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CHILDREN'S ADVOCACY INSTITUTE



2007 Annual Report



This annual report covers the activities of the Children's Advocacy Institute between January 1, 2007 and December 31, 2007.

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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Executive Director's Message



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

As was discussed in last year's message, California's 2006 bolus of \$7 billion in unexpected revenue was a missed opportunity for children. Little of it was invested in them, whereas social workers managed to receive a \$50 million increase in funding. Social workers, particularly those working to protect abused children in the child welfare system, had excessive caseloads, but they were hardly alone. While social workers carry caseloads of 30–50 children, attorneys representing children in Dependency Court proceedings commonly carry caseloads of 250–350 and higher. And judges, who serve as the “parents” of the children in foster care, suffer caseloads several times these levels. The bias for resource allocation when available is clearly in the direction of organized political interests. The Service Employees International Union is powerful, and represents social workers with skill and often with substantial meritorious contention. But no powerful interest represents dependency attorneys or courts in resource allocation. Similarly, the group homes that provide institutional care for foster children receive \$5,000 per month per child, while the family settings, where success and adoption are exponentially greater, receive \$500 per month per child. Again, the former have professional, full-time lobbyists at the Capitol. The latter do not.

Having lost that opportunity, children are now in an even more precarious position, as the state again deals with a budget deficit that is bad during the 2007–08 fiscal year and looks to be even worse for 2008–09 — and which now involves a structural deficit of \$14 billion. What is the source of that underlying deficit? On the revenue side, it involves the following factors:

- low corporate taxation;
- evasion of state sales taxes as purchasing shifts to Internet venues;
- the Governor's regrettable cancellation of \$4.5 billion in annual revenue through his refusal to restore the Vehicle License Fee to its longstanding 2% of vehicle value level; and
- increases in income taxation credits, deductions, and exceptions now amounting to over \$30 billion a year.

This last factor arises partly from the difference between spending by tax forbearance (tax expenditures) and spending through the budget. Tax expenditures are often supported by conservatives, who irrationally justify it as “starving the beast of government” — as if it is not spending. Not only is it spending, but once a tax loophole is in place it is not examined annually as is other spending, but must be affirmatively ended, and it takes a two-thirds vote to terminate or reduce any such spending. So it is a major target for Sacramento special interests. Once in place, it promises gain for its beneficiaries year after year after year, automatically adjusting upward to inflation and rarely challenged, or even reviewed.

Exacerbating revenue shortfall is the now overweening inequity of property taxation in the state. Those taxes are capped at 1% of assessed valuation. While advocates of limited government may justify such a limitation, the state's Proposition 13 then commits the generational sin of limiting assessed valuation increases from the 1977 date of the initiative's passage. Translated, youth buying business or residential property are forced to pay ten, twelve, or fifteen times as much in property taxes as their parents and grandparents. To repeat,

this author will pay one-twelfth the property taxes as will his son, even if living in a house of the same exact value, to support identical city, county, and state services. The Boomer generation is effectively embezzling from its young on a massive scale, and as beneficiaries, we essentially take from what should be substantially enhanced public resources for child investment.

Hence, children are receiving a deficit in two aspects: (1) discriminatory taxation for them and their children, based on nothing more than when they arrive and are able to buy property, and (2) reduced resources for investment in their future. All for the benefit of perhaps the most self-indulgent generation in the nation's history — California's baby boomers.

On the spending side, California manifests a failure in basic democratic values. The state is one of only three among fifty requiring a two-thirds supermajority to enact a budget. But it is worse than that, because the Republicans bind each other to oppose spending by majority vote of their caucus. This means that 18% of the Legislature can block child investment. And to add to the distortion, the Democrats have gerrymandered the state to concentrate right wing voters in districts where state hating ideologues are more easily elected. The end result is a Legislature that betrays democratic values, far more in *extremis* than the 60% U.S. Senate vote required for cloture.

Purported conservatives claim that spending is out of control. Prison spending has in fact gone up dramatically over the last generation, as prisoners have increased from 19,000 in 1977 to 172,000 thirty years later, with per capita prisoner costs increasing with the considerable political power of the prison guard lobby. And other costs have gone up. But many budget analyses fail to adjust for inflation and population change — simply looking at general fund growth in raw numbers, a misleading indicator. How is spending out of control for child-related programs, when:

- Temporary Assistance for Needy Families (TANF) costs for impoverished children have not gone up.

- Over 700,000 of California's children remain uninsured, although most are eligible for public health programs.

- K–12 education investment has not increased, and the state now ranks 47th in the nation in adjusted per pupil spending. In terms of citizen wealth applied to child school investment, California ranks at the bottom of the nation.

