Thank you, so much. I am somewhat overwhelmed, and I had this whole prepared thing, and I’m going to believe that I can carry it through.

Today is a day for deep gratitude and high celebration. I am honored to be here to say thank you to the Bridges for their ongoing generosity to this law school, to our students and the children and youth of this state. Their gift will continue to ensure that our law school will be an incubator for future leaders in child welfare, and it’s so exciting because I can look out there, and see so many of you, and I’m so thrilled. Those of you who have graduated and have come back, who have gone across the country and come back, it’s really great to see you. And Kim and I remain convinced that both of these efforts are critical — both the individual representation children and the broader policy work that is informed by it.

And so today is a day to celebrate all that we have to be thankful for. The Bridges, obviously, for their generosity; supportive family, friends and colleagues; the law students who work so very hard on behalf of their clients everyday; and all of you, who work very hard for the children and youth of this state. I am so proud to say that I am the Jon and Bobbe Bridge Professor of Child Advocacy; it’s wonderful.

And, I also want to take a moment to say that events like these, and we’ve had a wonderful series of events like these, don’t just happen without a lot of effort. And so I would like to take a minute to thank Stephanie Cox, Hana Hughson, Sheri Ireton, Laura Paskin, for all of their hard work. And I also wanted to let you know that the beautiful programs and invitations, many of you said, “What a great, what a lovely invitation,” these beautiful programs and invitations that you see have finally received a national recognition they deserve. They were awarded a Gold Award by the Council for Advancement and Support of Education, and so I just want to take a minute to applaud the folks who worked so hard on them.

What I want to focus on in this lecture though is why attorneys for children and youth are important, how they can impact our child welfare system, and what we have learned from listening to the children we have had the privilege of representing over the last ten years in the clinic. In short, I want to talk about how telling children’s stories in this system is vital — not only for the children and youth themselves, but also for the system that at its heart should be responsive to their needs.
First for those of you who aren’t familiar with the Children and Youth Advocacy Clinic, or CAYAC as I will call it, since it’s easier, what we do – let me tell you a little bit about it. CAYAC offers third-year law students an opportunity to represent youth who have been removed from their homes due to allegations of parental incapacity, abuse, and neglect.

The common perception is that children wind up in the child welfare system because of physical or sexual abuse. Grisly tales of parental torture tend to capture media attention. And, to be sure, terrible stories with sensational details can be found in child welfare files across our state. But the vast majority of the cases that we see arise out of parental neglect or incapacity. They are parents with substance abuse problems, parents with mental health issues, parents with cognitive challenges, families in extreme poverty and homelessness, domestic violence, and social isolation. These are the issues that bring children into the system in ever-increasing numbers. They are social issues, and many of them could be prevented if we had the society that had the political will to do so with our clients.

With only a few exceptions, the youth who we represent are between the ages of 12 and 18. A look at the demographics of those whom Kim and I have represented over the last six years have shown that 53% of them are boys and 47% are girls. They are disproportionately children of color. Although the African – here’s where stats come in, you know, excuse me for a moment, but these are important numbers. Although the African American child population in King County is only 7%, 52% of our clients are African American children. Although in King County only 1% of the children in the child community of King County are identified as Native American, 15% of our clients are children with tribal heritage. And in King County, we don’t really keep good records on Spanish-speaking, or uh, Hispanic families, but our clients, 9% of them also come from Spanish-speaking backgrounds. So, do the math for a minute. In a county in which we aren’t quite in the double-digits yet in terms of children of color, in the child population, generally, we represent, 76% of our clients are children of color. The majority is the minority in our client population. This racial demographic mirrors the King County child welfare figures generally. I will speak more about this racial disproportionality and the role of counsel later, as it relates to it, but I wanted to touch on it, just briefly, here as a way of orienting you to who our clients are.

Many of our clients have been in the system for years by the time we begin representing them. In King County, the children do not receive a lawyer until they are twelve. And prior to that time, they are supposed to receive a Court Appointed Special Advocate, or a CASA. Many of you know that a CASA is a lay volunteer, who is very well trained and charged with the responsibility of investigating and recommending to the court what the CASA believes to be in the child’s best interest. Unfortunately, however, in King County, there are not enough CASAs to go around, and so, many younger children have neither a CASA nor a lawyer.

Throughout the state, child advocacy practices vary widely. Some counties do not appoint counsel at all. Benton/Franklin County appoints counsel at eight years of age. CASA is
present in most counties but has still only recently arrived in others. Some counties appoint attorneys who serve as guardians ad litem.

