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## 2005 Annual Report

Children's Advocacy Institute, University of San Diego School of Law

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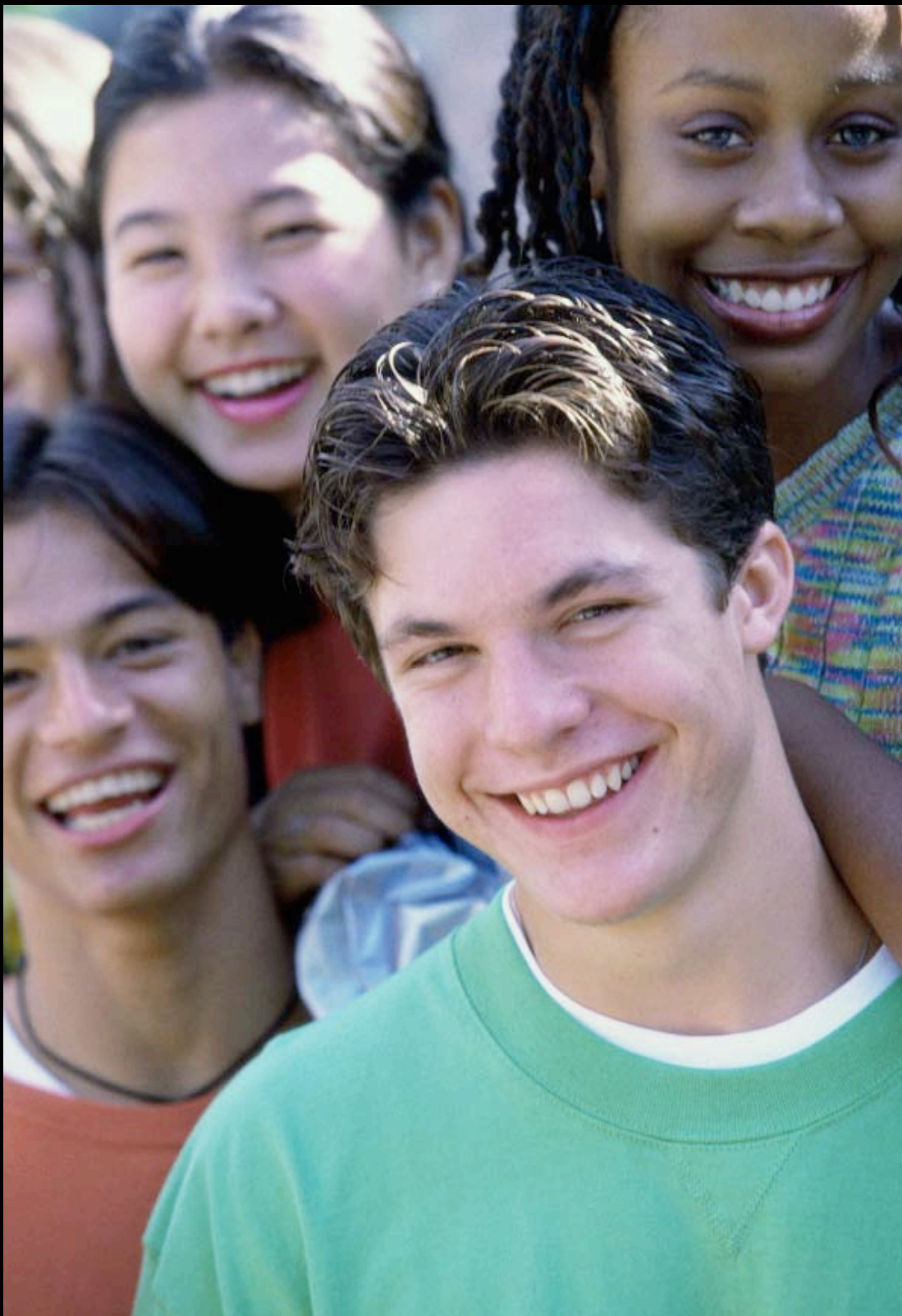
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**Children's Advocacy Institute**  
2005 ANNUAL REPORT



This annual report covers the activities of the Children's Advocacy Institute between January 1, 2005 and December 31, 2005.

The Children's Advocacy Institute is part of the University of San Diego School of Law. Contributions to CAI are tax-deductible to the extent the law allows.

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The problem is exacerbated by the projected extension of huge tax subsidies for wealthy and older interests—including dividend, capital gains, and private pension subsidies. And the Bush Administration proposes to revive the lucrative R & D corporate tax credit at a cost of \$50 billion over the next ten years. On the direct spending side, children are not faring well. The State Child Health Insurance Program has hit a plateau and is now subject to retraction with a substantial number of eligible children uncovered. The No Child Left Behind Act is funded at a small fraction of promised levels. And the budget to be proposed for 2006–07 will reduce student loan subsidies by \$2.5 billion—just as tuition increases mount and more students need higher education for future employment.

The largest share of the federal budget will be devoted to debt payments and defense. The nation, with 5% of the world's population and no superpower enemies, spends more money on the military than every other country combined. Separate and apart from that enduring expense is the projected cost of the Iraqi war, with experts acknowledging a \$1 trillion total in direct costs, and another \$1 trillion in indirect costs. While the removal of the Saddam Hussein regime and long-term democratization can have important benefits for children here and abroad, the Administration stated that the cost would be modest and largely recouped from Iraqi oil production. The \$2 trillion projected as its cost could have permanently endowed \$100 billion per year for child investment—with the provision of universal child health care, diminution of child poverty, smaller K–12 class sizes, and higher education capacity expansion as possible benefits.

With one hand, the federal government imposes long-term financial obligations on the young, while with the other it devotes unprecedented tax breaks and direct spending for interests with powerful lobbies (e.g., defense, agriculture)—or for wealthy, older adults.

The state has replicated the pattern of the federal jurisdiction. The state budget shortfall continued to preclude child investment through 2005, with some relief possible for the 2006–07 budget from unanticipated new state tax revenue. But the state erred back in 2000 and 2001, when it assumed that the “dot.com” bubble creating a surge of revenue in the late 1990s would continue, and it approved both higher budgets and tax reductions—which may continue automatically. When the collapse came in 2001, the state was spending more

**2005** continued the trends of the past decade—substantial federal and state disinvestment in children. At the federal level, a growing deferral of obligation to the next generation took the form of an evolving \$8.3 trillion budget deficit. Added to this total are three other nuclear mines in the paths of children: a Social Security shortfall predicted at \$10 trillion; a Medicare deficit projected at \$20 trillion; and prospective private pension failure that is insured against federally. These four obligations create an unprecedented intergenerational transfer from the young and future earners to the old and retiring members of the boomer generation. Regrettably, this transfer reverses the traditional American model of adult investment in our children.

than \$10 billion over then-reduced revenues. The problem was exacerbated by the irresponsible cancellation of almost all of the traditional Vehicle License Fee by Governor Schwarzenegger, putting the state behind by another \$4 billion. The large tax reductions created a structural deficit that inhibited any new investment in children, including education, child welfare, and other areas warranting attention.

The state used every gimmick it could to replicate the deferral of obligation on future taxpayers that has become the hallmark of the federal jurisdiction. It took all of the tobacco settlement monies (over \$20 billion over the next 18 years) to pay for bonds for 2001–04 fiscal year deficits. It gave away 18 years of revenue. It unlawfully borrowed against public pensions. It vio-

lated the minimum education funding guarantee of Proposition 98. It paid its bills one month late. It borrowed against every special fund it could find. All of this and more to avoid restoring the foregone tax revenue—a reduction over the past decade of over \$8 billion in new tax breaks and credits, mostly for wealthy and powerful interests. Now that the revenue is projected to flow more in 2006–07, the state appears ready to repeat its error of five years previous. This is particularly troubling as \$3.9 billion of the tax revenue boost came from only 1,310 tax returns and was likely due to one-time events. Many advocates are referring to the increased revenue as the “Google Bubble” and are linking the boost to Google’s IPO and quick rise in stock value.

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The state plans to use this financial windfall to approve huge infrastructure bonds imposing obligation on future taxpayers. It will spend up to the level of the new revenue and ignore the underlying and continuing budget shortfall that is the result of tax cuts. As soon as the economy tails off in 2007 or 2008, it will be faced with the underlying structural shortfall created by its improvident constriction of future revenue. Meanwhile, the state now has the lowest credit rating in the nation.

Part of the shortfall is easily addressed by simply providing property tax equity for the young. The current system of property taxation limits assessment increases to just above 1977 levels—so older homeown-

ers and businesses now pay about one-tenth the taxes of new home buyers and newly entering business ventures. The young pay ten or more times the taxes for the same governmental services simply because they are young or new. Remedying that injustice (perhaps with deferral of taxes until death of both spouses to provide equity for the elderly) could alone cure the state revenue structural shortfall. And so would simply assessing one-third of the federal tax savings now extant from Congressional solicitude to the wealthy. California's wealthy have done particularly well. They are earning record incomes and the gap between them and the bottom quartile of residents has never been greater. Why not recapture a portion—one-third, one-fourth, or even one-tenth-of the federal reductions at the state level? The state is closer to the

people and isn't capturing resources at that level consistent with federalist principles? Looking more specifically at the performance of the state in 2005 reveals the following overall state of affairs:

**Poverty.** California now has the third highest overall poverty rate in the nation (only behind New York and Washington, D.C.) if real estate prices are included in the calculation. And the state's children have a substantially higher poverty rate than do adults. It has grown from 2001. And the number below extreme poverty levels is of special concern, especially given the diminution in basic safety net support (sanctions and cut-offs from TANF aid) now afflicting a larger number of families.

**Nutrition.** Two contrasting dynamics demark child nutrition in California—growing hunger, especially in the Central Valley (ironically the food basket of the nation) and fast-food obesity by children with available food resources. The legislature is starting to deal with the latter through sugared drink withdrawal from schools and other measures. The former remains troublesome, as the school lunch programs meet only a part of the nutritional needs of some children, and food stamp help has decreased in relation to food costs.

**Health.** The state has available to it sufficient resources to easily assure universal health care for its children. Only 3% of its children are not privately covered and ineligible for a public program. The Healthy Families program, covering kids from the poverty line up to 250% of the line, involves a 2-1 federal match. Instead of just declaring all children covered presumptively and billing the tiny group (1% of the ineligible 3%) who incur medical costs of over \$500 in a year post treatment, the state stubbornly adheres to its system of eligibility, paperwork, enrollment-child by child. The cost of this system of filters is far greater than the cost incurred by the 3% who are ineligible even if their parents were not assessed contribution after treatment. But the state continues on its way of county by county and child by child enrollment, with incentives and differing qualifications through thirteen separate public programs. As a result, California leaves billions of federal money on the table that could cover children, and about 15% of its children—over one million kids—remain uncovered.

**Child Welfare.** California's foster care children are removed from their homes for their protection and are then subject to the state as parent. This parent moves kids repeatedly between placements, and only accomplishes adoptions in a minority of cases (usually where relatives are available or infants are involved). Adoptions could come from family foster care providers, where 80% of non-relative adoptions arise. But the numbers of these providers is limited, partly by the \$450 per month per child received—not enough to pay for the children and eliminating all but the upper middle class and wealthy from its provision. Meanwhile, the state pays group homes \$3,000 to \$5,000 per month per child. Then when a foster child turns 18, he or she is effectively dumped on the street, with only symbolic transition help. The outcomes from this system are not a source of pride, with disproportionate unemployment, pregnancy, lack of higher education, poverty and imprisonment. The state did nothing significant in 2005 about these

issues. The transition help programs enacted by the state require a 60% to 75% county contribution that is unfunded, and less than 10% of eligible youth have meaningful help available. The rates for family foster care providers have been frozen since 2001—accomplishing a 20% reduction to 2007.

**Special Needs.** The electorate has enacted Proposition 63, promising major expansion of mental health services, particularly for children. Will this funding be effectively applied to that end? In 2006, rules and implementation will provide the answer. Other sources of funding for these children have not increased, and new barriers to child representation in formulating special education plans (under the IDEA statute) increasingly undermine its efficacy—or bend it to help wealthier families where parents can afford counsel.

**K-12 Education.** As of 2005, the K-12 education budget of the state of California ranks in the bottom ten nationally, adjusted for inflation. In perhaps the most important measure—class size—the state ranks 49th. It appears that in 2006-07 additional monies will be invested in K-12 education. But this so-called “full funding” is misleading as its addition merely brings the state into compliance with the electorate's “education priority” initiative (Proposition 98). That constitutional provision was intended as a floor, but has now also become a ceiling. The result is that “full funding” is likely to leave California 49th in class size—or at least in the bottom five.