- Higher education investment has also declined, as we continue to increase tuition and fees radically, as we have for the last eight years, and as we fail to increase higher education capacity in relation to the 18-year-old population.

- And in the area of child welfare — how we take care of abused children removed from their homes — the state would properly be prosecuted for child neglect were it a private parent, as discussed below.

Those who contend that taxation is too high might consider the fact that the federal 2001 and 2003 federal income tax cuts reduced the amount California (primarily wealthy) adults pay by \$37 billion a year. The recapture of a prudent 40% of those monies to invest at the state level would resolve the structural shortfall, provide reasonable safety net protection for impoverished children, allow universal child health coverage (which would cost virtually nothing in any event, as discussed below), raise education spending to at least the national median, increase higher education capacity, and enable us to treat our foster children as well as does the average parent. All of it could happen, and we still keep most of the improvident federal tax cuts of the Bush Administration. It is not happening. It is not on the table.

The 2007 budget was not helpful to children. The major addition was an increase of \$35 million in housing assistance for emancipating foster youth. That addition is welcome, but involves two deficiencies. First, it is enough for less than 20% of the state's recently emancipated foster youth; the total needed to approximate the amount private parents provide for their children post-18 would require about \$250 million in total. That level of investment would allow the state to simply "hit the median" of other parents who help their young adult children transition to self-sufficiency. And the state is the parent — and the only parent — of these children. Second, the money is not optimally directed. It is categorical spending to provide continuation of group home and similar placements for foster kids as they turn 19. As with most state spending, it is not driven by rational factors or child need, but by lobbying interests already providing services who seek their expansion. Hence, group homes propose to place foster kids in cheaper settings (*e.g.*, without the same level of security or adult overnight attention) and charge the state as much as \$3,500 a month. Hence, the THP-Plus program may spend over \$40,000 a year a child, with the money subject to profit rake-off and not necessarily customized to the overall needs of the child (see below for a discussion of the child-centered alternative proposed by CAI in 2007).

Except for the transitional housing increase, most child spending was held to 2006 levels, which means the common real spending reduction of 5% per child (when accounting for inflation and population change). In other words, it was another year of python-like strangulation for public child investment.

CAI's Advocacy in 2007

CAI has focused much of its advocacy on the plight of the state's 77,000 foster children. These children are properly a first priority. They have been removed from their homes and are now subject to the legal parental authority of the courts which, along with the Legislature and the Governor, become their parents. As CAI has argued since 1989, the parental performance of the state to these



children has been miserable. Foster kids start out with harm done to them, leading to their removal from their parents. They are then often moved from placement to placement. Most are administratively determined to be “unadoptable.” They are then shunted to the streets at age 18 with little support or help to transition into adulthood.

We have identified three major deficiencies:

■ First is a failure to engage in prevention, which properly includes reducing the now record 37% unwed birth rate and the related problem of paternal child support failure and abandonment; the lack of meaningful parenting education in middle or high schools; and the quiet epidemic of substance abuse, specifically meth addiction.

■ Second is the undersupply of family foster care providers. As noted above, these providers receive an average of \$530 per month per child while the group homes can receive close to \$6,000 per month per child. The state’s refusal to increase family foster care rates over the last several years (the last increase was 5% in 2001) has led to supply diminution. That undersupply, in turn, leads to fewer placement choices for children, more difficulty in placing children near parents who may warrant reunification, separation of siblings, movement between schools, and fewer adoptions. The last consequence is particularly serious because family foster care providers are the source of the vast majority of non-kin adoptions.

■ Third, when foster kids emancipate at age 18, they are essentially abandoned to the streets by the state. On average, a young adult does not achieve self-sufficiency until age 26; private parents give a median of \$44,500 to their children after the age of 18 to assist them achieve self-sufficiency (in addition to allowing many of them to remain at home while in school or obtaining initial employment). In contrast, limited federal and state assistance for former foster youth amounts to less than 25% of the total that private parents invest in their children — a disgraceful performance in marked contrast to the “family values” rhetoric of public officials whose children these are.

CAI took several steps in 2007 to address these areas. We completed a research report on the state of family foster care compensation and supply, entitled *“They Deserve a Family.”* The report was researched and written by CAI legal intern Jenna Leyton and released at a Sacramento press conference in May 2007. Joining CAI as the press conference was the California Welfare Directors’ Association, which released a report of its own documenting the decline in family foster care supply. Regrettably, the bill to begin remediation failed in the Legislature, falling prey to the “suspense file” mechanism long popular to accomplish the quiet elimination of meritorious child legislation.¹ Interestingly, the Legislature did add a token 5% to the family foster care rate for fiscal 2007–08², but

¹The suspense file process allows legislators to place on hold any bill with more than a trivial spending implication and then to allow it to die — without a public vote.

only because the group homes backed the increase, and had it apply to them as well. And manifesting maximum chutzpah, it is rumored that the Governor's budget for 2008–09 will actually *subtract* 10% from family foster care rates.