The attorney’s role is different; the attorney’s role as we practice it is different from that of the CASA or the guardian ad litem in many ways. The central difference, however, is that the attorney for the child represents the stated interest of the child, rather than the child’s best interest. In other words, the attorney’s work is directed by the young person him or herself. We work for what the child wants.

The attorney is governed by all the rules of professional responsibility in this endeavor. The relationship with his or her client is a confidential one. And this has significance because for almost every other player in the child welfare system with whom the child interacts, that person is a mandatory reporter. But not the child’s attorney. The child’s attorney is the one person who the child can talk to in complete confidence, that only that information in which the child wants to be disclosed will be disclosed.

The child’s attorney is also bound to provide the child with an understanding of his or her case. Lawyers for children owe their clients the same degree of client counseling as any adult client receives. So when a legal decision point is reached in the child’s proceedings, the attorney needs to talk through the legal consequences of the choice that the child wants to make, and the child has the opportunity to understand what the consequences of any legal preceding will be. And with all good legal counseling, alternative “Plan Bs” often have to be discussed.

Often when people hear that attorneys represent the child’s position, they think that means that the child simply tells the attorney what he or she wants five minutes before going in to the courtroom, and then the lawyer just marches in and says whatever the kid said. But if a lawyer is doing his or her job consistent with the Rules of Professional Responsibility, this is not so, anymore than an attorney for an adult would wait for five minutes before court time to find out what his or her position would be. The attorney must take the time to establish a relationship of trust with his or her client, must provide the client with an understanding of the legal situation that the client finds herself in, and will respect the choices and positions that the child eventually takes. There will be a relationship. There will be a continuing dialogue.

Obviously, while the attorney for the child owes that child the same professional duty as she does an adult client, the ways of carrying out that duty often look very different than it does for the sophisticated adult client. But we in the child representation area have its own version of the three-martini lunch and the golf course outing with the rainmaking client. Very few of our meetings, as you might imagine, happen in board rooms or in law offices. But if you take the three-martini lunch and you replace it with the bottomless fries special at Red Robin and you have found the perfect atmosphere in which to meet with your 14-year-old boy who is hungry after school. And if you take the golf course and switch that out for the dog park, with an OCD Golden Retriever or Lab, possibly named Oscar, um, you will have the perfect opportunity to establish that relationship that we all seek to have with our clients. And as we who are parents of teens and ‘tweens
know, you’ll often find out a whole lot more from a kid who’s sitting in the back seat of a car as you are driving them to some, you know, “outing,” than you will if you are sitting across the table ready to have that “important” talk. So, yes, children’s representation has to be different in some ways, in order to meet your professional obligation in context with your client.

Sometimes adults are surprised to learn that children would need lawyers or that the system would benefit from their representation. After all —don’t the parents have lawyers? And isn’t the state representing child’s best interest? And isn’t the courtroom already just a little bit crowded in there? This confusion is understandable because we tend to think of young people quite rightly as non-autonomous beings—minors not possessing the capacity, inclination or right to direct an adult in achieving their goals. Children after all, usually, are supposed to have adults who know them better than they know themselves, who care for them, and who can help make decisions for and with them.

When parents not involved in the child welfare system hear about teens having lawyers, they shudder. They think of their own teenager equipped with some briefcase-toting, paper-haggling character out of a New Yorker cartoon ready to negotiate over the curfew. We all know that as adolescents grow, it is their job to test limits, to learn to make independent decisions, and it is their caregivers’ responsibilities to both set limits and let go, to allow their children to safely learn from their mistakes. So the idea of attorneys for children and adolescents is understandably not one that sits easily or comfortably with many people.

But here is where the ground-level understanding of the child welfare system from the young person’s point of view is so vital. When a child is removed from his or her home, they enter a new world where, for better or worse, they no longer have daily contact with their parent. Their childhoods, their adolescences are now entrusted to the state. The state has many good employees, many who care deeply about their work for children and some of you are seated here right now. But the state is not like the serious, committed parent who knows his or her child inside and out. The child is swept into a legal system that will define and direct his or her relationship with mothers, fathers, sisters, brothers, relatives, kin, community, school, and friends. And the outcomes, unfortunately, are not always rosy.

Young people in the system are not only separated from their parents, but also their siblings. They are removed from schools in the middle of the school year, from homes in the middle of the day or night, from their best friends and pets without even being allowed to say goodbye. The state is constrained by resources that don’t permit the time for a thorough-going relative search or enough foster homes to go around, much less to keep closely bonded siblings together.

