

# The System

*A housing project in the area where the writer's clients lived.*



# and Its Children

## How the Legal Community Helps Older Children in the Foster-care System Overcome Challenges of Education and Homelessness

by Joseph Sora

As many as 30% of the nation's homeless adults "graduated" from foster care. In many cases those individuals entered foster care as older children, upwards of 12 years of age. Such children—many of whom have experienced a variety of trauma, from homelessness to physical and sexual abuse—pose a particular challenge to the nation's foster-care system, which is often referred to simply as "the system."

The system can have a tough time finding good homes for older children. Because of their ages and histories (which usually must be disclosed to prospective adoptive families), older children have little chance of being adopted. They can simply linger in the system, going from placement to placement, until they turn 18 and "age out." They are often homeless between stays in the variety of placements—shelters, foster homes, group homes, and the residences of friends and relatives—that typically house them. During those times they might spend a few nights on a relative's couch, then another few nights on another relative's couch. Many do not see doctors, attend school regularly, eat well, or feel wanted by anyone.

The plight of older children in foster care has, however, received attention from the social-services community in recent decades. In 1986 Congress first authorized funds to states to assist children leaving the system. The Chafee Foster Care Independence Program now governs that area of federal activity. Recently, some states have begun to provide services specifically for these children, independent of their imple-

mentation of federal monies. For example, social workers in Pennsylvania, North Dakota, California, and Illinois often follow an approach called "family finding," through which children are reunited with a variety of family members. Family finding targets older children, who are substantially less likely to find permanent living situations otherwise.

In addition, the legal system has produced other legislation well-suited to addressing some of the particular issues that older children in the system commonly face. The federal McKinney-Vento Homeless Assistance Act of 1987 provides children with educational stability, guaranteeing their right to attend their local schools or the schools they attended before entering the system, thus helping them overcome residency requirements for enrollment. Stability in any area of life, let alone education, is a critical need for these children. Some states have passed laws that allow children to re-enter the system after they have aged out; Illinois and Pennsylvania, for example, did so this year. Such laws recognize that those who enter as older children often leave completely unprepared for the world outside institutional walls.

"Eddie" and "Tasha," residents of Allegheny County, Pennsylvania, entered the system as older children. Both spent time in foster care; both also experienced homelessness before and after they aged out. I came to know Eddie and Tasha as their court-appointed attorney, or guardian *ad litem*. Since the foster-care system is managed by a state or county agency, that

agency's authority is determined in a court of law. Appointed as Eddie and Tasha's guardian ad litem during their last year in the system, I had the job of advocating for their "best interests" before that court. To the extent possible I invoked both McKinney-Vento and state law permitting re-entry to force the system to accommodate my clients' needs.

My clients' names and some other details about their lives have been changed here to prevent their being identified. Their stories are not uncommon among older children in foster care.

## The System

Operating at either the state or county level, the system includes local social-services agencies and their social workers and administrators. Entering the system works more or less this way: A report arrives at a local social-services agency. That report typically emanates from a school, the police, or a person familiar with a particular family, such as a neighbor or relative, and may concern the physical abuse of a child, deplorable living conditions, illicit drug use by the parents, or any number of other situations in which a minor's safety is threatened while he is in a guardian's care. The report is then investigated by the agency's caseworkers. If a credible threat to a child's safety is discovered, the child enters the system. Often, the system will first remove the child from the guardian's care. Shortly afterward the child may wake up in a group or foster home. Until that child is adopted or finds some other permanent living arrangement, she is likely to remain in the system.

The child's guardian ad litem typically tries to employ legal mechanisms, such as McKinney-Vento, to compel the system to address the child's needs. McKinney-Vento permitted Eddie to remain in a particular school, regardless of whether he lived in that school's district. The system also, again by virtue of a law, permitted Tasha to escape the streets by re-entering the system.

## Eddie

Eddie has curly hair, blue eyes, and light-brown skin. As I often told him, he wears his pants too low. He could pass for 14; he was 17 and a half when we last spoke—a few hours before he left his independent-living facility, or group home, for good—and he still had no need to shave.

When I met Eddie he had just entered an independent-living facility with 13 other young men. Previously, he had stayed with his aunt in a nearby housing project. There simply was not enough room in the tiny two-bedroom apartment for Eddie's aunt, her three young children, and Eddie, and the cramped conditions led to altercations. Eddie realized that the arrangement was not going to work out, so he ran away. The police

picked him up, and I was appointed to represent him during what would be his last year in the system.