Disappointed with the performance of Sacramento, CAI filed suit in federal district court in October 2007 on behalf of all three of the state's associations of family foster care providers. CAI attorneys were joined by assigned counsel from one of America's premier law firms, Morrison & Foerster (MoFo). After reviewing the facts and the law, MoFo took on the case to assist CAI as a *pro bono* project of the firm. The case alleges that federal law requires that family foster care rates be set at levels that compensate actual out-of-pocket costs, itemizing the elements covered. The 50% federal match mandates compliance with minimum federal standards. On the same day the case was filed, the University of Maryland released a major national study of foster care costs and rates, concluding that California's rates were more than 40% below the applicable cost standard. The case will be prosecuted through 2008, and will hopefully achieve a court order compelling the state to comply with federal standards, faithful to Congressional intent that foster families receive an adequate level of compensation so that abused children have the realistic possibility of adoption.

CAI is also working to address the emancipation abandonment of the state, as discussed above. In this area, CAI has received an important grant from The California Wellness Foundation to conduct research, formulate educational materials, and develop models. CAI issued its initial report in January 2007: *Expanding Transitional Services for Emancipated Foster Youth: An Investment in California's Tomorrow* by CAI staff attorney Melanie Delgado, San Diego attorney Karen Prosek McCready, and others. The Report included a study by social science experts on the costs and benefits of providing the median of \$44,500 to foster youth during their post-emancipation years of 18–24 to assist their transition to self-sufficiency. The study, which has undergone peer review examination, concluded that the financial gain from just three sources — lower incarceration costs, lower welfare costs, and tax gains from higher revenue (due to enhance employment) — indicated public budget gains beyond the amount expended.

Importantly, CAI has formulated a mechanism that would deliver the critical resources to youth who emancipate with the state as their parent. When the foster child reaches 16 years of age, someone the youth knows would be appointed to be his/her "transition guardian." A plan will be prepared with the guardian and youth,

reviewed by the court and the county, and set into place at point of emancipation. Until the youth is 24, he/she would receive assistance customized to his/her individual needs, with periodic reports to the court and sufficient oversight to protect the integrity of involved funds. In other words, the court and state would do what almost any responsible parent does — assist the child with rent, transportation, tuition, and other costs as will best serve the needs and future success of that particular youth.

CAI will continue to work on two fronts to implement this plan. First, we shall try to enact authority for court appointment of such transition guardians. Second, we shall try to arrange for properly flexible funding. The most apparent and available source of such funding is the \$1.4 billion now being collected under the recent Mental Health Services Act. Transitioning youth to self-sufficiency and mental illness prevention are two top priorities for this large influx of funds. No population warrants it attention more than the state's 4,200 foster youth who reach 18 years of age annually. They have a higher post-traumatic stress disorder rate than do Vietnam or Iraqi war veterans. Former foster youth make up as much as 40% of those in homeless shelters in the state. The question is, will this new funding fall along the same predictable path of adding to the resources of those already a part of the social service establishment, or will it be directed to serve the population lacking an ensconced group of providers with lobbyists? The commitment of just 8% of the total amount collected each year would provide emancipating foster youth with the same level of support private parents give their young adult children. CAI will continue to study and advocate for rational and fair investment and responsible state parental performance in 2008.

CAI has also been hard at work on the issue of deaths and near deaths from child abuse or neglect, and on improving the public disclosure of information about these tragic cases — information that can help advocates and policymakers identify and fix systemic problems in the child welfare system. We have given awards to journalists who manage to cover these tragedies, and who often expose public policy failures and flaws. During 2007, CAI successfully co-sponsored SB 39 (Migden) (Chapter 468, Statutes of 2007), an important advance in California's public disclosure practices and allowing relatively expedited disclosure of information pertaining to prior child welfare system contact and ascertained causation.

During 2007, CAI expanded its inquiry into the national arena. Federal law requires public disclosure of information where deaths or near deaths from abuse or neglect occur, but many states continue to secrete the causes of these deaths, reducing democratic accountability.

²Meaningful legislation would require the family rates to increase at least as much as the Consumer Necessities Index. That has not happened — rather, the compensation increase is more than 30% below such cost increases from 1999. But the Legislature purported to give itself the "out" by providing that its obligation to increase rates will apply only where "funds are available." And it has contended that they have not been available over the last decade. Interestingly, in 2007 our public officials managed to preserve the yacht owner's special tax break to allow millionaire buyers to evade state sales taxes, and then scheduled an extra election in February 2008 (at a cost of \$75 million) even though a June election was already scheduled and budgeted, all of four months later. The extra election was intended for politician ego assuagement in purportedly having more of an influence on the presidential nomination process, and to allow legislators to modify their term limits. These and other expenditures came from apparently "available funds."