Under today’s federal law, the caseworker for a child who is in the system for 15 months or more will be pressured to file a petition to terminate parental rights. The long-timers in the system, who are typically our clients, run the risk of becoming children without
parents, legally created orphans with no permanent homes, just a series of multiple placements. Evidence of this often perfect, permanent orphan status can be found in the way the federal government keeps statistics on those children who are “legally free” and awaiting adoption. While the numbers reported to the federal government from Washington state reflect that we had 2,167 young people waiting for adoption in 2005, this figure has an important footnote, qualifier, tucked away, in the fine print. If you read further, you will see this disclaimer: Children whose parental rights have been terminated, who are 16 years of age or older, and who have a goal of emancipation, are excluded from the waiting population. Those of us familiar with the system know that very few children 16 years of age or older have adoption as their permanent plan.; And most of them are slated to emancipate or age out at 18 with an independent living plan. So, I think of these children, and this statistic as similar to those, as that statistic about the unemployed. There’s the unemployment statistic, and then there’s the statistic that none of us really knows about all the people have given up looking for work. The children who are 16 years of age and older are the children who aren’t even counted. Once the parents’ rights are terminated, there is really only the child and the state in many instances.

The state seeks to do goo, but it ironically shares one of the most common problems that the child’s birth parents experience —a lack of resources. And this lack of resources places the child at continuing risk for poor mental health, poor physical health, poor educational outcomes, and a lack of stability.

Young people in the child welfare system are subject to state action as direct and invasive as those young people in the juvenile offender system. Their lives are impacted by state decisions in the most private and intimate ways, and in areas of their lives that are more central to them than they are to adults. Children and adolescents are dependent upon their caregivers. We as adults can easily refer to where children in foster care live as “placements,” but for the child it is the home. And each new home brings new rules, new smells, new foods, and new relationships that will last, or not.

So in a very real way, the child’s attorney should not only be conceived as a due process entitlement for one impacted by state action but also as an enforcement mechanism to keep the system honest and to hold the state accountable. State and federal statutes do give children legal rights and interests as against the state, like rights to visit with siblings or to remain in one’s home school district. These are rights that no other player in the system has the incentive or motivation to enforce. The caseworker who lacks the time or budget to arrange the sibling visit is not going to compound his or her troubles by bringing an enforcement action against himself. Similarly, it is only the child who is likely to have the motivation to negotiate with a school district under the McKinney-Vento Act so that he or she can remain in his or her home school.

The list of legally implicated rights is endless. We have litigated issues that some may see as small —like a needed clothing voucher for a child who had outgrown all of his clothes and was too embarrassed to go to school —to those that are obviously huge —like whether the court should end the parental relationship itself.
But, I want to say that there are other less obvious benefits may emanate from the child having counsel that articulates his or her view. At the Association of American Law Schools conference in New York earlier this month, I presented a paper setting forth the hypothesis that the positions-based model of children’s representation, if thoroughly and seriously executed, can be a useful intervention to combat racial disproportionality. I began to develop this idea as I saw that we were becoming so successful in cases in which our clients wanted to go home, that we needed to go looking for new cases. This was a wonderful development. So many of our cases were being dismissed. These outcomes were often assisted by our partnerships with social work that enabled us to work closely with parents and family, often through family group conferencing, which allowed us to bring family around the child and the parents.

As I mentioned earlier, our clients come disproportionately from families of color. Our work with the King County Racial Disproportionality Task Force has taught us that racial disproportionality only deepens the further into the system that you go. And our numbers in the clinic certainly confirm that.

It is true that children of color enter the system at rates that are disproportionate to their white counterparts, despite the fact that long-term, long-term, longitudinal studies show that the rate of child abuse and neglect is the same in white and black communities. But even more troubling than this front-end disproportionality, in some sense, is the fact that the further you go with each decision point, the racial disproportionality only widens; the gulf gets bigger. Children of color and their families receive fewer services, are reunified less frequently, and remain in the system, often to age out with no permanent home at 18, at rates way greater than their white counterparts. This is how we wind up with 76% of children of color in our clinic. This means that the system itself is guilty of institutional biases, of having less faith in the families of color, and investing less in them.