Cars gave Eddie and me some common ground. During our first conversation Eddie was seated at a round table in a small interview room in the group home. To him, I was yet another system professional who would not know what to do with him. He was guarded at first, giving stock answers to my questions and seeming genuinely bored. He did pause, however, when I asked him (mostly out of frustration) what he wanted to do with his life. He then gave perhaps the only sincere answer to the many questions I'd asked: he wanted to be an auto mechanic. Since I am a car guy myself, Eddie and I spent the next 45 minutes talking about Porsches.

While living at his aunt's, Eddie had been (sporadically) attending the local high school, whose well-known vocational program could teach him to be an auto mechanic. Eddie's new group home, however, was not in that program's school district. Prior to 2001, Eddie would not have been able to attend school in a district where he was not residing. Those who drafted McKinney-Vento, however, recognized that it takes an average of four to six months for students to catch up every time they change schools. McKinney-Vento also acknowledges that foster children, not surprisingly, switch schools far more often than other children—usually as a result of changing residences—and have, perhaps as a result, far lower graduation rates than children who are not in the system. McKinney-Vento obligated Eddie's former school district not only to permit him to enroll but also to provide him with transportation to and from his old school.

I saw that decision as Eddie's ticket to a life of gainful employment, with at least the basic necessities provided for. He would learn a trade in a setting that by now had grown somewhat familiar. McKinney-Vento would direct the system to provide what Eddie seemed to need most: stability and life skills.

Eddie started at the vo-tech program in his old school. He turned 17 that first week of school, and then he began to miss days. Within the first month after his 17th birthday, Eddie was skipping school three days a week and spending a good part of those skipped days walking the eight miles between the independent-living facility and the neighborhood in which he spent the first 12 years of his life.

Nine months ago Eddie stepped out of that facility and never went back. Six months ago a judge gave the county social-services agency permission to close Eddie's case, thereby absolving

*Right: The abandoned factory Eddie passes on his trips to his old neighborhood.*

the system of any responsibility for where Eddie lives or what happens to him. Eddie simply aged out without aging into anything else. He lacks stable housing, a high school diploma, and a marketable skill.

Two years before Eddie left the neighborhood he referred to as “home,” his father was murdered in a drug deal gone awry. About one year later, and much to Eddie’s chagrin, his mother’s new boyfriend moved in. Verbal arguments between Eddie and his mother’s boyfriend turned physical, and six months later Eddie showed up at school with two black eyes. Just before he turned 13, his mother asked that Eddie be removed from the home.

Until he left home, Eddie had attended the same school. His relatives and friends lived close by. He had some stability in significant areas of his life. Following his removal, Eddie went to live with his grandmother, who could not provide the supervision an active 14-year-old boy often requires. Soon Eddie began

staying at his brother’s apartment on weekends. He began smoking marijuana and took on a pattern of habitual truancy that prompted two stays at the local juvenile-detention center.

Eddie’s grandmother soon realized that she had little control over the boy, and so she gave what is known in the field as her “30 days”—that is, her notice to the social-services agency that Eddie could not live with her beyond another month. Eddie immediately ran away and was essentially homeless for the next three months, staying at an uncle’s, his brother’s, a friend’s, and his aunt’s. He went on to live in two or three group homes and, finally, in the independent-living facility where we met and where he last had contact with the system. When I think of Eddie, I always picture him walking to the neighborhood where he lived before his father was murdered.

Eddie can, however, return to the system. In the past, when a child aged out, placement in the system was no longer an option. However, in July 2012, Pennsylvania—like 15 states



before it—passed a law to permit children who depend on the system to re-enter it after turning 18. Such laws were made possible by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, which issues funding to states to provide care and other assistance for those over 18. Like McKinney-Vento, these laws provide the most benefit to those children who enter the system at an older age and, like Eddie, leave without permanent living situations or the skills to forge them.

## Tasha

Tasha personifies the term “failed adoption.” Any mention of “failed adoption” to those who work for the system will usually trigger a slow, sad shake of the head. The failed adoption is an instance of the system failing, usually after much effort and expense, to secure for a child that elusive permanent living situation, after concluding that it had found just that. And since no child can be adopted unless the rights of the biological parents have first been legally terminated by the court, the failed adoption amounts to the state creating a legal orphan: a child who is without birth or adoptive parents.