CAI legal intern Emily Reinig has drafted a comprehensive study of the public information available where such deaths or near deaths occur in all fifty states, with each state graded on its degree of transparency. Emily's outstanding report, *State Secrecy and Child Deaths in the U.S.*, will be released in cooperation with First Star, a national child advocacy organization based in Washington, D.C., at a press conference at the U.S. Capitol in Spring 2008.

During 2007, CAI also worked to encourage the Legislature to provide health care coverage to the state's children. Kids cost one-seventh the amount to insure as do the elderly, all of whom we cover. Nevertheless, over 700,000 California children are uncovered, even though the vast majority of them are eligible for public coverage. CAI has proposed that California adopt "true presumptive eligibility," which would sensibly reverse the current irrational "you're not covered unless you're enrolled" system to "all children are covered and for the few who incur high treatment costs, we'll bill their parents on a sliding scale post hoc" model.

We argue that the current system of prior restraint qualification and enrollment is now unacceptably irrational. The entire system expends many millions to accomplish the filtering of what turn out to be just over 2% of California's children who are uncovered and unqualified for public coverage. That number now amounts to all of 219,000 of more than 8 million children. To make the issue even more stark, consider the fact that only a small number of the 2% will actually incur a substantial medical cost in a given year. To summarize, in order to prevent a small percentage of this small percentage from receiving unqualified payment for a medical procedure, we (a) spend millions and millions on an "up front" system of enrollment, (b) leave 700,000 qualified children uncovered, and (c) leave on the table almost one-half billion dollars in federal funds for that purpose, much of it at a two-to-one match. All of this occurs in the context of a cost-benefit ratio commending child coverage and where non-coverage means ruination for many families whose children suffer serious injury or illness. Even a short hospital stay will incur medical charges for the uncovered family at four to five times the levels paid by public agencies and private insurers. And medical claims are now the leading source of consumer bankruptcy.

CAI has drafted a white paper on its true presumptive eligibility proposal, and will continue efforts to educate public officials on the merits of this model as a fall-back should the current efforts at universal health coverage prove unsuccessful. We believe that the budget debacle discussed above makes any broad coverage expansion problematical. But coverage for children is inexpensive and involves strong federal subsidy.

Beyond overall coverage, CAI has also been looking into the status of public health in the state's schools. A majority of the state's children are in public school most of the day for most of the year. What are the benefits and costs of attention to their health where

they spend so much of their time? What are the advantages of having school nurses available to them? How many schools have some medical expertise available? CAI legal intern Shelly Kamei is researching these questions and will be releasing her findings over the next year.

CAI's Homeless Youth Outreach Project continues to work for these most vulnerable children. CAI's Kriste Draper, recipient of an Equal Justice Works Fellowship, provides homeless children and youth with legal services and related assistance. Kriste's advocacy helps these youth access resources and services they need, and includes areas such as welfare, housing, health care, mental health services, education, immigration, and criminal matters. During the past year, Kriste and CAI have been looking closely at a Juvenile Hall practice that appears to discriminate against homeless youth and youth in the foster care system. Youth who are arrested and find themselves in Juvenile Hall are usually released to their parents pursuant to court order. But kids who are homeless, or for whom the state is the parent, are often left in Juvenile Hall for many weeks or even months because "there is no place to put them." That incarceration extends beyond a sentence as a ward of the court and is both unlawful and unconstitutional. Interestingly, a private parent who so rejects a child may be criminally liable for neglect; it appears that the State on occasion is committing the same abandonment offense. CAI is currently working with the Presiding Judge of the San Diego Juvenile Courts on this issue but, if cooperation can not be achieved, anticipates the possibility of litigation on point in 2008.

With so much more to accomplish for our children, CAI has no time for self-congratulations or complacency. Children did not fare well in the 2006 or the 2007 legislative sessions. In 2008 we hope to see the elevation of Karen Bass to the Speakership of the Assembly, and of Darrell Steinberg to the position of President Pro Tempore of the Senate. Both are child advocates and, if finances and the dysfunctional structure of the state budget process (discussed above) allow, better times may be ahead.