**Higher Education.** The state has not increased higher education capacity consonant with 18-year-old population growth from 1991. In other words, we are giving a lower percentage of our children a chance at meaningful employment in the international economy. The UC system is increasing in 2005 and 2006, but higher education is also focusing on priorities more predictable for involved academics—off-budget perks and bonuses, prestigious research investment, lower courseloads, et al. The addition of more teachers and courses and greater capacity so more students can enter—and can receive diplomas or accreditation—has not been sufficiently funded, especially at the Cal State and community college system.

## CAI's Work in 2005

CAI engaged in extensive budget advocacy during 2005, including the convening of the Children's Advocates' Roundtable in Sacramento for that purpose. The Roundtable, which CAI began in 1991 by bringing together 18 child-related groups to present a united voice to then Governor Wilson, now consists of



over 300 organizations. It has advocated for the generation of new revenue, while helping to moderate radical proposed cuts—particularly for impoverished children.

The major bill sponsored by CAI ran into difficulties in 2005: AB 1638 (Nava)—a modest attempt to accelerate adoptions of children in family foster care where the adoptive parents have had the child for more than six months—was killed due to opposition from the County Welfare Directors Association (CWDA). This group, which is often guided by the territoriality of social workers, viewed adoption acceleration as adding to workload (although adoptions subtract from workload, and also earn federal incentive rewards). The measure died in the suspense file of the Assembly Appropriations Committee without a public negative vote, based on CWDA's false representations that it would cost appreciable funds.

CAI supported AB 772 (Chan), which would have provided meaningful health coverage for more children. The measure passed but was vetoed by the Governor (notwithstanding his numerous public pronouncements in favor of child health coverage).

Some measures did win enactment. CAI supported AB 824 (Chu), to allow transitional help to foster youth up to age 24. This measure was enacted, but amendments weakened it enormously. It now applies only to those who had received less than two years of prior help, and most important, it was not funded—instead, it depends upon a heavy and unfunded county match. CAI supported SB 726 (Flores), which enacted “Adam's Law,” requiring

a social worker to visit a child in new placement within three months. Perhaps the most important measure in the child welfare area was CAI-supported AB 519 (Leno), the “legal orphan” measure that gives parents a chance to regain their children even after termination of rights, where the state has failed to obtain adoption or guardianship or other familial placement.

This record is not a cause for self-congratulations. The victories involved no cost and minor or narrow adjustments of law. Children did not fare well in the 2005 legislative session. CAI's annual *Children's Legislative Report Card* allowed children to again grade the adults who decide public policy affecting them. The

*Report Card* deliberately subtracted credit for major bills that died in the suspense files of the Senate and Assembly appropriations committees. Accordingly, no legislator could earn 100%. This adjustment is CAI's way of expressing the unacceptability of holding child-related measures in the suspense file—where they die without public vote. Since every legislator is theoretically capable of moving a measure on the floor, and since this systemic avoidance of accountability is institutional, every legislator in CAI's *Report Cards* will be assigned a “negative vote” for important child-related bills that are so terminated.

CAI spent 2005 preparing several possible lawsuits, discussed below. We also filed an *amicus curiae* brief in the



Elisa B. and related cases—with a successful outcome. And CAI presented comments regarding pending rule-making before state agencies relevant to children, and reported on those proceedings in our *Children's Regulatory Law Reporter*. We also wrote op-eds and assisted journalists with stories outlining child public policy problems. The lead article in the ABA's Winter 2005 Human Rights Magazine included a commentary written by yours truly on child poverty (see CAI's 2004 Annual Report, previewing that article).

### CAI's Plans for 2006

CAI has ambitious plans for 2006. These include continuation of the basic functions of 2005, but with the following augmentations:

- The California Wellness Foundation funded examination of foster care transition to adulthood, including a study, report, educational materials, and model legislation on the need to extend benefits and services during that period.

- A legislative program including seven major bills, mostly in the foster care area. CAI hopes to capitalize on the 2005 creation of an Assembly Select Committee on Foster Care chaired by Assemblywoman Karen Bass. Measures will hopefully (1) accelerate the timetable for adoption by existing foster care providers; (2) allow more liberal disclosure of foster care deaths and near-deaths; (3) end the current practice of abandoning the representation of foster children on appeal; (4) increase family foster care compensation and supply; (5) fully fund transitional help so the existing programs are not dead letters; (6) provide CalGrant scholarship help of more foster youth; and (7) assure Medi-Cal coverage to foster youth to age 21.

- Publication of a White Paper on public spending for children, including the federal disinvestment policies outlined briefly above, and an analysis of major state accounts, adjusted for inflation and population.

- Commentary on pending rulemaking, including participation in a major review of the licensing rules of the Department of Social Services (DSS), as well as proposed Department of Mental Health (DMH) regulations implementing the Mental Health Services Act. The DMH rules may be of special importance given their relevance to the almost \$1 billion in additional revenue for mental health made available by Proposition 63.

- Litigation, including possible challenges to the current pediatric specialty rates by Medi-Cal, which have resulted in extraordinary shortages of medical care for impoverished children. Other litigation activity

may include a challenge to the cut-off of appellate counsel for abused children during dependency court appeals, as well as *amicus* filings and assistance to our colleagues bringing class actions or precedent-setting cases.

- CAI will also continue to work on the national level, serving as counsel to the Board of Voices for America's Children and on Board of Directors for the National Association of Counsel for Children (NACC). Selected as NACC Secretary by the membership in late 2004, I am on its executive committee. I continue to serve on the Board of the Maternal and Child Health Access Foundation in Los Angeles, and on the Board of First Star. The last organization has selected CAI as one of three sites nationally for its Multidisciplinary Centers of Excellence project. CAI hopes to participate by initiating a masters program in child advocacy law, and in assisting in the multidisciplinary education of lawyers, social workers, educators, and health professions. CAI will be presenting at conferences, including the 2006 NACC conference in October in Lexington, Kentucky (on emancipating foster youth), and two presentations at the 2007 San Diego International Conference on Child and Family Maltreatment in San Diego.

We are grateful for the help of our friends, especially our Council for Children, our donors, and our grantors. We know that every gift to us, starting with the extraordinary generosity of Sol and Helen Price over the years, and longstanding friends such as Paul Peterson and Louise Horvitz, imposes on us a fiduciary obligation to perform consistent with their expectations.



Robert C. Fellmeth, Executive Director  
Children's Advocacy Institute  
Price Professor of Public Interest Law

## HISTORY AND PURPOSE



Robert C. Fellmeth with Sol and Helen Price

In 1989 Professor Robert C. Fellmeth founded the Children's Advocacy Institute as part of the Center for Public Interest Law (CPIL) at the University of San Diego (USD) School of Law. Staffed by experienced attorneys and advocates, and assisted by USD law students, CAI works to improve the status and well-being of children in our society by representing their interests and their right to a safe, healthy childhood.

CAI represents children—and only children—in the California Legislature, in the courts, before administrative agencies, and through public education programs. CAI educates policymakers about the needs of children—about their needs for economic security, adequate nutrition, health care, education, quality child care, and protection from abuse, neglect, and injury. CAI's aspiration is to ensure that children's interests are effectively represented whenever and wherever government makes policy and budget decisions that affect them.

CAI's legislative work has included the clarification of the state's duty to protect children in foster care, and declaration that the state assumes an obligation of the highest order to ensure the safety of children in foster care; the improvement of educational outcomes for foster children; the revision of the state's regulation of

child care facilities; the requirement that children wear helmets when riding bicycles; a series of laws to improve the state's collection of child support from absent parents; a law assuring counsel for abused children in need of legal representation; a swimming pool safety measure; the "Kid's Plate" custom license plate to fund children's programs; and others. CAI's litigation work has included intervention on behalf of children's groups to preserve \$355 million in state funding for preschool child care and development programs, and a writ action to compel the Department of Health Services to adopt mandatory safety standards for public playgrounds. CAI publishes the *California Children's Budget*, a 700-page analysis of past and proposed state spending on children's programs. Other CAI publications include the *Children's Regulatory Law Reporter*, presenting important child-related rulemaking proposals under consideration by state agencies and indicating their potential

impact on children, and the *Children's Legislative Report Card*, highlighting important legislative proposals that would improve the health and well-being of our children, and presenting our legislators' public votes on those measures. Since 1996, CAI's Information Clearinghouse on Children has worked to stimulate more extensive and accurate public discussion of children's issues.

In 1993, CAI created the Child Advocacy Clinic at the USD School of Law, to help provide child advocates to the legal profession. In the Clinic, law student interns practice law in dependency court, representing abused children under special certification, or engage in policy advocacy at the state level, drafting legislation, researching and writing reports, and assisting in litigation projects. Many graduates of this program have gone on to become professional child advocates.

CAI's academic program is funded by the University of San Diego and the first endowment established at the University of San Diego School of Law. In November 1990, San Diego philanthropists Sol and Helen Price contributed almost \$2 million to USD for the establishment of the Price Chair in Public Interest Law.



The first holder of the Price Chair is Professor Robert Fellmeth, who also serves as CAI's Executive Director. The chair endowment and USD funds combine to finance the academic programs of both CPIL and CAI. To finance advocacy activities, CAI professional staff raise additional funds through private foundation and government grants, test litigation in which CAI may be reimbursed its attorneys' fees, and tax-deductible contributions from individuals and organizations.

The Children's Advocacy Institute is advised by the Council for Children, a panel of distinguished professionals and community leaders who share a vision to improve the quality of life for children in California. CAI functions under the aegis of the University of San Diego, its Board of Trustees and management, and its School of Law.



# 2005 ACTIVITIES AND ACCOMPLISHMENTS



## ACADEMIC PROGRAM

CAI administers a unique, two-course academic program in child advocacy at the University of San Diego School of Law. The coursework and clinical experience combine to provide future lawyers with the knowledge and skills they need in order to represent children effectively in the courts, the Legislature, and before administrative agencies.

### Child Rights and Remedies

Students must complete Professor Robert Fellmeth's three-unit course, Child Rights and Remedies, as a prerequisite to participation in the Child Advocacy Clinic. Child Rights and Remedies surveys the broad array of child advocacy challenges: the constitutional rights of children, defending children accused of crimes, child abuse and dependency court proceedings, tort remedies and insurance law applicable to children, and child property rights and entitlements.

### Child Advocacy Clinic

The Child Advocacy Clinic offers law student interns two options: (1) in the dependency court component, they may work with an assigned attorney from the San Diego Office of the Public Defender, representing abused or neglected children in dependency court proceedings; or (2) in the policy project component, students engage in policy work with CAI professional staff involved in state agency rulemaking, legislation, test litigation, or similar advocacy. In addition to their field or policy work, Clinic interns attend a weekly seminar class.

During 2005, fourteen law students (Allison Branchaud, Nellie Correa, Liam Duffy, Kimberly Edmunds, Elizabeth Kingsbury, Ashley Meyer, Amanda Newman, Kimberlee O'Maley, Jessica Paulson, Karen Prosek, Kerrie Taylor, Robert Troncoso, Kristin Wirgler, and Melanie Delgado) participated in the policy sec-

tion. Each student worked on semester-long advocacy projects such as analyzing the child-related impact of statewide ballot measures; researching, analyzing, and summarizing recent child-related reports and studies; researching prospective litigation projects; researching and analyzing data supporting family foster care rate increases and other CAI legislative proposals; and researching child-related condition indicators for CAI's California Children's Budget.

During 2005, fifteen law students (Nellie Correa, Kriste Draper, Liam Duffy, Kimberly Edmunds, Brian Glassco, Jessica Godlin, Lester Hooker, Nichole Loble, Tobey Oliver, Tara Pangan, Jessica Paulson, Jason Petrek, Adrian Rowe, Johanna Schonfield, and Summer Stech) participated in the Child Advocacy Clinic's dependency section. In addition to working at the Public Defender's Office assisting attorneys in the representation of abused and neglected children in dependency court proceedings, these students attended weekly classroom sessions conducted by Professor Fellmeth.

Also during 2005, several students engaged in in-depth work with CAI as part of independent supervised research projects. These students were Kimberly Edmunds, Rachael Glasoe, Josh Munderloh, Kerrie Taylor, and Kristin Wirgler.

### James A. D'Angelo Outstanding Child Advocate Awards

On May 27, 2005, the USD School of Law held its Graduation Awards Ceremony. At that time, CAI had the pleasure of awarding the James A. D'Angelo Outstanding Child Advocate Award to Liam Duffy, Nichole Loble, Ameca Park, and Karen Prosek, four graduating law students, for their exceptional participation in CAI's Child Advocacy Clinic.