I was appointed to represent Tasha shortly after her adoptive mother put in her 30-day notice and Tasha was taken to the first of what would be several group homes. When I met

Tasha, at the first of those residences, she was visibly angry. She had recently been restrained for fighting with some of the other girls who lived there. Our first conversation was brief and focused on whether I could get her out of this particular group home.

As it happened, Tasha found her own way out: she ran away. That, in fact, was how she left just about every group home in which she was placed, until she was put in an out-of-county home several hours from where she grew up. Running from that facility would have led Tasha straight into the woods. As I visited her there, every six weeks or so, I became her only connection to the region in which she grew up, the area that she missed terribly. We had long conversations while walking around the campus where she lived. It soon became clear that Tasha, like Eddie, simply wanted to return to what she thought of as home.

Tasha is the youngest of her mother’s three children. Her mother had become addicted to crack cocaine shortly before her daughter turned seven. When Tasha was found in her mother’s home by the police, the small one-bedroom apartment was filled with garbage and cigarettes stubbed out in food so old it had drawn the countless flies that were Tasha’s only company at the time.

*Eddie and Tasha wanted to return to the homes they knew before they entered the foster-care system.*



Tasha’s mother had fits of recovery while Tasha lived first in a shelter for children and then with the “aunt”—a close friend of the mother—who eventually adopted her. Those brief periods of being off drugs stalled the adoption process, because Tasha’s mother very much wanted her daughter to return home. Two and a half years after Tasha was removed, her mother lost her parental rights.

The aunt had escaped the projects that swallowed her friend, Tasha’s mother. She worked as an executive secretary for one of the very few major corporations still in the region. The aunt was afraid that Tasha would follow the same path as her

mother. As Tasha entered adolescence that fear was borne out, when males much older than Tasha began to notice her natural beauty, almond-shaped eyes, and high cheekbones. And Tasha, who had always been far more comfortable around boys than with girls, began to take note of their interest.

When it became apparent that Tasha was becoming more than friends with men, not boys, Tasha's aunt took steps: she implemented an early curfew and began to read the text messages on Tasha's phone, before taking the phone away. As the rules become more restrictive, the conflict between Tasha and her aunt escalated. After one year of Tasha's consistently breaking those rules, the aunt put in her 30-day notice. Tasha then ran away, living for four months with various friends and relatives until she was picked up by the police and placed in the first of several group homes in which she would reside.

Leaving the system when she turned 18, Tasha went back to the very projects where she had spent her first seven years and where her mother still lived. The next eight months were difficult. She slept at friends' apartments, on the streets, and in shelters. A counselor, with whom she kept in touch after aging out of the system, located her in a shelter for homeless women some 200 miles from her birthplace. He told her about a recently passed law enabling those over 18 to re-enter the system if they met certain criteria. No one wants to go back into the system, but Tasha, much to her credit, realized that she did not have a lot of other choices at the time.

Tasha's counselor contacted me, and we got her back in the system. As the judge stated at the hearing, the local law that permitted her to re-enter was aimed directly at those like Tasha: those who entered the system as older children and left without having learned to fend for themselves. This law gives Tasha—and the system—a second chance.



*The bridge Eddie crosses to visit the neighborhood where he spent his earliest and happiest years.*

The bridge that Eddie crosses to get to his old neighborhood defines “dilapidated.” Long-abandoned factories sit on the river bank that leads to the streets where Eddie was born. Passing the empty factories and then several blocks of squat, three-level brick tenements, Eddie would thread several miles along a busy city street until he reached the familiar faces and corners of his old neighborhood. If he had kept walking another mile or so, he would have run into the housing projects where Tasha was born. Tasha's mother is still there and, by all reports, remains severely addicted to crack cocaine. Tasha, however, has a room in an independent-living facility a dozen miles away. She has jobs at a gas station and a fast-food restaurant. Sometimes she works more than 75 hours in a week. She's very close to completing her GED and hopes to move into her own apartment within one year, goals she seems well on her way to accomplishing, at least at the moment.

Older children are not likely to have an easy time in the system. There are reasons why they are there, and, typically, these reasons have lasting consequences. Advocates for these children—caseworkers, attorneys, counselors, and others—can insure that older children like Eddie and Tasha receive the maximum benefit from a system that is just starting to recognize how difficult their lives have been. ■