And better times may be ahead federally as well. Currently, the largest share of the federal budget is devoted to debt payments and defense. This nation, with 4% of the world's population and no superpower enemies, now spends more money on its military than every other country in the world combined. Of particular concern is the lack of secure federal funding for the State Child Health Insurance Program (which we expect will be forthcoming in early 2009), and the underfunding of No Child Left Behind, as well as threats to student loan viability, higher tuition nationally, and housing costs (despite the predatory lending problem) that remain high and compromise the dream of home ownership for debt-burdened youth. But of greatest concern is the growing future deficit from the federal deficit, obligations to our 30,000 wounded veterans, Social Security shortfall and huge unfunded liability for Medicare. These



sources of indebtedness, according to the Comptroller General of the United States, already total over \$50 trillion. The carrying charge on this accumulating unfunded liability — to be imposed on our children and grandchildren for Boomer generation care and comfort — will be unprecedented in human history. It is projected at well over \$15,000 per family in current dollars — just to carry the debt.

Looking Forward to 2008

In addition to working on the specific issues discussed above, CAI will continue with its core institutional work, including its collaboration with other child advocates and its educational mission. Such on-going work includes:

- Convening the Children's Roundtable, including 300 organizations with some interest in children. Created by CAI in 1991, it meets monthly in Sacramento to plan advocacy strategy. The Roundtable's work in 2008 will be especially important given the budget shortfall. CAI hopes to add new force to child advocacy by working with two groups with powerful voices at the local level: law enforcement and the religious community.

- Monitoring the activities of state and federal agencies and commentary on pending rulemaking for *CAI's Children's Regulatory Law Reporter*. That commentary will include coverage of the Draft Recommendations of the California Blue Ribbon Commission on Children in Foster Care, as well as proposed regulatory changes from the Judicial Council, the Department of Social Services, the Department of Education, the Department of Health Care Services, and the Department of Public Health, among others.

- Contribution of *amicus curiae* briefs in litigation as appropriate, including imminent challenges to new federal regulations disproportionately affecting foster children's access to appropriate and timely health care.

- Education of law students and practitioners, including three elements:

- (1) Continuation of the USD School of Law educational program, consisting of the three-unit Child Rights and Remedies course and three clinical opportunities (a Dependency Court clinic where 10–20 students annually are specially certified to practice in juvenile court representing abused and neglected children; a similar Delinquency Court clinic where 6–10 students annually are specially certified to represent youth charged with offenses; and a policy clinic where 10–15 students work on CAI's litigation, legislation, and rulemaking projects).

- (2) The continuation of practitioner training under a grant funded by the federal Children's Justice Act and awarded to CAI by the Governor's Office of Emergency Services. During 2007, CAI provided training to 130 attorneys new to Dependency Court practice, including deputy county counsel, parents attorneys, and children's attorneys from throughout the state. Sessions were held in San Diego and Sacramento, with speakers and panels providing 20 hours of training to new counsel. Presenters included Marvin Ventrell, President and CEO of the National Association of Counsel for Children; experts from the Chadwick Center for Children & Families; Professor John Myers of McGeorge School of Law; experts from the Supreme Court's Judicial Council; and panelist experts from offices of county counsel, veteran parents and child attorneys. CAI



also included an important session taught by former foster youth, who discussed their experiences with attorneys in the Dependency Court process. CAI has received a second-year grant for 2008 to continue this training, and will again conduct three-day training sessions in both southern and northern California. CAI's website includes initial work on distance learning elements for this training, including video presentations of the 2007 instruction.

(3) CAI will continue to plan for the creation of a Masters of Law Program in Child Advocacy — a plan to create multidisciplinary education for new graduates and for veteran counsel who seek career change in the service of children. The new masters program is supported by First Star and is part of its Multidisciplinary Centers of Excellence plan.

■ Continued work on the national level. During 2007, I was asked to serve on the Member Leadership Council of Voices for America's Children. I was subsequently appointed to serve as counsel to the Voices Board of Directors. I continue to serve on the Board of Directors for the National Association of Counsel for Children, and during 2007 was elected Vice-Chair of the Board and continue to serve on the Board's 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, a Washington, D.C.-based public charity dedicated to improving life for child victims of abuse and neglect.

A Note of Thanks

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 & 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 offers an academic program that trains law students to be effective child advocates. Each fall semester, CAI Executive Director Robert C. Fellmeth teaches *Child Rights and Remedies*, which surveys the broad array of child advocacy challenges, including 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. Since 1993, CAI has also offered the *Child Advocacy Clinic* at the USD School of Law. In the Clinic, law student interns have three unique opportunities: (1) they can practice law in Dependency Court, representing abused or neglected children; (2) they can practice law in Delinquency Court, representing minors charged with offenses; and (3) they can engage in policy advocacy at the state level, drafting legislation, participating in regulatory proceedings, researching and writing reports, assisting in impact litigation, or working on special projects. Many graduates of this program have gone on to become professional child advocates.

In addition to its academic program, CAI's advocacy works to protect and promote children's interests across the state and nation. 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 Plates" custom license plate to fund children's health and safety programs; and others.