All four students participated in the policy and/or dependency section of the Child Advocacy Clinic, over multiple semesters. The work performed by Liam, Nichole, Ameca, and Karen was truly outstanding, and their contributions to the field of child advocacy have only just begun.

The award is a tribute to Jim D'Angelo (BA '79, JD '83), who passed away in 1996. To his own two children and all children with whom he came into contact,



Warren Hall, University of San Diego School of Law

Jim shared tremendous warmth, patience, love, concern, and laughter; he was the consummate child advocate. Funding for the award is made possible by donations from several USD School of Law alumni. CAI is grateful to Hal Rosner (JD '83) and all of Jim's classmates for their generous gifts.

### Joel and Denise Golden Merit Award in Child Advocacy

In 2004, graduating law student Jessica Heldman established the Joel and Denise Golden Merit Award in Child Advocacy, which is presented annually to University of San Diego School of Law students who use their legal skills during their law school years to impact the lives of children in foster care. This award seeks to encourage students to work on behalf of foster children, thus enabling the foster children of San Diego to benefit from the innovative efforts of young legal advocates. The award, which was presented for the first time in Spring 2005, is named in honor of Jessica's parents: Joel, a gifted and generous attorney who works to vindicate civil rights, and Denise, a tireless child advocate and exceptional adolescent therapist. Most importantly, both are role models of unconditional love and support, which every child deserves.

The 2005 recipients of the Joel and Denise Golden Merit Award in Child Advocacy were Johanna Schonfield and Kerrie Taylor, in recognition of their efforts to use their knowledge, skills, and compassion to better the lives of San Diego's foster children.





## ADVOCACY, RESEARCH, AND PUBLICATION

### Responding to the Governor's Agenda

After a transitional year in 2004, Governor Arnold Schwarzenegger began settling into his role as Governor in 2005. While his first year was spent building his Administrative team and touting a message of reform, during 2005 his political philosophy resulted in an articulated platform.

Until early 2005, much of the Governor's reform efforts—and the advocacy community's focus—had revolved around the budget process and the Governor's California Performance Review (CPR), a mechanism intended to analyze government performance and processes and recommend ways to achieve greater efficiencies. A team of reassigned state employees were sequestered to undertake the review in early 2004. This effort produced the California Performance Review report in August 2004; the phone book-sized report included various policy recommendations, as well as recommendations for organizational restructuring of state government.

A Governor-appointed Commission quickly undertook the task of reviewing the proposals with an eye toward implementation in 2005. The Commission's review included hearings with public input. Each hearing focused on discrete parts of the report, and the first of the hearings was scheduled two weeks after the report's release. Each witness was allowed just five

minutes—at most—to comment. All hearings were conducted, and all written comments were required to be submitted, within two months of the report's release. The incongruity of seeking expansive governmental reform and reorganization with such limited time for discussion and consideration undermined the effort's credibility.

Additionally, a review of the child-related proposals did little to assure advocates that children's best interests were being considered. For example, one recommendation (HHS 10) proposed the elimination of the \$50 child support income that families receiving income assistance may disregard in their grant determination. This change would have been a blow to children in low-income families. First, it would have resulted in a loss of an important economic support for them. Also, it could have undermined the psychological connection created when a parent knows that monetary support paid is going directly to his/her child—possibly impeding the parent's future participation in paying child support and in the life of the child. Other CPR recommendations were more child-friendly, but were replete with limitations that would hinder their implementation and/or efficacy. For example, HHS 08 recommended that a single person or organization within the state be appointed the state leader of foster care. September 1, 2004—just one month from the report's release—was the recommended deadline for this appointment. Though many advocates support vesting authority and accountability for child welfare programs in one place, the goal of finding the person with the requisite knowledge and experience to fill this position in a month appeared to be completely unrealistic.

Additionally, some recommendations seemed to contradict each other. HHS 08, discussed above, recommended that centralizing foster care under the direction of a statewide leader is necessary to help reform and improve the child welfare system. At the same time, HHS 02 recommended a funding shift that would have transferred all non-federal child welfare money to the counties for distribution.

Overall, the report was rife with contradictory policy and lacked important detail. One thing that did remain constant throughout the report was the claim that each recommendation would result in cost savings—a claim that was not always verifiable given the limited time provided for review or analysis, a problem which was exacerbated by the report's lack of specificity regarding implementation.

The Legislature approached the CPR with a certain level of disdain and incredulity. Though they lack the tenure afforded their predecessors, current legislators have enough collective experience at policy-making to know that accomplishing sweeping changes requires formidable effort. Additionally, legislators were becoming increasingly less awestruck with the

Governor and more willing to challenge him. They knew that most of the proposed changes would require legislative participation—and thus give them an opportunity to assert influence.

As 2004 closed, advocates wondered how the CPR implementation would play out. Some thought that it would fizzle under its own weight. Others thought it would provide the playbook for 2005. Governor Schwarzenegger resolved part of the question in his annual State of the State address presented in January 2005. The Governor outlined the specific areas in which he sought reform: the budget process, state pensions, the education system, the redistricting process, general government organization, and prescription drugs. Within these broad categories, he identified more focused proposals. And, though still quite ambitious, this provided more policy definition than was previously outlined by the Governor and incorporated some CPR policy.

In order to accomplish these reforms, the Governor convened a special session of the Legislature starting on January 6, 2005. An extraordinary legislative session runs concurrent to the regular legislative session, but bills in the special session can only address issues defined by the proclamation calling the session. Additionally, any of the rules governing deadlines are expedited or void, meaning that the process can be accelerated. And the Governor, knowing this, expected legislative action on his reforms to be completed within a couple months, allowing enough time to hold an election in early summer for any changes that required voter approval. He further noted that if the Legislature was unable to move his reforms, he would take his mission to the people. More specifically, he said, "If we here in this chamber don't work together to reform the government, the people will rise up and reform it themselves. And I will join them. And I will fight with them." This veiled threat underscored Schwarzenegger's willingness to use his sway with voters to circumvent the Legislature and get things accomplished. This statement foreshadowed much of what would happen in the following months.

Another tactic of the Governor that was problematic for many in the Democratically-controlled Legislature was his unsubtle jabs at organized labor, a loyal Democratic supporter. For example, one of the Governor's proposed reforms sought to change the state's pension system from a defined benefit to a defined contribution system—a drastic change to what is

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## Despite a flurry of early action, nothing became of the special session efforts. No bill introduced in the extraordinary session was sent to the Governor.

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regarded as hallowed ground for the large union representing state employees.

A second dig at the unions was represented through the Governor's education reform proposals. Of the many reform proposals in his package, the Governor chose to focus on changing teacher tenure in his State of the State speech. Pundits quickly agreed that this was a shot across the bow to the formidable and politically powerful teachers union. The Governor did not hesitate to pull children into that ugly fray, saying, "My colleagues, this is going to be a big political fight. This is a battle of the special interests versus the children's interests. Which will you choose?"

Despite a flurry of early action, nothing became of the special session efforts. No bill introduced in the extraordinary session was sent to the Governor.

Concurrent with the special session, the Governor was using other legislative tools to attempt to move parts of the CPR and his reform agenda. The first was the budget, discussed in detail below. The second was an obscure practice called the Governor's Reorganization Plan (GRP), a tool available to Governors for the sole purpose of making shifts in the organization of executive branch offices. No policy can be changed in a GRP. The process differs significantly from legislation. After a GRP is introduced, the Little Hoover Commission, charged with government oversight responsibilities, has 60 days to review it and submit a report on the plan to the Legislature. The Governor can submit the plan directly to the Legislature 30 days following submission to the Little Hoover Commission. If the Legislature does not vote down the plan within 60 days of its receipt, the reorganization becomes operational by law. Unlike bills, there is no opportunity for the Legislature to make amendments to a GRP.

The Governor submitted four separate GRPs to the Legislature—one on consolidating and/or eliminating various boards and commissions; one restructuring the youth and adult correctional system; one proposing to establish the Department of Technology Services; and one on energy agency consolidation. He ultimately withdrew the GRP related to boards and commissions. The Legislature accepted the GRPs to reorganize the Youth and Adult Correctional Agency and establish the Department of Technology Services, but rejected the GRP on energy agency consolidation. Although none of the GRPs dealt directly with children's issues, they

forced policymakers to divert attention from regular legislative business, sapping the already low interest in tackling hard issues that impact children.

As described below, the budget was the other tool used by the Governor in his efforts to implement some of his reform proposals. In fact, it was in his budget that advocates caught the first glimpse of the Governor's budget reform proposal, which he titled "Live Within Our Means—The Budget Control Proposal." The Governor touted his reform and his budget by claiming that the state did not face a revenue problem, instead chiding, "California has a spending problem." He cited a \$9.1 billion shortfall between spending and revenue. Of course, he studiously avoided mentioning his contribution to this situation: his first action as Governor was to rescind the Vehicle License Fee, resulting in a loss of \$4.5 billion—half of the noted shortfall.

While legislative deliberations were being held inside the Capitol, there was an ongoing "outside" game of political chicken being played. The unions rallied early in the year against the perceived threat from the Governor's proposals. They took to the airwaves and the streets with vigor protesting the Governor and his policies. The Legislature was more circumspect, but it continued to balk at being party to the Governor's reform efforts. Besides the reorganization of California's correctional agencies and the technology department, the Legislature had given the Governor little to show for his efforts.

Various interest groups began drafting language to take to the ballot. There were multiple versions of the Governor's pet issues, each with a slightly different approach, being stewarded through the initiative process. Because this process does not allow for amendment, this strategy allowed proponents to choose the most viable of the many options to ultimately seek placement on the ballot. It also provided a constant reminder of the Governor's threat to take his reforms to the electorate if the Legislature did not act. It seemed more likely that there would be a special election with each passing day.

On June 13, 2005, Governor Schwarzenegger did in fact call the special election, scheduled for November 8, 2005. The ballot included eight initiatives. Only one, which dealt with requirements for parental notification prior to a teenager to receive an abortion, was unrelated to the tension at the Capitol.





The rest were either placed by the Governor's supporters or as a response against the Governor's platform. They dealt with teacher tenure, the use of union dues, prescription drug costs, the state budgeting process, and the energy market. Though the pre-special election proclamation political jockeying had definitely influenced the year's legislative activity, the landscape changed significantly when the election was actually called. The Democrats had serious concern about both the initiative limiting the use of union dues in political campaigns and about the initiative dealing with the budget process. The concern around the former was largely political, as most Democrats rely heavily on unions for campaign fundraising, and the one-sided campaign funding reform effort, as contained in Proposition 75, would disproportionately impact funding upon which the Democrats rely heavily. The latter, the final iteration of the Governor's "Live Within our Means" reform, was a concern because it would significantly shift budgetary power to the Governor by estab-

lishing a process whereby the Governor could make budget decisions without legislative oversight.

Additionally, it would set up a spending equation that would severely constrain the State's ability to have a flexible budget process. The Democrat's concerns were echoed with vigor by advocates who estimated that the measure would automatically ratchet down spending without regard to need or policy implications.

The special election itself continued to pique concerns in the advocate community that the unforgiving and rigid initiative process was being used more often to deal with tough policy issues, issues that are often highly complex with widespread impact. The initiative process is not driven by deliberate consideration. Instead, campaign spending drives the process, which excludes many public interest efforts. Though this charge can also be levied at the legislative process, legislators and the Governor have a better understanding across the breadth of issues facing the state, and have a sense of the interconnectedness of policy areas.

## California voters rejected all eight measures on the November 2005 special election ballot.



the Governor's backpedaling on his agreement with the education community the previous year. Under that agreement, education would take a \$2 billion cut for one year, but the money would be restored to the education funding base, which determines future education expenditures. However, in his 2005–06 budget proposal, the Governor continued funding schools at the previous year's level. This, coupled with the Governor's highly contentious education reform proposals (discussed below), drove a quick escalation of budget and political rhetoric. His breach of the agreement also pushed California toward the bottom—perilously close to 50th—in national charting of per pupil spending.

Schwarzenegger also proposed cutting the rates paid to child care providers, raising the fees in both the University of California and California State University systems, instituting fees in order for poor families to receive Medi-Cal, and cutting grants to families receiving CalWORKs. Individually, each budget cut proposal was onerous. Regrettably, some families would have been hit with multiple cuts. For example, a family on CalWORKs might face both a cut to their grant for basic necessities while their child care provider also received a funding cut,

which could have impacted the provider's ability to continue providing service and the family's child care availability. The cumulative impact of the cuts would have been devastating.

There were some small bright spots in the Governor's proposed budget, such as proposals to fund certified application assistants who help families apply for health coverage for children, and the expansion of the newborn medical screening program. He also proposed to increase community college funding. However, in light of the expansiveness of the other proposals and the significant potential to negatively impact children's lives, these were small consolation.