Our work on the Racial Disproportionality Task Force has taught us that the system always needs to be mindful of the impact that specific institutional choices may have on disproportionality. If the department shifts its policy in one direction or another, what will the impact be on racial disproportionality? Which policies allow for the type of discretion that would deepen and widen that gulf? Which decisions will bring culturally relevant approaches to bear? Of course, all of these discussions also run the risk of essentializing families and children of color, of assuming that because a child is African American or Native American or Spanish-speaking, then that means “X” is always the right response, whatever your “X” is, which is always a danger on the other end of the liberal spectrum, right? – That essentialization.

And this is the point that brings me back around to the importance of the role of child’s counsel. The method of representation is a systems choice. And so the type of representation we choose to undertake does matter. This is not to say that one method is condemned to racial bias and the other is free from it. Racial bias is like the air we breathe, hard to see, and yet we know that it is keeping us all alive. It exists whether we want to own it or not and whether we want to fight against it or not. However, it is easier
to fall victim to biases and/or essentialization when your mission is defined in terms of your own personal experiences, values, and world view.

For those who have not put energy into thinking through their own biases, it is harder to be culturally competent if you do not begin the analysis by situating yourself in your client’s old sweaty gym socks and sneakers. For those who are mindful of their need to think through their biases and who are on that lifelong journey, that we’ll never get there to, towards cultural competence, it is difficult to avoid cookie-cutter, essentializing responses based on one’s very limited knowledge of a particular community unless you begin by letting your client educate you about his or her own unique family and desires.

Certainly, many GALs [guardians ad litem] and CASAs do conceive of the child’s best interest in the context of the child’s culture, community and family, but such conceptualization requires discipline and a conscious choice. Serving the child’s stated interests, rather than attempting to divine his or her best interests, however, compels the advocate to learn about the life experiences that the child brings with him into the system. It forces the advocate to be open to ways of living that are often very different from his or her own. It carries the seeds, if you will, of a kind of natural, organic cultural competence.

Trusting one’s client to articulate his or her goals in whatever way he or she can is an antidote to one’s limited view of the world that, if left unchecked, could unintentionally contribute to racial disproportionality.

An advocate for the child who allows the child to direct his or her representation becomes a voice in the courtroom and elsewhere that can educate the key players about the family’s strengths as well as its challenges. And at the end of the day it is that fully informed judge who gets to decide.

And we are continually educated and surprised by what our clients teach us. A common reaction that all of us in this field gets is: “How can you do this work? It must be so depressing!” Indeed, I suspect many of you are probably thinking that right this second. But, I must tell you, and I think Kim would agree with me on this one, our clients are great. They teach us so many things — about compassion, about forgiveness, about resilience, and hope, and grief. They make us laugh, and they make us cry. And of course there are disappointments for them and for us, and sometimes there is even tragedy. But you know, they wake us up to everything about ourselves that is human.

Students in our clinic hopefully learn not only how to interview and counsel adolescent clients, how to write, set and “Oh my God,” note a motion, how to negotiate with multiple parties from multiple disciplines, and how to argue for their client in court. They hopefully also learn how to handle complex feelings in a professionally responsible way and how to live more meaningful lives with the benefit of the wisdom that only clients like ours can give us.

It has been a wonderful opportunity to work these last six years with such great colleagues, advisory board members, community partners, and many of you are here
today. And to be supported by the leadership that the Bridge family brings us in this field is an absolutely invaluable gift. And of course, it has been wonderful, now too, having CAYAC’s founding mother, Michele Storms, back in our building, and so – Hi, Michelle, thanks for coming! And she’s back with us in a wonderful capacity of doing the Gates Public Service Law Program.

We look forward to the continued growth of CAYAC from its clinical core to a broader program with an expanded curriculum, a robust research agenda of its own, and a statewide outreach through the newly created Court Improvement Training Academy (CITA) under the able, energetic – and I don’t know if you guys have met him yet, but you will if you haven’t yet – leadership of Tim Jaasko-Fisher.

Like probably everyone in the child welfare area, there are most certainly days when I wonder about whether I have bitten off more than I can chew. And (to mix metaphors) whether all the balls are going to fall down on my head today, but I almost always am reassured myself with at least one thing that I am good at. And that is that I seem to be able to choose my friends wisely. And, you all are so great and so supportive, and I really do appreciate that, because without that support and without that skill and expertise, I know that the balls would be bouncing all around me right now.

So, thank you everyone for coming and thank you Bobbe and Jon for all of your many contributions to our law school and this exciting new gift is just, it’s really wonderful. But, please let’s go enjoy each other’s company!