CAI's impact litigation has included a lawsuit challenging the state's stagnant foster family home reimbursement rates as being too low to being in compliance with federal law, which requires that licensed foster parents be paid enough to cover the actual cost of providing food, clothing, shelter, daily supervision, school supplies and daily incidentals; 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 has published the *California Children's Budget*, an extensive 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 1990, CAI has convened and chaired the **Children's Advocates Roundtable**, an affiliation of over 300 statewide and regional 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 a setting where statewide and locally-based advocates gather with advocates from other 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.

Since 1996, CAI's **Information Clearinghouse on Children** has worked to stimulate more extensive and accurate public discussion on a range of issues affecting the well-being, health, and safety of California's children, but providing a research service for journalists, scholars, and public officials.

In 2006, CAI launched the **Homeless Youth Outreach Project** (HYOP) under the direction of Equal Justice Works Fellow Kriste Draper, providing homeless youth with a clinic where they can receive legal assistance necessary to secure services to which they are

entitled. The HYOP partners with homeless youth shelters, outreach centers, and schools to provide a legal clinic to assist these youth in accessing health care coverage, education, and government benefits. Initial two-year funding to launch the HYOP was provided by Sony Electronics, Inc.; CAI is currently seeking continuation funding to extend this important project beyond the two-year term of the Fellowship.

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.

However, to finance 100% of its advocacy activities, CAI must raise external funds through private foundation and government grants, contracts, attorneys' fees, cy pres awards, 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.

2007 Activities & 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, including 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 three unique options: (1) in the **Dependency Clinic**, they work with an assigned attorney from the San Diego Office of the Public Defender, representing abused and neglected children in Dependency Court proceedings; (2) in the **Delinquency Clinic**, they work with an assigned attorney from the San Diego Office of the Public Defender, representing minors charged with offenses; and (3) in the **Policy Clinic**, students engage in policy work with CAI professional staff involved in state agency rulemaking, legislation, impact litigation, or related advocacy. Other research and advocacy opportunities are available to law students through Independent Supervised Research and work-study positions. During calendar year 2007, over 30 law students participated in CAI's clinical programs:

■ 14 law students (Allison Deal, Rachel Dorfman, Erin Doyle, Jennifer Holt, Shelly Kamei, Jenna Leyton, Sylwia Luttrell, Whitney Mello, Erin Palacios, Emily Reinig, Elizabeth Reinking, Dan Richardson, Angela Silvestri, and Kirsten Widner) participated in CAI's Policy Clinic. Each student worked on semester-long advocacy projects such as researching prospective litigation projects; researching and analyzing data supporting family foster care rate increases and other CAI legislative proposals; analyzing and comparing each states' public disclosure policies regarding cases of abuse or neglect that result in child deaths or near

deaths; and statewide research on the status and availability of school nurses in California public schools.

■ 10 law students (Sandra Ahinga, Kevin Bradley, Colin Donnelly, Kristy Gill, Tara Hunter, Jillian Kick, Britton Lacy, Christopher Mank, Daniel Richardson, and Eddie Tsang) participated in CAI's Dependency Clinic. In addition to working at the Public Defender's Office two days each week, assisting attorneys in the representation of abused and neglected children in Dependency Court proceedings, these students attended weekly classroom sessions conducted by Professor Fellmeth.

■ 2 law students (Jason Carr and Mishaela Graves) participated in CAI's new Delinquency Clinic. In addition to working at the Public Defender's Office two days each week, assisting attorneys in the representation of minors in Delinquency Court proceedings, these students attended weekly classroom sessions conducted by Professor Fellmeth.

■ 5 law students engaged in in-depth work with CAI as part of Independent Supervised Research or work-study projects; these students were Jason Carr, Kevin Cleveland, Erin Davis, Kristy Gill, and Tara Hunter.

James A. D'Angelo Outstanding Child Advocate Award

On May 25, 2007, 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 graduating law students **Jenna Leyton**, **Erin Palacios**, **Eddie Tsang**, and **Kirsten Widner**, for their exceptional participation in CAI's Child Advocacy Clinic.

All four students participated in the policy, dependency and/or delinquency sections of the Child Advocacy Clinic over multiple semesters. The work performed by Jenna, Erin, Eddie, and Kirsten was 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, Jim shared tremendous warmth, patience, love, concern, and laughter; he was a true 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 & 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 current University of San Diego School of Law students who use their legal skills during their law school years to positively 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 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 2007 recipient of the Joel and Denise Golden Merit Award in Child Advocacy was **Christopher Mank**, in recognition of his efforts to use his knowledge, skills, and compassion to better the lives of San Diego's foster children.