Though uneven, the playing field at the statehouse is still a more appropriate venue for most policy debates.

California voters rejected all eight measures on the November 2005 special election ballot. However, some of those measures—including some of the Governor's more controversial "reform" proposals are expected to resurface on future ballots.

### Budget Advocacy

**California's 2005–06 Budget.** Governor Schwarzenegger's proposed budget for 2005–06 included significant cuts to children's programs. One of the biggest and most hotly debated proposals included

In total, the Governor proposed to continue underfunding an education system that was already at the bottom of national investment comparisons, make it more difficult for low-income families to get child care and health care, cut the income assistance to families who already faced a significant shortfall between grants and the cost of living, and make it more difficult for young students to afford higher education.

Equally disheartening was a well-defined strategy to pit advocates in the health and human service areas against those in education. Health and human service advocates were told that the Governor had bestowed a favor upon them by reneging on the education agreement; if the Governor had honored his agreement to education, cuts to health and human services programs would have occurred. Instead, cuts to important health

was maintained at nearly the same low level as the previous year. Families receiving cash assistance were not granted a statutorily-required cost-of-living adjustment (COLA). A family in a high-cost county now receives only \$29 more than a family similarly situated in 1989–90. This obviously impacts buying power. The grant level is \$149 less than the fair market value for a one-bedroom house in California. It is children who suffer when daily needs cannot be met by assistance payments.

The Governor cut new money allocated by the Legislature to the Community Care Licensing (CCL) Division of the Department of Social Services, the office that oversees the health and safety requirements for child care and foster care providers. CCL serves a basic health and safety function, but has been plagued by cuts and understaffing in recent years. Children bear the

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and human services programs were limited. Underlying this tactic was a desire to destabilize support around Proposition 98, the proposition establishing the funding formula for education.

The advocates held firm in resisting this ploy. Children's advocates were especially incensed by the tactic, responding that cuts to education impact the same vulnerable youth as cuts to health and human service programs. Children cannot be portioned into discrete policy areas—and neither can children's advocates.

The Legislature responded swiftly in rejecting most of the Governor's budget proposals. However, it continued to be hobbled by the ardent aversion of the Governor and Republican leadership to even consider new revenue options. Thankfully, California received a revenue windfall of \$3.9 billion from a tax amnesty program. That took a significant amount of pressure off the budget deliberations and provided the Legislature some leeway in making budget decisions.

In the end, many of the cuts were staved off, though problematic cuts remained. Education funding

brunt of the hardship when inadequate funding results in dangerous care situations; not surprisingly, the number of problems arising in CCL-monitored facilities has been rising with the continued underfunding.

#### Federal and State Investment in Children.

During 2005, CAI staff also commenced work on a detailed white paper addressing federal and state investment in California's children. The report, which will be released in 2006, will make the following points:

■ Over the last six years, the federal government has transformed a \$5.6 trillion projected ten-year surplus into a \$8.3 trillion deficit—a turnaround of \$50,000 per American. This total excludes additional burdens from the war in Iraq (such as veterans' benefits for the 15,000 wounded) and Hurricanes Katrina/Rita rebuilding. Unlike previous deficits that provide infrastructure benefits to the children who are burdened by future payments, this one substantially finances consumables by older adults.





■ The 2001 and 2003 tax reductions creating much of the shift to deficit also impact annual budget resources year to year. The forbearance total amounts to an average of \$37.7 billion in annual California adult tax reductions through 2013, increasing to \$56.6 billion per annum from 2014–24. None of this sum was recovered by California for state-level investment in children.

■ Federal defense spending now exceeds the military budgets of all other nations of the world—combined. Domestic spending as a percentage of gross domestic product (GDP) has reached an historical low in the modern era of 2.6%. Within federal domestic spending, children benefit from two new accounts: State Child Health Insurance (SCHIP) and the No Child Left Behind education program. The former is now being retracted—with 6 million children still uncovered; the latter, promised at a modest \$15 billion per year, is funded at \$6 billion. Such spending is in stark contrast to huge sums being expended in pension subsidies and prescription drug benefits for the elderly—a population with less than one-half the poverty rate of children.

■ The Congress has changed safety net protection from entitlement spending for children to “capped grants.” Budget trends to 2006 indicate reductions in most child-related accounts. Recent budget plans include expansion of capped grant status to foster care, Medicaid, and other traditional child spending accounts implying denial of assistance to otherwise qualified children.

■ The Congress is now considering additional spending cuts of from \$34 to \$50 billion over the next five years—most of it focusing on child-related accounts, including Food Stamps, TANF, Medicaid, and the termination of 28 education programs.

■ Apart from general fund retraction, the Congress finances Social Security and Medicare for the elderly through regressive payroll tax deductions—accruing a combined debt to be borne by future taxpayers of \$30 trillion—imposing a staggering \$100,000 obligation on each child in the next generation.

■ The tax and spending policies of the federal government are joined by inheritance tax abolition disfavoring children who lack parents with large estates, and reducing resources for child investment. This class-based discrimination joins with a tax design increasingly favoring wealthy and older taxpayers. On the private side, the two major American promises to her children are in jeopardy: (a) home prices are foreclosing ownership for children unable to inherit real property; and (b) higher education opportunity is threatened by a decline in higher education capacity per child, and by tuition and cost of living increases substantially above inflationary levels.

■ At the state level, the Governor has stated that the major budget problem is “overspending.” While the Legislature overspent irresponsibly in 2000–01, that increase moderated by 2003. Moreover, the state general fund suffers from what is now accumulated tax breaks totaling \$30 billion per year, and from Proposition 13 cross-subsidy for older adults and corporations—amounting to over \$20 billion annually. Spending for children as a percentage of adult personal income at 1978 levels would yield \$13 billion more than enacted in 2005.

■ Using a variety of gimmicks, the state has replicated the federal pattern of deferral of obligation to future taxpayers, floating billions of dollars of bonds (with repayment and interest obligations over twenty years) to add to the general fund over two or three immediate years.

■ Almost all child-related state spending on children occurs in safety net funding, medical coverage, and education. The total child safety net (TANF and Food Stamps) has declined from close to the poverty line to below 68% of the line—and with further reductions planned. Medical coverage is not provided to almost one million California children, despite qualification of most for a 2- to-1 federal match to provide it—thus leav-

ing federal money on the table. K-12 California classes are now the second largest in the nation, and cost-adjusted education spending per child places California among the bottom five states. Higher education capacity per 18-year-old (from community college to university) is lower than in 1991 and will decrease further in 2005-06. The Governor has not identified which of the above represents "overspending."

■ Prior California budget shortfalls in the Republican Reagan and Wilson gubernatorial administrations yielded a balanced response to make up the deficit—half by spending cuts and half by enhanced revenue. Both approved tax increases of \$4 billion in current dollars. The Schwarzenegger Administration confronted a \$7 billion shortfall, but instead of halving it with new revenue, the Governor cut the Vehicle License Fee (set for twenty years at 2% of car value) by \$4.6 billion, creating an \$11.6 billion problem. He then announced a categorical prohibition on new revenues—while increasing by 30%-100% tuition on youth, co-pays for child health, and fees for child care and foster care providers.

■ The budget rules in California are stacked against child investment and democratic values. The Constitution gives the Governor item-veto power and includes an overall spending limit and property tax limits. Unlike 48 other states, any tax measure (including elimination of any special tax break) and all budgetary spending requires a two-thirds legislative vote. A minority party can (and has) voted to bind its members in caucus votes. Hence, less than one-fifth of the Legislature (e.g., eight senators binding fifteen in caucus) frustrates majority priorities in child investment. Further, politician-determined redistricting has created unbalanced stacked legislative districts, concentrating party members in each and allowing a small group of anti-state ideologues to preclude child investment without reference to precedent or consequences. The future of children—and the commitment to match the personal income percentage of 1978—commends reform, including equitable property taxation between generations, and majority rule in taxation and spending decisions.



## Legislative Activity

**Overview of 2005 Legislative Year.** The desire to be well-positioned for the special election drove much of legislative activity during the last few months. It helped expedite getting a budget completed. The Democratic majority did not want to appear obstructionist and play into the Governor's portrayal of legislators as do-nothings. That, combined with the shift in focus to Governor-driven reform efforts and the ongoing budget constraints, contributed to a fairly lackluster legislative year. There was little groundbreaking legislation to make it through the process.

Regrettably, this is not a new phenomenon for legislation of importance to children. So much reform related to children involves substantial cost, such as where measures seek to meaningfully expand eligibility for programs that contribute to children's health and

who in his 2003 campaign stated that "[w]e have to make sure that every child in California is insured," vetoed the bill.

Two legislators were successful in passing bills on children's health that were the culmination of many years of work. Senator Martha Escutia was successful in completing her vision for improving children's nutritional programs at school. Her two bills, SB 12 and SB 965, ensured the implementation of nutritional standards for food served at school and expanded the prohibition of the sale of soda on school campuses to high schools, respectively. On Senator Escutia's first attempt to regulate soda sales at schools, she was almost laughed out of the Capitol. But as the obesity epidemic became more evident and doctors began diagnosing significant numbers of children with a form of diabetes previously only diagnosed in adults, concern about nutrition and

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**AB 772 was widely hailed by advocates across the state as an important opportunity to ensure coverage for all children in California. The Governor, who in his 2003 campaign stated that "[w]e have to make sure that every child in California is insured," vetoed the bill.**

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well-being. The ongoing budget deficit makes it difficult to pursue this type of legislation. As a result, legislators are often hesitant to take on bills with significant state cost. In the instances when they do, the Appropriations Committee often becomes a convenient place to end a bill's legislative life. Bills with a fiscal impact of at least \$150,000 receive additional scrutiny on the Appropriations Suspense file, where the bill can be held without a vote. This creates a well-utilized opportunity to kill—with impunity and a lack of accountability—any bills that are too expensive or politically inexpedient.

There were a few child-related legislative highlights. The Legislature passed Assembly Member Wilma Chan's bill, AB 772, to create the Healthy Kids Program, an umbrella health coverage program that would have included both Healthy Families and Medi-Cal. Healthy Kids would have also sought to expand coverage to those children who are uninsured but do not meet the eligibility requirements for the two existing programs. The bill was widely hailed by advocates across the state as an important opportunity to ensure coverage for all children in California. The Governor,

soda intake significantly increased. This year, Governor Schwarzenegger joined Senator Escutia in sponsoring the legislation. Both bills were signed into law.

Assembly Member Juan Vargas also had a significant victory passing a bill, AB 121, which will help protect children from having access to candies with high levels of lead. Assembly Member Vargas first introduced a bill dealing with this issue in 2003. Newspaper stories helped drive the issue by exposing the high lead levels in some candies imported from Mexico. However, there was no mechanism in place to regulate these candies. In previous years, candy manufacturers and Mexican commerce organizations created insurmountable opposition; this year, the Legislature passed a bill and the Governor signed it into law.

Unfortunately, as is usually the case, children and their needs were mainly an afterthought in the legislative year. Despite the growing need to address child poverty and hunger, the thousands of youth that languish in the child welfare system, and the sad state of education, children continue to be taken into account only when politically expedient. In January, the



Governor asked the Legislature whether they would choose children or special interests in the policy battles ahead. Neither the Governor nor the Legislature chose children this year. Advocates and citizens must continue to ask that question, and to agitate for a real showing of support for kids from elected officials. And with the growing emphasis on the initiative process, we must also hold ourselves accountable for making decisions on the ballot initiatives with children's interests at heart.

#### CAI Legislative Priorities, 2005–06.

During 2005, CAI worked extensively on several legislative measures relating to child welfare, health, and poverty, including the following:

■ **AB 1638 (Nava).** This CAI-sponsored bill would have expedited the adoption of children in foster care who have had the rights of their natural parents terminated. Under this bill, if a foster parent, who has already had custody of a child for more than one year, seeks to adopt that child and neither the child nor the county child welfare department objects, the court must grant the petition within 90 days of either the exhaustion of the terminated parents' appellate rights or the statement of adoption intent, whichever is later. The bill would have provided an exception to this timeline when the department can show cause why the petition approval cannot be granted within the required timeframe. This bill would have helped minimize the amount of time that such children are effectively orphaned by the judicial system and help shorten the time before they are adopted. Although the bill easily passed out of the Assembly Judiciary Committee, it was held in the Assembly Appropriations Committee's suspense file, where it was killed without a public vote.

