probation, or to remove the electronic monitor strapped to their ankle. As the judge reads the note and issues the ruling, our clients and their families blink back tears of worry and fear. The tears and these notes are our clients’ way of saying to the judge, “Please remember that I am more than another case number.”

Our clients and their families are the experts of their own lives. As lawyers and social workers, our job is to listen to our clients and act upon their stated wishes. As one of our law students once aptly observed, our client is the captain of the boat and we are the sailors; the client calls the orders and we raise and adjust the sails.

Fifteen-year-old Aaron sits in a small high school office wedged between his EBCLC advocates—a lawyer and a social worker. He is silent, staring down at his hands, fidgeting. He makes eye contact with none of the adults at the meeting, all of whom are engaged in a conversation about him, speaking as though he is not in the room. The conversation centers on Aaron’s deficits, accusations that Aaron engages in impulsive and inappropriate behavior at school. To keep him “out of trouble” the school decides that a school security officer will escort him to his classes. Upon hearing this, Aaron lets out an audible sigh, pushes his chair back, and exits the room followed by his EBCLC social worker. The social worker asks Aaron how he is feeling, and for the first time since the meeting began, Aaron speaks. He says that he feels angry because people are talking about him like he is a monster. He does not want an escort because it will make him feel like he is being policed inside his own school.
The social worker listens to Aaron, validates his feelings, and encourages him to speak to the larger group. Aaron does, and as he speaks, there is a notable shift in his body language. He sits a little straighter, glances around the room, and, if only for a few minutes, the adults have no choice but to listen. Aaron then stands up, grabs his backpack, and announces that he is heading to class—he doesn’t want to miss more school. With that he is off, without an escort, to attend freshman English.

As advocates in EDJY, it is not our job to take center stage; indeed, it is precisely the opposite. We work diligently and deliberately to create space for our clients’ voices within their own cases. Borrowing from the social work model, we are often the only adult in the room highlighting our clients’ strengths when the focus is solely on their deficits. We do not pretend that our clients’ lives are perfect, or that there is no place for personal responsibility when they make mistakes. Our aim is to contextualize, and, in the words of Bryan Stevenson, remind judges, probation officers, school administrators, and other decision makers that, “We are all more than our worst mistake.”

Regardless of the ultimate outcome, our clients know that they were heard and that they have a team of lawyers, social workers, law students, and social work students rallying behind them. We believe there is strength and hope for our clients in that knowledge.

In EDJY, our approach to youth advocacy is hyper-local, yet an important part of the national movement to end mass incarceration. Our strategy is both innovative and preventive. At EBCLC, we begin working with some young people before they have entered the juvenile justice system, addressing and advocating for their educational needs. We aim to keep our clients engaged in school and in their communities, where they can flourish and thrive beyond the reach of the criminal justice system.

“Nothing about us without us is for us.”

Our young clients remind us every day that our efforts are destined to fail if we do not prioritize their thoughts, concerns, and goals. If our advocacy offers plans and remedies that do not come directly from our clients, we risk a result that they neither need nor want. We must dismiss the notion that we—the adults—always know what is best. In our role as lawyers for the young person, we advocate for our clients’ expressed interest, and not what we believe as adults may be in their best interest. From courtroom to classroom and out in the community, we navigate using our young clients’ cues.

Our clients’ individual experiences also drive the policy and system change that EDJY promotes. For example, over the years we learned from our clients that electronic monitoring—often touted as a cheaper alternative to

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2. BRYAN STEVENSON, JUST MERCY 21 (2014).
3. Disability rights activists popularized the slogan “nothing about us without us” in the 1990s. This version of the slogan is featured on a poster by artist Ricardo Levins Morales, which credits South African disability rights and youth activists with its popularization.
incarceration—caused them to cycle in and out of jail on technical rule violations. Every time our clients were incarcerated for technical violations they fell further behind in school and missed out on important pro-social activities. Ultimately, they were set up to fail. It was clear that electronic monitoring was undermining the rehabilitative goals of juvenile court. As a result, we have partnered with other advocates and the Samuelson Law, Technology & Public Policy Clinic to produce research reports, sample motions, and op-eds, to plan a national conference, and more. Our goal is to reform electronic monitoring both locally and throughout California.

Similarly, we recognized early on that serving our clients meant empowering their families to stand up to school districts that neglect and marginalize them. We partnered with a grassroots community organization to help train parents and students in school organizing, school district policy, and due process protections. Together with our community partner, we organized Listening Sessions where families most impacted by discriminatory school discipline came together to share stories and skills. We joined school district committees where we confronted administrators with the lived experiences of our clients. We provided support and technical expertise to families most impacted by school criminalization so that they could speak directly to elected officials. Our individual cases and clients helped incubate ideas for larger systemic change.

It was also the needs of our clients that inspired the development of EDJY’s social work program. By recognizing early on in our work that our clients’ needs often extended far beyond their discrete legal cases, we were able to create a holistic model of representation by including social workers on the EDJY team. With the advocacy of an EDJY social worker, a young man successfully secured after-school employment, a young pregnant client gained access to prenatal services, and another young man finally got the mental health treatment he so desperately needed but was never able to access on his own. This unique and interdisciplinary approach to legal representation provides young people with a team of advocates working to address both their legal and non-legal needs as they work to navigate successfully through the juvenile justice system and reach their educational goals.

Like Jessie, Mari, Aaron, and our other clients, young people have important commentary about their world and about the systems that purport to act on their behalf. When our clients speak, we listen and then we act. And while listening and responding to young people is a simple idea, it is difficult work. It often means dispelling myths about our clients and their families. It means pushing back against ideas about what our clients can and cannot do. It means speaking the truth about our clients, even if unpopular. This is what it means to be a zealous client-centered advocate.

Luckily, we do not do this work alone. We do it alongside our allies and stakeholders in parent groups, public defender offices, local non-profits, and
schools. Most importantly, we do it alongside our clients and their families, whose courage reminds us each and every day that they are at the heart of everything we do.