Advocacy, Research, & Publications

Legislative Activity

Overview of 2007 Legislative Year. While it is tempting to try to impose a coherent narrative on the 2007 legislative year by

attributing this bill or that bill, or the absence of this or that bill, to the determined effort by legislative leaders to secure extensions of their terms at the ballot box, that narrative would only partially be true.

It is true that the Speaker, pro Tem and other legislative leaders hoped to extend their terms. It is true that they hoped to showcase a major legislative accomplishment going into the special election in February. And it is true that the two showcase efforts — health care and redistricting reform — consumed a vast amount of top-level staff time and emphasis, to the possible detriment of other priorities.

But where health care is concerned, the Governor, legislative leaders, and their staffs are also rightly impelled by the dismal human and economic consequences of an irrational, needlessly expensive, and inhumane health care system; one that leaves 800,000 California children uninsured and hence disadvantaged in school and life and, almost as bad, cruelly diverts the financial resources and spirit of their parents away from what is required to raise them.

The Republican Governor's very public commitment to health care reform offers an unusual, maybe once-in-a-generation opportunity for a broad, bi-partisan reform in an area that cries out for radical reform. Thus, it is difficult to argue that legislative and executive branch leaders were wrong to try and seize this opportunity, even if it merely births a mouse.

Best for children would be instituting a **pure presumptive eligibility system** as suggested by CAI. Mirroring the way a business would approach the problem, CAI's proposal would allow children to show up at any physician's office and the physician would know that he/she would be paid, either by the state or by a private insurer. What makes this system sensible is the fact that the vast majority of the 800,000 uninsured children are already eligible for Healthy Families or Medi-Cal. Less than 3% of the state's children are uncovered privately and ineligible for public coverage. Spending tens of millions of dollars in health care bureaucracy to screen their eligibility costs taxpayers and makes no sense. It costs more than simply (i) allowing the child to receive care and (ii) checking on the child's eligibility once the costs of their care exceeds the cost of checking up on the child's eligibility. When that point is reached, the CAI plan would bill the parent on a sliding scale if the child was found to be ineligible for public programs, or subrogate to their insurer if they were covered privately.

Children cost just one-seventh the amount adults cost to cover and receive health insurance in every developed nation in the world. Every American senior has guaranteed single payer health care: Medicare. Even the Iraqi Constitution provides for child's health insurance. But the authors of the two modest expansions of child's health care — Assemblymember Laird and Senator Steinberg — had their bills placed on hold while leadership chased what appeared to be a politically shaky and legally suspect broader health care reform.

In pointed contrast to the State's failure, more than thirty counties have expanded child health coverage beyond federal or state lines on their own limited dime, reflecting a social conscience beyond the apparent reach of state legislative performance to date.

More than health care reform, more than the crisis in prisons, it is the ongoing effect of legislative term limits, the constraining effects of the two-thirds voting requirement for the appropriations and budget, and the distorting effects of how political campaigns are funded that explain why our Legislature and Governor act the way they do where children are concerned.

In a dysfunctional and distorted system, where the very architecture of state government distracts leaders from essential nitty-gritty issues resolved without immediate and tangible political benefits, those who cannot vote, who do not contribute, and who do not protest will get tossed around in the storm, their progress mostly consigned to good bills enacted at the margins of far bigger problems.

So each year — with this being no exception — California's children fall further behind at minimum by standing still. Dysfunctional or no, the State's moral obligation to our children endures and elected officials are rightly judged by the same litmus as we judge the gallantry of those on a sinking ship, where children are the first slotted for survival.

Term Limits. The state finally felt the full brunt of term limits this year. Fully 30% of the Assembly in 2007 was comprised of new members. What this means is simply this: if you take the freshman members from this year and the last, there are a very large number — arguably a majority — of elected members of our state congress who, compared with the predecessors, have less experience and lack the institutional memory to pierce recently rejected arguments of lobbyists. Those lobbyists largely represent profit-stake interests and are free to restart self-interested projects every several years notwithstanding recent rejection. Legislative independence is also hampered by two other dynamics: the restrictions of the term limit initiative on allowable legislative spending for its own independent staff, and growing post-legislative jobs by both former staff and legislators as private lobbyists. Power in Sacramento has, within the Legislature, shifted away from members and committee chairs, and toward the overall party leadership of the respective houses. But even here, term limits radically restrict continuity and the independent imprint of elected officials, and influence primarily rests within the domain of the 1,200 registered lobbyists.

Minority Rule. A faction that cannot earn a majority of seats in our Legislature has veto power over the fiscal destiny of the world's sixth largest economy. The two-thirds requirement offers legislative Republicans the fruits of a majority without their having to appeal to center-oriented voters to get it. Thus, while the Governor has a veto power, he must be elected by the entire state. In contrast, the Republican members of the Legislature enjoy a similar veto power on fiscal matters but answer only to their "base" and their constituents who wield power far in excess of their numbers.