■ **AB 519 (Leno).** Existing law specifies that any court order permanently terminating parental rights is conclusive and binding on the child, subject to specified notice provisions, and gives the juvenile court no power to set aside, change or modify that order, except that the order may be appealed. This CAI-supported bill creates an exception to this provision to permit a child who has not been adopted after the passage of at least three years from termination of parental rights and for whom the court has determined that adoption is no longer the

permanent plan, or is no longer likely to be adopted, as specified, to petition the juvenile court for reinstatement of parental rights, subject to specified procedures. This bill was passed by the Legislature and signed by the Governor (Chapter 634, Statutes of 2005).

■ **AB 772 (Chan)** would have created the California Healthy Kids Insurance Program, consisting of the portion of the Medi-Cal program that provides health care coverage to children and the Healthy Families Program, and would have allowed children with family incomes up to 300% of the federal poverty level to qualify and otherwise liberalize enrollment requirements. This bill was passed by the Legislature but vetoed by Governor Schwarzenegger.

■ **AB 824 (Chu)** is a CAI-supported bill that raises the age limit for receipt of transitional housing placement program services by an emancipated foster youth to 24 years. This measure was passed by the Legislature and signed by the Governor (Chapter 636, Statutes of 2005).





■ **SB 726 (Florez)** enacts “Adam’s Law,” which authorizes a court to order that a social worker conduct a home visit within three months of placing a child with a noncustodial parent and to file a report with the court after conducting that home visit, as specified. The measure also requires that the social worker provide a “Caregiver Information Form” to a caregiver of a child for purposes of providing information regarding a noncustodial parent who is seeking placement or custody of the child and to ensure that, if the foster parent completes the form, the completed form is returned to the court for review and consideration before the child is placed with the noncustodial parent. This measure was passed by the Legislature and signed by the Governor (Chapter 632, Statutes of 2005).

Also during 2005, CAI began laying the groundwork for its 2006 legislative package, which will include the following elements:

■ CAI will seek legislation to provide that foster children—a group vulnerable to medical problems—receive annual physical examinations as defined, as recommended by the American Academy of Pediatrics; to require dental examinations twice yearly, with dental sealants and orthodontic services provided as required; and to provide that children who leave foster care, whether by guardian placement (usually with relatives) or by emancipation at age 18, are fully covered by Medi-Cal while in foster care and thereafter until the age of 21.

■ CAI will seek legislation to address several procedural problems currently afflicting juvenile dependency courts, such as allowing juvenile court to expedite the implementation of permanent placement plans; allowing the juvenile court to exercise proper judicial authority while a child remains in foster care and before final adoption; ensuring that all children be provided counsel on appeal in dependency cases; allowing children over the age of 12 to be presumed able to invoke the privilege available to them to keep confidential communications with their psychotherapists or clergy—subject to a judicial assignment of that invocation to their attorney if the court finds they lack requisite maturity; and mandating that records of foster child fatalities or near-fatalities be accessible to the public, as required by federal law.

■ CAI will seek legislation to increase family foster care supply and compensation, including providing a premium to families who get specialized training to care for special needs children, and who receive them into their homes.

**Children’s Legislative Report Card.** In November 2005, CAI published the 2005 edition of its *Children’s Legislative Report Card*, an annual document which analyzes California legislators’ votes on child-friendly bills. The 2005 issue included a narrative description of the major child-related issues considered by the

Legislature in 2005, as well as detailed descriptions of 20 child-friendly bills in the areas of poverty/economic security, nutrition, health and safety, child care, education, and child protection.

The *Report Card* included a chart documenting each legislator's floor votes on these bills. Through their votes on important bills, legislators can make a real difference in the lives of California's children. All too often in the political arena, legislators "take a walk" rather than stand up for children—and children suffer as a result. The *Report Card* provides a record of children's policy progress in the legislative session, and the votes that made it happen.

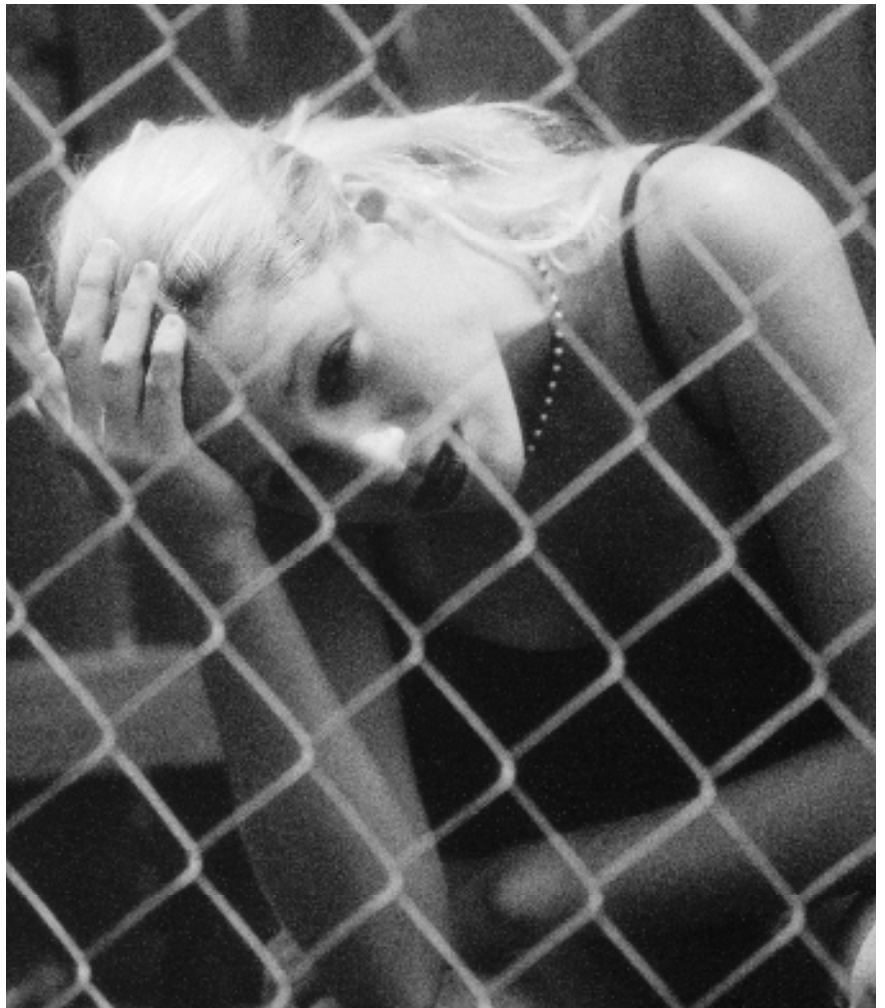
Of the 20 featured bills, the document indicates each legislator's floor votes on 18 bills that moved through policy and fiscal committees and achieved votes on both the Assembly and Senate floors. The 2005 *Report Card* also reflects legislators' actions—or inactions—on two additional bills, one of which was passed by the Assembly but died without public vote in the Suspense File of the Senate Appropriations Committee, and one of which was passed by the Senate, but died without public vote in the Suspense File of the Assembly Appropriations Committee. For those measures, the *Report Card* reflects the floor vote cast by legislators in the house of origin, and a "no" vote for legislators in the other house—reflecting the fact that each legislator in that house allowed the bill to die in the Suspense File without a vote. Thus, the 2005 *Report Card* reflects each legislator's actions on 20 total measures, with the top score possible being 95%.

For the past several years, child advocates have been frustrated by legislators' failure to take affirmative action to move child-friendly measures through the legislative process—or at least for failing to demand a public vote to determine the fate of those measures. For that reason, CAI has decided to hold legislators accountable for at least some of that inaction.

The *Report Card* serves as a tool to educate and inform Californians of their elected leaders' progress toward improving the status of and outcomes for California's children. The current and past issues are available on CAI's website at [www.caichildlaw.org](http://www.caichildlaw.org).

**Legislator of the Year Awards.** In 2005, CAI presented its Legislator of the Year and Children First Awards to Assemblymember John Laird (D–Santa Cruz) and Senator Denise Moreno Ducheny (D–San Diego), respectively.

CAI awards Legislator of the Year to a legislator who has consistently fought for children's well-being and has been an exemplary leader on behalf of California's children. A legislator's score on CAI's annual *Children's Legislative Report Card*, the content of his/her bill package, and other acts of support outside the voting process are contributing factors in the decision. Assemblymember Laird earned this honor through his hard work on the 2005–06 California budget to ensure that children did not bear the brunt of ongoing financial hardships; his successful effort to ensure that children receive school meals so they can fully participate in school without being hungry; and his consistent support of child-friendly legislation.







The Children First Award recognizes a legislator for who went against the status quo or resists political expediency to support children's issues. Senator Ducheny earned this award through her ongoing, vocal support for CalWORKs families, and in particular the children in them, during the 2005–06 budget process; her willingness to speak out against budget proposals that would cause direct harm to California children; and her empathy for often overlooked families.

For the first year, CAI also presented a Legislative Staff Member of the Year award. This honor was presented to Gail Gronnert, who works with Assembly Speaker Fabian Nunez, for her consistent work behind the scenes to improve the lives of children in California; her honest advice and counsel to advocates working toward a similar goal; and her commitment to keeping children's issues an important piece of the Assembly's agenda.

### Advocacy in the Courts

**Overview.** On occasion, when other forms of advocacy fail to bring about the desired result for children, advocates must turn to the courts for relief.

Having the ability to engage that forum on behalf of children is an invaluable resource to CAI. Unlike a client-driven civil practice, litigation at CAI often comes through untapped channels: we hear of problems that occur across counties and local areas, or we hear similar complaints from children or youth being serviced through the public system. Due to the nature of the litigation CAI seeks to be involved in, our staff makes frequent contact with advocates and individuals from public agencies, non-profit groups, and advocacy groups, as well as private attorneys in order to stay abreast of changes in current law and policy, as well as to identify and pursue projects when issues or opportunities arise. With numerous contacts at the local, state, and federal level, CAI can better navigate the issues children face and determine where best to utilize its expertise. The investigatory phase of litigation, including requesting public records, communicating with agency and administrative representatives, locating plaintiffs throughout the state, and conducting legal research, often takes several months to conduct for each matter listed below. The following is an update of litigation-related work conducted by CAI during 2005.

CAI believes that the appointment of counsel in appellate proceedings should be mandatory for all foster children, unless the court specifically finds that the child would not benefit from the appointment. On appeal, as at trial, the child's protection, safety and physical and emotional well-being are at stake, and those considerations often cannot or are not adequately represented by attorneys for either the county or the parents, who may have conflicting interests.

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**Foster Child Fatality Data Litigation.** In 2003, CAI sponsored AB 1151 and worked diligently to ensure the bill was passed and signed by the governor. This bill, *inter alia*, added Section 6252.6 to the Government Code which reads:

Notwithstanding paragraph (2) subdivision (a) of Section 827 of the Welfare and Institutions Code, after the death of a foster child who is a minor, the name, date of birth, and date of death of the child shall be subject to disclosure by the county child welfare agency pursuant to this chapter.

The purpose of this provision is to counteract bureaucratic reluctance to reveal the fact that child deaths occur while in foster care, to inform the public about these incidents, and to encourage greater scrutiny of the foster care system.

Pursuant to Government Code Section 6252.6, CAI has since made three Public Records Act requests of each county in California (each covering different time periods), requesting the "tombstone information" permitted by AB 1151. CAI is compiling this information in order to track the number of deaths in each county and, via the information gathering, be cognizant of any abnormalities that occur within counties or the state.

CAI received great response to our Public Records Act requests from most counties. However, some counties have refused to abide with the clear language of section 6252.6. CAI will soon commence litigation to enforce compliance.

**CAPTA Compliance.** CAI is also looking into litigation to compel the state to comply with the federal Child Abuse Protection and Treatment Act (CAPTA) (42 U.S.C. § 5101 et seq.). California receives funding from the federal government to help support its foster care program; the eligibility for this funding is based, in part, on California's compliance with CAPTA's provisions. Among other things, CAPTA requires each state to have in effect and enforce a law or program, relating to child abuse and neglect, that includes:

provisions which allow for public disclosure of the findings or information about the case of child

abuse or neglect which has resulted in a child fatality or near fatality.

Like the AB 1151 provisions discussed above, the CAPTA disclosure requirements are an exception to general confidentiality laws, and are intended to ensure that the public has access to information about foster child deaths and near-deaths, in order to prevent tragedies from recurring.

CAI believes that California is out of compliance with this CAPTA requirement, and is determining the most expedient course of action—which could likely be litigation to enforce the federal provisions.

**Appellate Attorney Representation for Foster Children.** In California, most foster children are not provided attorney representation when their cases (or portions thereof) are appealed to the Court of Appeal, unless children are in fact the appellants. One or two counties recognize the importance of counsel at all stages of the judicial process, and provide counsel to foster children as a matter of course. However, the vast majority of California counties fail to provide counsel to foster children at the appellate stage (with the lone exception noted above).

CAI believes that the appointment of counsel in appellate proceedings should be mandatory for all foster children, unless the court specifically finds that the child would not benefit from the appointment. On appeal, as at trial, the child's protection, safety and physical and emotional well-being are at stake, and those considerations often cannot or are not adequately represented by attorneys for either the county or the parents, who may have conflicting interests.

CAI staff spent a significant amount of time during 2005 building arguments in support of this contention. We have identified various approaches to take when looking at the right of children to appellate counsel in dependency proceedings, and are currently reviewing our options in that regard.

**Elisa B. v. Superior Court and Consolidated Matters.** Since July 2004, CAI has been involved as *amicus curiae* in support of Real Parties in Interest in the

matter of *Elisa B. v. Superior Court*, a case involving the rights of children to support from both parents, even in same-sex relationships. Specifically, El Dorado County attempted to collect child support payments from the bread-winning partner (Elisa B.) in a same-sex relationship, after the couple had separated. The trial court held that Elisa B. qualified as a “de facto legal parent” and should be financially responsible for the needs of the children because she helped create them and did in fact parent them for a significant period of time. On appeal, the Third District Court of Appeal reversed this decision, specifically holding that children born to unmarried same-sex parents are not entitled to the same protections that apply to children born to unmarried heterosexual parents.

The California Supreme Court granted review, and consolidated *Elisa B.* with two other cases (*K.M. v. E.G.* and *Kristine H.*) involving similar questions regarding the legal status (child support and visitation/custody issues) of children born to same-sex couples. CAI received permission from the California Supreme Court to participate in the proceeding as *amicus curiae*, and submitted a brief on behalf of children in all three cases. In its brief, CAI argued that all three appellate decisions, if affirmed, will leave hundreds of California children without a clear legal relationship to adults they recognize as a parent and rely on for their basic needs. CAI urged the Court to consider the case from a child’s perspective: an adult—no matter what race, age, or gender—who willingly and knowingly participates in the decision to bring a child into this world and then takes on a parental role to that child, should be held accountable for the attendant duties, including financial responsibilities, he/she owes to that child.

In late August 2005, the California Supreme Court issued its opinion. In each of the three consolidated cases, the Court’s ruling supported CAI’s position, as follows:

■ In *Elisa B.*, the court concluded that: “a woman who agreed to raise children with her lesbian partner, supported her partner’s artificial insemination using an anonymous donor, and received the resulting twin children into her home and held them out as her own, is the children’s parent under the Uniform Parentage Act and has an obligation to support them.”

■ In *K.M.*, the court concluded that “Family Code section 7613, subdivision (b), which provides that a man is not a father if he provides semen to a physician to

inseminate a woman who is not his wife, does not apply when a woman provides her ova to impregnate her partner in a lesbian relationship in order to produce children who will be raised in their joint home. Accordingly, when partners in a lesbian relationship decide to produce children in this manner, both the woman who provides her ova and her partner who bears the children are the children’s parents.”

■ And in *Kristine H.*, the court concluded that “Given that the court had subject matter jurisdiction to determine the parentage of the unborn child, and that Kristine invoked that jurisdiction, stipulated to the issuance of a judgment, and enjoyed the benefits of that judgment for nearly two years, it would be unfair both to Lisa and the child to permit Kristine to challenge the validity of that judgment. To permit her to attack the validity of the judgment she sought and to which she stipulated would “trifle with the courts.” ... It would also contravene the public policy favoring that a child has two parents rather than one.... Kristine, therefore, is estopped from challenging the validity of the stipulated judgment.”

### Ensuring Children’s Timely Access to Health Care.

CAI continues to monitor the status of Medi-Cal provider rate reimbursement decreases, as they have a direct effect on poor children’s ability to access appropriate health care services in a timely fashion. A future CAI project might involve litigation to compel the increase of these rates to be more in line with Medicare rates of reimbursement, in order to ensure children have the same opportunity to access health care in a timely manner as is provided for other populations. In upcoming research, CAI will seek to determine what efforts have been made on a federal level to enforce compliance with 42 U.S.C.S. § 1396; how much it costs for pediatricians to practice; how access to primary care affects long-term medical issues and costs; differing prices for care based on specialty, correlated with varying rates depending on payor (uninsured, third-party, Medi-Cal, and Medicare); children’s access to specialty care, specifically, the access for children with private insurance vs. the access for children covered by Medi-Cal; and the difference between managed care and pay for service models.



## Regulatory Advocacy

**Overview.** One of the few child advocacy organizations with expertise in the regulatory forum, CAI represented children's interests before various administrative agencies during 2005. CAI staff monitors child-related rulemaking proposals as they are released by the state agencies that implement various laws directly impacting children's health and well-being.

**Testimony on Regulatory Proposals.** During 2005, CAI submitted comments on two regulatory proposals:

■ **Family Connections for Foster Youth and Foster Family Agency Reference Checks.** The U.S. Department of Health and Human Services Children's Bureau has expressed concern about the ability of children in group homes and placed through foster family agencies to maintain family connections. Accordingly, in July 2005 the California Department of Social Services (DSS) published notice of its intent to engage in a rulemaking action to establish requirements more specific than those in existing regulations for group home and foster family agency staff to ensure that this occurs. In the interest of consistency for foster children, the proposed regulations would extend these requirements to all licensed children's residential facilities. Although CAI supported the rulemaking package in substance, and agreed with the overall goal of the changes made by DSS, we requested that regulations provide greater clarity in the implementation of promoting family connections.

Specifically, sections 83068.2 (d), 84068.2 (e), 88068.2 (e) and 89468 (g) identify the requirement that foster family homes, group homes and foster family agencies must ensure that connections are maintained between children placed in their care and the children's family and extended family. This requirement is directly derived from the Program Improvement Plan developed in response to the U.S. Department of Health and Human Services Children's Bureau Report on

California's Child and Family Services Review. However, the proposed amendments to these regulations offered no guidance as to the frequency with which these connections must be maintained. In order to maintain the benefit of these family connections, children need regular and frequent contact with their family and extended family members. We believe the regulations should be amended to require that "unless specifically restricted by court order, the licensee shall ensure that connections are maintained between the child and the child's family and extended family members at least weekly in accordance with the needs and services plan." This further delineation of a specific timeframe will give a realistic framework and substantive guidance regarding how foster care providers can promote the



relationship between foster children and their family and extended family members as contemplated by your proposed rule change.

■ **Family Child Care Home Reporting Requirements and Family Child Care Consumer Awareness Information.** Currently, California's Family Child Care Home (FCCH) regulations include requirements that licensees need to follow in order to provide care for children in this type of facility, but do not include



requirements for the licensee to report unusual incidents and injuries or alterations to existing building or grounds. In July 2005, DSS published notice of its intent to adopt regulations to establish and specify reporting requirements for FCCH licensees. Among other things, the regulations will require licensees to notify parents/authorized representatives and DSS of any unusual incident or injury to any child while in care in a licensed FCCH. These regulations also include reporting requirements to enhance the health and safety of children in care. The changes also require FCCH licensees to report to DSS about any plans for alterations to existing building and grounds.

CAI's comments to DSS on this proposal expressed appreciation of the fact that these changes will help further the goal of protecting the health and safety of children. However, as drafted, CAI noted that two particular provisions contain ambiguity or enforce-

ment issues that would inhibit provider compliance and undermine the goal of enhancing children's safety.

First, proposed section 102416.2(b) requires a licensee to report changes in household composition, including "adults moving in and out of the home." The intent of this section is to help ensure that criminal background checks are completed for a specified group as required by Health and Safety Code section 1596.871(b) to obtain the mandated safety clearance.

This code section outlines a detailed process for obtaining security clearance for "any person, other than a child, residing in a facility." Specifically, it requires that a person who intends to reside in the home provide fingerprints and a statement signed under penalty of perjury regarding any prior criminal conviction prior to their residence. The proposed section 102416.2(b) does little to help clarify or aid in the implementation of this requirement.

Neither the statute nor the proposed regulation defines "reside" for the purpose of obtaining a background check. This lack of definition leaves the discretion to the providers to determine when a person in the house would qualify as "residing in the facility" and may create opportunities where the Department and licensee disagree about when the licensee has a new resident.

Instead of restating the requirements of Health and Safety Code section 1596.871(c), the proposed regulation should require further clarification of what constitutes "residing." We would prefer to err on the side of caution in establishing a short timeframe (we suggest two weeks) that triggers the reporting requirement, as the opportunity for harm to a child increases with time.

According to DSS' Initial Statement of Reasons, proposed section 102416.3(a)(2) "establishes the Department's authority to require a licensee to obtain an inspection by a building inspector or a fire clearance." Health and Safety Code 1596.82 already allows the Department "to contract with state, county, or local agencies to assume specified licensing, approval, or consultation responsibilities." Thus, the proposed regulation appears redundant to existing statute.

CAI believes it is also redundant of the local building permitting and inspection process, which require

permits for many types of home alterations or additions and includes inspections. The Initial Statement of Reasons recognizes the existence of this mechanism by noting that many facility alterations have been completed without the required permits. However, the proposed regulations add another burdensome oversight layer that appears unnecessary. CAI agrees with the Department that ensuring proper construction contributes to the health and safety of the children in the facilities. However, the Department may want to consider establishing a process to ensure that the licensee has undertaken the proper steps at the local level. For example, it could require that a licensee provide documentation that any necessary permits have been obtained from the local jurisdiction for projects. The Department could then be assured that the proper steps have been taken to address building requirements, but would not require the Department to decide what changes would require inspection. This responsibility would remain at the local level.

**Children's Regulatory Law Reporter.** CAI's *Children's Regulatory Law Reporter* focuses on a critical—and yet often overlooked—area of law: regulations adopted by government agencies. For each regulatory proposal discussed, the *Children's Reporter* includes both an explanation of the proposed action and an analysis of its impact on children. The publication is targeted to policymakers, child advocates, community organizations, and others who need to keep informed regarding the actions of these agencies.

In 2005, CAI commenced drafting Vol. 6, No. 1 of the *Children's Reporter*. New regulatory actions featured in those issues included the following:

- Department of Social Services (DSS) rulemaking, as mandated by *Fry v. Saenz*, Sacramento County Superior Court Case No. 00CS01350, sought to extend CalWORKs eligibility to specified classes of disabled persons who are otherwise eligible for such benefits when enrolled full-time in high school or a vocational/technical training program, even though they cannot reasonably be expected to complete either program before reaching age 19.

- Department of Health Services rulemaking increased the total fee for Newborn Screening Program services—constituting the third such fee increase since 2001, with a cumulative increase of over 85%.

- The Health Facilities Financing Authority engaged in rulemaking to implement the Children's

Hospital Program as authorized by Proposition 61, which authorized \$750 million in general obligation bonds, to be repaid from state's general fund, for grants to eligible children's hospitals for construction, expansion, remodeling, renovation, furnishing and equipping children's hospitals.

- Department of Developmental Services rulemaking implemented the Family Cost Participation Program (FCPP), which requires that some families pay part of respite, day care, and camping services provided for their disabled children by regional centers.

- The Superintendent of Public Instruction (SPI) engaged in rulemaking to set forth minimum qualifications and training standards for special education hearing officers, as well as to provide guidance on impartiality and conflict resolution and hearing officer supervision.

- The SPI also engaged in rulemaking to provide procedures for child care and development contractors to follow for children receiving child protective services and children at risk of abuse, neglect, or exploitation.

- DSS engaged in rulemaking to require licensees to notify parents/authorized representatives and DSS of any unusual incident or injury to any child while in care in a licensed family child care home.

- The Board of Education proposed rulemaking, as mandated by the settlement in *Chapman v. Board of Education, et al.*, Alameda County Case No. 2002-049636, to set forth a one-year exemption of the requirement to pass the California High School Exit Examination for students with disabilities in the class of 2006 who satisfy certain requirements.

- The California Educational Facilities Authority proposed rulemaking to implement the Academic Assistance Program, to award grants to eligible private colleges to provide a program of academic assistance and services to pupils attending a qualified school, as defined, in order to inform the pupils of the benefits of, and the requirements for, higher education; prepare these pupils for college entrance; or to provide programs, such as academic enrichment and mentoring programs, that advance the academic standing of those pupils.

- The Board of Education sought rulemaking to guide school districts and schools in the administration of the Physical Fitness Test, including but not limited to definitions, test administration, data requirements and testing variations, accommodations and modifications for students with exceptional needs.





■ DSS sought rulemaking to implement AB 458 (Chu) (Chapter 331, Statute of 2003) and SB 1639 (Alarcon) (Chapter 668, Statutes of 2004), recent measures regarding foster youth personal rights.

■ DSS engaged in rulemaking to ensure that children in group homes and placed through foster family agencies maintain family connections.

■ The Department of Youth Authority (DYA) proposed rulemaking to implement Proposition 69, as passed by the voters in the November 2004 election, mandating that all wards and parolees under the jurisdiction of DYA, after having been convicted of, found guilty of, having pled no contest to, or having been found not guilty by reason of insanity, of any felony offense, or whose records indicate a prior conviction for such an offense, or any juvenile adjudicated under Section 602 of the Welfare and Institutions Code for committing any felony offense, shall provide biological specimens to DYA for submission to the Department of Justice for its DNA and Forensic Identification Database and Data Bank Program.

The current and back issues of the *Children's Regulatory Law Reporter* are available on CAI's website at [www.caichildlaw.org](http://www.caichildlaw.org).

## Advocacy in the Public Forum

**Information Clearinghouse on Children.** Since 1996, CAI has maintained the Information Clearinghouse on Children (ICC), to stimulate more extensive and accurate public discussion on a range of critical issues affecting the well-being, health, and safety of children. Supervised by CAI professional staff, the ICC provides a research and referral service for journalists, public officials, and community organizations interested in accurate information and data on emerging children's issues. The ICC has an extensive mailing list of media outlets, public officials, and children's advocacy organizations, and distributes copies of reports, publications, and press releases to members of the list, as appropriate.

**Opinion/Editorial Pieces.** During 2005, CAI Executive Director Robert C. Fellmeth had three opinion/editorial pieces published in major California newspapers:

■ In March 2005, the *Sacramento Bee* published his piece entitled, "A Pop Quiz to Test the Governor's Policy," in which Fellmeth used a multiple choice test quiz format to reveal the Administration's failings

## The Schwarzenegger administration has advocated “fiscal responsibility” and conservative principles by burdening future taxpayers over the next twenty years with over \$30 billion in bond and other debts.

toward the children of California. When answered correctly, the test reveals, among other things, the following:

- The Schwarzenegger administration has advocated “fiscal responsibility” and conservative principles by burdening future taxpayers over the next twenty years with over \$30 billion in bond and other debts.

- Although children’s health coverage was among the highest priorities of the Governor while campaigning, he has since proposed premiums for Medi-Cal child coverage, reduced the number of children likely to be medically covered and left on the table more than \$3 billion in federal money available to finance it.

- Schwarzenegger represents the average Californian against the “special interests” that have dominated Sacramento, expressing his independence by soliciting and collecting more political money from powerful monied interests in his first two years in office than any governor in state history.

■ In September 2005, the *San Diego Union-Tribune* published Fellmeth’s piece entitled, “Time for the Public to Buy Back its Politicians,” in which he questions how much longer citizens are going to tolerate corrosive campaign finance as the determinant of public policy and of our public officials. He notes:

We have lobbied for consumers and children at the national and state levels for 25 years. Don’t let anyone tell you that decisions are made on the merits. The money paid in buys access, and access determines results. Over and over again.

We have rejected a governor who operated a shameless money solicitation machine. Now, we have one who has called and raised him by \$30 million. His ultimate conceit is that such money is not corruptive because it corresponds to his pre-existing philosophy.

...[A] more fruitful option is best demanded by the body politic – let’s take this money off the table by providing it ourselves. We need to buy our public officials, because those purchasing them at present do not represent our highest ethical sensibilities. And the preoccupation with the “here and now” is going to affect a lot more than the maintenance of levees and flood control down the road. It is increasingly reflected in child disinvestment. Reserving 1 percent of public budgets

to make certain the rest is spent on the merits is rather a good investment.

■ In November 2005, the *San Diego Union-Tribune* published Fellmeth’s piece entitled, “Ballot is Missing Democratic Reform,” in which he criticizes Proposition 76 and the Governor’s contention that the measure is necessary to address the state’s alleged “overspending”:

Has this structure really produced excessive spending? The governor likes to cite raw number increases. But population and inflation change annually, and the correct measure adjusts for them. Taking the relevant indicator, percentage of personal income, we spent 7.4 percent for the general fund in 1977. That percentage in 2005–06 would produce \$11 billion more than budgeted.





## COLLABORATION AND LEADERSHIP

### Children's Advocates' Roundtable

CAI continues to coordinate and convene the Children's Advocates' Roundtable monthly meetings in Sacramento. The Roundtable, established in 1990, is an affiliation of over 300 statewide and regional children's policy organizations, representing over twenty issue disciplines (e.g., child abuse prevention, child care, education, poverty, housing, juvenile justice). The Roundtable is committed to providing the following:

- a setting where statewide and locally-based children's advocates gather with advocates from other children's issue disciplines to share resources, information, and knowledge, and strategize on behalf of children;
- an opportunity to educate each other about the variety of issues and legislation that affect children and youth—facilitating prioritization of issues and minimizing infighting over limited state resources historically budgeted for children's programs;
- an opportunity to collaborate on joint projects that promote the interests of children and families; and

- a setting to foster a children's political movement, committed to ensuring that every child in California is economically secure, gets a good education, has access to health care, and lives in a safe environment.

Although many Roundtable members cannot attend each monthly meeting, CAI keeps them up-to-date on Capitol policymaking and what they can do to help through e-mail updates; the Roundtable also maintains an updated directory of California children's advocacy organizations. Unlike many collaborations which seem to winnow away with age, the Children's Advocates' Roundtable has grown in membership and influence with policymakers each year.

During 2005, CAI led the Roundtable members in ongoing budget advocacy efforts, among other things. For example, CAI coordinated a statewide fax-in day to the Governor's Office, during which interested Californians were encouraged to fax the Governor a letter urging him to make policy and budget decisions based on what is best for children, and voicing support for increasing state revenue as a child-friendly and balanced solution to address the state's ongoing budget shortfall.



## Multidisciplinary Centers of Excellence

In conjunction with First Star, a national child advocacy organization, Multidisciplinary Centers of Excellence (MCE) are in formation at the University of San Diego (USD) School of Law, Columbia Law School and the University of Florida Levin College of Law. During 2005, CAI staff continued efforts toward establishing USD's MCE, which will provide an unparalleled interdisciplinary curriculum to the many professionals who work on behalf of maltreated children: lawyers, psychologists, social workers, nurses, teachers, CASA, police officers and judges. The MCE program is designed as a model of evidence-based practice that can be replicated nationwide for the training of child welfare professionals.

Since 2002, First Star has worked to develop the MCE program as a model of best practice that can be replicated nationwide for the training of child welfare

ad litem for children. It is hoped that the MCE model will be replicated at universities throughout the country, and thereby establish a new public-private paradigm for interdisciplinary collaboratives that benefit children.

The ultimate benefit of MCEs is to improve the care of children in the foster care system such that more children, despite their maltreatment, have the skills, well-being and capacity requisite to the development of a healthy and productive society. To date, child welfare practice and policy have been dominated by a framework best described as a child/parent/state triangle, wherein authority over children is allocated to the private sphere of the autonomous family. State provision of support and services must generally be tied to some finding or admission of family failure or dysfunction. The more intrusive the intervention, the more compelling the reason for intervening must be. If instead, child welfare is viewed through an "ecological" lens, the focus is on

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**The MCE program is designed as a model of evidence-based practice that can be replicated nationwide for the training of child welfare professionals.**

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professionals. The program has grown to include the law schools at USD, Columbia University, the University of Florida, as the nation's pilot program partners. Each MCE will provide an unprecedented interdisciplinary curriculum that draws from coursework in law, psychology, social work, public health and medicine. This curriculum is being developed through a series of conferences that involve the leading experts at child advocacy centers around the country.

First Star's MCE's are designed to provide comprehensive, multidisciplinary training for professionals responsible for the welfare of abused and neglected children across the United States. In addition to classroom-based courses for advanced degree students of law, social work, psychology, nursing and public health, the MCEs will offer special First Star certification to those beginning careers in child welfare and also continuing education to practicing judges, attorneys, social workers and other child welfare professionals nationwide through distance-learning technology. The MCEs are a pilot program for reinventing the training standards for America's child welfare workforce, with an emphasis on court-appointed attorneys and guardians

overlapping "systems" that include families, peer groups, faith communities and neighborhoods. The MCEs recognize the importance of this more child-centered perspective and seek to build stronger relationships between the various support networks that protect and nurture our children.

## Interaction with National Child Advocacy Organizations

CAI remains actively involved in major national child advocacy organizations. CAI Executive Director Robert Fellmeth serves on the Board of Directors for the National Association of Counsel for Children (NACC), currently serving as NACC Secretary. Professor Fellmeth also serves as counsel to the Board of Directors of Voices for America's Children, an organization with chapters of advocates in more than forty states. He also serves on the boards of both First Star and Foundation of America: Youth in Action, and he chairs the Board of the Maternal and Child Health Access Project Foundation, which advocates for the health of infants and pregnant women among the impoverished of Los Angeles.



## SPECIAL PROJECTS

### Foster Care Benefits Extension Project

In October 2005, CAI was awarded a three-year grant from The California Wellness Foundation to engage in a variety of activities aimed at extending all foster care benefits in California to age 21 (and to age 23 where postgraduate education or vocational training is being obtained). The project will include the preparation of an authoritative cost/benefit evaluation showing the eventual cost savings that would be attributable

to keeping former foster youth out of jail, off the streets, and off welfare and public health programs, instead helping them become self-sufficient, contributing, healthy, and tax-paying members of society; extensive research on applicable federal law and waivers; research and identification of outcomes in jurisdictions where benefits have been extended beyond age 18; extensive public education on the challenges our foster children face when they turn 18, and on the state's need to continue its support of these young adults—as responsible parents do—in order to enable them obtain the higher education and/or vocational training that will enable them to become self-sufficient, while maintaining their physical and mental health and well-being; research and compilation of any additional justification that would support this proposal; presentation of our findings to the state's policymakers and related activities aimed at bringing about the necessary changes in state law; and monitoring the implementation of the new state policies by state and county agencies.

This grant is targeted at improving the outcomes for the 100,000 children in our foster care system, and in particular the 4,000 or so who emancipate out of the system each year at age 18 under the current scheme. Right

now, the future for young adults leaving the foster care system is bleak. Extending benefits to age 21 (and to age 23 where postgraduate education or vocational training is being obtained) would give these kids a fighting chance to get on their own two feet. There are many things to learn about being a self-sufficient adult, and none of the answers are automatically bestowed on us on our 18th birthday. These kids must be given a meaningful opportunity to find out how to meet the chal-

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Extending benefits to age 21 (and to age 23 where postgraduate education or vocational training is being obtained) would give these kids a fighting chance to get on their own two feet.

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Members of the CAI Council for Children and Price Award Selection Committee join the recipients of the 2005 Price Child Health and Welfare Journalism Awards. From left, David Houston (editor, Los Angeles Daily Journal), Dr. Gary Richwald (CAI Council/Selection Committee), Gloria Perez Samson (CAI Council/Selection Committee), Susan McRae (reporter, Los Angeles Daily Journal), Erin McCormick (reporter, San Francisco Chronicle), Dr. Alan Shumacher (CAI Council/Selection Committee), Annette Wells (reporter, The Sun), Dr. Louise Horvitz (CAI Council/Selection Committee), Selicia Kennedy-Ross (reporter, The Sun), and Kelly Bowser (editor, The Sun).

lenges of adulthood—how to gain employment, seek higher education, obtain housing, obtain medical care and attention, etc. In other words, they need time to learn how to take charge of their own health and well-being, and they need support services that mirror those provided by responsible parents throughout the state.

CAI staff immediately commenced work on this project, which will continue on through 2008. CAI is extremely grateful to The California Wellness Foundation for the opportunity to engage in this very worthwhile endeavor.

### Price Child Health and Welfare Journalism Awards

In 1991, CAI created a nonprofit charitable corporation to administer the Price Child Health and Welfare Journalism Awards. These awards are presented annually for excellence in journalism for a story or series of stories that make a significant impact on the

welfare and well-being of children in California and advance the understanding of child health and welfare issues, including but not limited to child health, health care reform, child nutrition, child safety, child poverty, child care, education, child abuse, and juvenile justice.

At a special luncheon on November 12, 2005, CAI honored the following 2005 Award recipients:

■ The first place award winner was the San Francisco Chronicle series, "Too Young to Die," reported by Erin McCormick and Reynolds Holding, a five-part series revealing the glaring disparities in infant mortality rates among certain San Francisco neighborhoods, examining factors potentially contributing to the disparities, and introducing readers to the personal stories of California families impacted by infant death rates comparable to those of Bulgaria or Jamaica.

■ The second place award winner was The Sun (San Bernardino) series, "Table to Grave—America's Childhood Obesity Epidemic" by reporters Annette W





ells, Selicia Kennedy-Ross, and Leigh Muzslay and photographer Jennifer Cappuccio, a four-day series examining the physical, emotional, and financial consequences of childhood obesity.

■ The third place award winner was the Los Angeles Daily Journal article, "Death at 4, With Complications," by Susan McRae, detailing the difficulty foster children have in obtaining quality medical care.

These articles appropriately shed light on what we might otherwise fail to see—failures in our society that put children in great danger. These reporters and newspapers are to be commended for their efforts to make us aware of these problems—and now all Californians must all hold our policymakers accountable for ensuring that our children are better protected.

CAI gratefully acknowledges the dedication of the members of the selection committee who reviewed numerous submissions from California daily newspaper editors: Chair Gary Richwald, M.D., M.P.H.; Louise Horvitz, M.S.W., Psy.D.; Dana C. Hughes, M.P.H., M.S.; Lynn Kersey; Gloria Perez Samson; Alan Shumacher, M.D., F.A.A.P.; and Dr. Robert Valdez, Ph.D.

### Homeless Youth Outreach Project

During 2005, CAI agreed to serve as host organization for third-year law student Kriste Draper in her application for an Equal Justice Works Fellowship. Kriste's proposal is to create the Homeless Youth

Outreach Project, to provide legal assistance to youth living on the streets of San Diego, without the usual security, stability, and support that a family unit provides. The specific goals of this project are to:

■ Provide a general legal advice clinic to the homeless youth population of San Diego County through schools, shelters and outreach centers, specifically Stand Up For Kids' (Stand Up) outreach center in down town San Diego.

■ Assist homeless youth in accessing healthcare coverage available to them and acquiring an education and the proper resources necessary to be successful in school.

■ Refer homeless youth to other social service and legal agencies within the community for assistance with any issues that may be beyond the scope of this project.

■ Contact and build partnerships with various medical clinics, schools and other agencies in San Diego to raise awareness and education on the problems facing homeless youth within San Diego and how we can assist in their empowerment

■ Hold quarterly education seminars with the homeless youth to educate them on their rights and the tools available to help them be successful.

■ Recruit, train and supervise volunteer attorneys and law students to assist at the on-site legal clinics and with ongoing case representation to ensure project longevity and sustainability.

■ Continually self-evaluate itself through client surveys and developmental meetings with CAI and other partnerships to ensure that the project is effectively and successfully meeting the needs of the homeless youth in a sustainable manner.

In late 2005, Equal Justice Works announced that Kriste's proposal was approved; her project will be funded by Sony. Commencing in September 2006, Kriste will join the CAI staff as an Equal Justice Works Fellow for a two-year period.

### Lawyers for Kids

Started by CAI in 1996, Lawyers for Kids offers attorneys the opportunity to use their talents and resources as advocates to help promote the health, safety, and well-being of children; assist CAI's policy advocacy program; and work with CAI staff on test litigation in various capacities. Among other things, Lawyers for Kids members stand ready to assist CAI's advocacy programs by responding to legislative alerts issued by CAI staff.

# 2005 DEVELOPMENT REPORT

CAI is grateful to Sol and Helen Price for their gift of the Price Chair Endowment, which has helped to stabilize the academic program of CPIL and CAI within the USD School of Law curriculum; to the Weingart Foundation for its 1992 grant enabling CAI to undertake a professional development program; and for generous grants and gifts contributed by the following individuals and organizations between January 1, 2005, and December 31, 2005, and/or in response to CAI's 2005 holiday solicitation:

Aileen Adams & Geoffrey Cowen  
Nancy & Howard Adelman  
Professor Larry Alexander  
Mr. & Mrs. Victor N. Allstead  
Anzalone & Associates  
Ms. Maureen Arrigo  
Carl A. Auerbach  
Robert L. Black, M.D.  
Paula Braveman  
Penny & Roy Brooks  
Alan K. Brubaker  
Dana Bunnett  
Prof. Nancy Carol Carter  
Professor Laurence P. Claus  
Joan B. Claybrook  
Philip M. Cohen  
ConAgra Foods Foundation  
Consumers First, Inc./Jim Conran  
Consumers Union of United States, Inc. (Betsy Imholz)  
Margaret Dalton  
Joseph and Ursula Darby  
Steve Davis  
Norene Debruycker  
David X. Durkin  
Richard Edwards & Ellen Hunter  
Garold & Joyce Faber  
Sanford Feldman & Susan Henrichsen  
Julie D'Angelo Fellmeth  
Anne Elizabeth Fragasso  
Donna Freeman & Eugene Erbin  
Honorable Charles D. Gill  
David & Constance Goldin  
James & Patricia Goodwin

Roger & Beverly Haines  
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Donald & Darlene Shiley  
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John Van De Kamp (Van De Kamp Trust)  
Nancy Lee Vaughan  
Howard Wayne  
Marjorie & Ya-Ping Zhou  
Anonymous Donors

While every effort has been made to ensure accuracy, we ask readers to notify us of any errors and apologize for any omissions.

—The Editors

# CAI STAFF

## Robert C. Fellmeth

Robert C. Fellmeth is CAI's Executive Director; he is also a tenured professor and holder of the Price Chair in Public Interest Law at the University of San Diego School of Law. He founded USD's Center for Public Interest Law in 1980 and the Children's Advocacy Institute in 1989. In the children's rights area, he teaches Child Rights and Remedies and supervises the Child Advocacy Clinic. Professor Fellmeth has over 30 years of experience as a public interest law litigator, teacher, and scholar. He has authored or co-authored 14 books and treatises, including a law text entitled *Child Rights and Remedies*. He serves as a member of the Board of Directors of the National Association of Counsel for Children (serving as NACC Secretary in 2005–06) and the Maternal and Child Health Access Project Foundation. He also serves as counsel to the Board of Voices for America's Children.

## Elisa Weichel

Elisa Weichel is CAI's Administrative Director and staff attorney. Among other things, Weichel directs all of CAI's administrative functions, including fundraising, development, and outreach; oversees all of CAI's programs and grant projects; serves as Editor-in-Chief of CAI's *California Children's Budget* and *Children's Regulatory Law Reporter*; coordinates the drafting and production of the *Children's Legislative Report Card* and *CAI Annual Report*; staffs CAI's Information Clearinghouse on Children, responding to requests for information from government officials, journalists, and the general public; collaborates with and assists other child advocacy and public interest organizations; serves as webmaster for the CPIL and CAI websites; and performs legal research, litigation, and advocacy. Weichel, a graduate of the USD School of Law (J.D., 1990), was 1989's Outstanding Contributor to the Center for Public Interest Law's *California Regulatory Law Reporter*. Before taking her current position with CAI, Weichel served for several years as staff attorney for CPIL.

## Julianne D'Angelo Fellmeth

Julianne D'Angelo Fellmeth is the Administrative Director of CAI's parent organization, the Center for Public Interest Law (CPIL). She is responsible for all administrative functions of CPIL and all of its programs and grant projects. In addition to managing the master budget of CPIL/CAI, she team-teaches regulatory law courses with Professor Robert Fellmeth at the USD School of Law and coordinates CPIL's academic program. D'Angelo Fellmeth is a 1983 *cum laude* graduate of the University of San Diego School of Law, and served as editor-in-chief of the *San Diego Law Review* in 1982–83.

## S. Alecia Sanchez

S. Alecia Sanchez is CPIL/CAI's Senior Policy Advocate. In addition to conducting CAI's legislative and policy advocacy, Sanchez chairs the Children's Advocates Roundtable, a network of 300 California child advocacy organizations representing over twenty issue disciplines (e.g., child abuse prevention, child care, education, child health and safety, poverty, housing, nutrition, juvenile justice, and special needs). Sanchez previously served as legislative aide to Assemblymembers Marco Antonio Firebaugh and Virginia Strom-Martin, and has substantial experience in the state budget and legislative process. Sanchez graduated *cum laude* from Claremont McKenna College.

## Christina Riehl

Christina Riehl serves as CAI Staff Attorney in the San Diego office, primarily handling CAI's litigation and related activities. Before joining CAI, Riehl worked as staff attorney with the Children's Law Center of Los Angeles, where she represented minor clients in dependency court proceedings. Prior to that, she interned with the Honorable Susan Huguenor, currently the presiding judge in San Diego Juvenile Court. Riehl is a graduate of the USD School of Law, where she participated in the CAI academic program.





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## Melanie Delgado

Melanie Delgado serves as CAI Staff Attorney / Advocate in the San Diego office, working on CAI grant projects, litigation, and related activities. Before joining CAI, Delgado worked as a paralegal with a San Diego law firm and volunteered with Voices for Children in the Case Assessment Program, where she reviewed the files of children under the jurisdiction of the dependency court to ensure their interests were appropriately being addressed. Delgado is a graduate of the USD School of Law, where she participated in the CAI academic program.

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## Kathy Self

Kathy Self performs bookkeeping and donor relations responsibilities in CAI's San Diego office. She tracks revenue and expenses, processes grant and fundraising activities, and provides support services to CAI professional staff, the CAI Council for Children, and the CAI academic and advocacy programs.

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## Marissa Martinez

Marissa Martinez is CAI's office manager in San Diego. She provides support services for Professor Fellmeth and for CAI's academic and advocacy programs (including CAI student interns).

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## Lillian Clark

Lillian Clark serves as CPIL/CAI Executive Assistant, on a part-time basis, in our Sacramento office, where she supports CAI's legislative advocacy program. Before joining CPIL/CAI, Lillian acquired extensive experience working in legal offices, and is enrolled in an accredited legal assisting program to further enhance her credentials in this field.

# CAI COUNCIL FOR CHILDREN

CAI is guided by the Council for Children, which meets semi-annually to review policy decisions and establish action priorities. Its members are professionals and community leaders who share a vision to improve the quality of life for children in California. The Council for Children includes the following members:

**Gary F. Redenbacher, J.D.,**  
**Council Chair**

*attorney at law (Santa Cruz)*

**Gary Richwald, M.D., M.P.H.,**  
**Council Vice-Chair**

*consultant/educator in public health, preventive medicine, & communicable diseases (Los Angeles)*

**Robert Black, M.D.**

*pediatrician (Monterey)*

**Louise Horvitz, M.S.W., Psy.D.**  
*Licensed clinical social worker, individual and family psychotherapist (Los Angeles)*

**John M. Goldenring, M.D., M.P.H.**

*Medical Director, Riverside Physician's Network (San Diego)*

**Honorable Leon S. Kaplan**

*Judge, Los Angeles Superior Court (Los Angeles)*

**James B. McKenna**

*Managing Director; Chief Investment Officer, American Realty Advisors (Glendale)*

**Thomas A. Papageorge, J.D.**

*Head Deputy District Attorney, Consumer Protection Division, Los Angeles District Attorney's Office (Los Angeles)*

**Blair L. Sadler, J.D.**

*President and Chief Executive Officer, Children's Hospital and Health Center (San Diego)*

**Gloria Perez Samson**

*Retired school administrator (Chula Vista)*

**Alan E. Shumacher, M.D., F.A.A.P.**

*Retired neonatologist; Past President of the Medical Board of California; President, Federation of State Medical Boards of the United States (San Diego)*

**Owen Smith**

*Past President, Anzalone & Associates (Sylmar)*

## EMERITUS MEMBERS

**Birt Harvey, M.D.**

*Professor of Pediatrics Emeritus, Stanford University (Palo Alto)*

**Paul A. Peterson, J.D.**

*of Counsel to Peterson and Price, Lawyers (San Diego)*



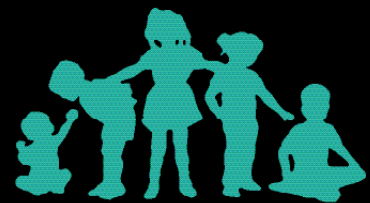
The CAI Council for Children.  
Back row: Hon. Leon Kaplan,  
Blair Sadler, Owen Smith,  
Tom Papageorge, Gloria Perez  
Samson.

Front row: Dr. Gary Richwald  
(Vice-Chair), Dr. Robert Black,  
Dr. Alan Shumacher,  
Gary Redenbacher (Chair),  
Robert Fellmeth (Executive  
Director), Dr. Louise Horvitz,  
James McKenna.

Missing: Dr. John Goldenring.







Children's Advocacy Institute



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