This means that those who cannot win elections — whose views on child welfare, for example, may be far out of the mainstream — can nevertheless dictate child welfare policy, at least in the negative. The consequences of this anti-majoritarianism hits the most vulnerable most directly — children. Because of this requirement, it takes a two-thirds vote to repeal a special interest tax break, even one that might have laudable aims but that should be suspended during budget shortfalls that cripple consensus higher moral priorities.

Campaign Funding. It takes millions of dollars to run for even modest offices in California. Most candidates cannot self-fund, so they are entirely dependent on monied interests for their political viability and success. Special interests do not pour millions into the coffers of politicians for charitable purposes; they expect to have their priority be the politician's priority, especially where the distribution of state money is concerned. In a very real sense, elected officials cannot say no to special interests (or cannot say no to them too often) and expect to be politicians for very long.

Relatedly, one of the chief ways that legislative leaders become legislative leaders is by proving their prowess at fundraising for

their caucus. The Chairs of the Assembly Committees were largely provided to new members on the basis of how much they contributed to the funds under the control of the Speaker.

Money will not assure you success in Sacramento, but it vastly increases your chances.

Fiscal Context. We now know that last year's \$10 billion deficit was just an unwelcome preview of this year's gaping \$14 billion main feature.

One of the State's longest budget stalemates ended on August 21. The Assembly had approved a budget a month earlier that included a grab bag of special interest tax breaks; the Senate rejected that proposal. The final budget passed by the Legislature rejected many of the Governor's proposed money-saving cuts. For example, the Legislature rejected the Governor's efforts to freeze income eligibility for child care assistance and rejected his proposal to eliminate cash assistance to 200,000 children in the CalWORKs program, a particularly short-sighted proposal.

Yet, in order to garner the two-thirds necessary for passage, the Governor promised to use his line-item veto to reduce spending by \$700 million. Programs that benefit children were among those vetoed, including \$15 million slashed for outreach to enroll children in Medi-Cal and Healthy Families and \$2.8 million purportedly slated to help prevent foster youth identity theft and help adopted children locate their siblings.¹ The Governor has also ordered his agencies to cut 10% from their current budgets in advance of the expected deficit.

But about \$4 billion of the current \$14 billion deficit is of the Governor's own making, when he rescinded the increase of the vehicle license fee imposed by his predecessor without any apparent consideration of the fiscal consequences. Interestingly, the Governor recently signed a bill that hikes the license fee to fund pollution control programs, a precedent that should not be ignored where raising revenue for children is concerned.

The State's fiscal situation is frequently used as an excuse for lack of progress on child welfare. But this is a ruse. First, the State has faced far worse. In 1990, for example, the General Fund was about \$50 billion with a \$14 billion shortfall, a ratio far worse than our projected 10% shortfall next year. Second, the structural deficit of about \$5 billion has not prevented the Legislature and the Governor from funding other more vocal priorities such as \$75 million for the special election in February to extend term limits, when an election was slated already for June, or massive expenditures for prison construction. On the final night of the session, every possible rule was waived to move a bill that would have provided a hefty raise to prison guards.

That it is impossible to imagine such a thing happening on behalf of California's 77,000 foster children is all you need to know about how politics works in Sacramento where money is concerned.

All of this is especially tragic in light of the ever-burgeoning bankroll of the mental health fund established by Proposition 63, which imposed a modest tax on Californians earning more than \$250,000 annually. The mental health needs of "transition age youth" are specifically mentioned in the initiative and sadly almost all former foster youth would qualify as either mentally ill or at-risk. More than \$2 billion has accumulated in the corpus of Prop. 63 fund, yet the needs of transition age foster youth are so far largely being ignored by the counties where decisions about Prop. 63 spending are largely made.

Here is one way to measure the potential of the Prop. 63 funds. By operation of state law, foster children are tossed into the streets at age 18. Many steal or turn tricks just to survive. An astonishing 40% of our homeless population are former foster youth, who represent about 0.04% of the population. The median amount American parents spend on their children after they reach 18 years of age is \$44,500. Foster children have the state as their parent. Approximately \$250 million each year would provide comparable support for the children emancipating from state parentage. Just the interest on the \$2 billion would be fairly close to righting this wrong.

But once again, foster youth do not have lobbyists that can represent them at hearings in the 58 counties. Just as in Sacramento, foster youth appear to be losing where Prop. 63 is concerned because of their lack of political power.

Tragic too is the state of education funding. California endures as being in the bottom half of spending per pupil on education and still ranks at the near bottom in class size and the bottom half of the nation in spending per child. Proposition 98, which guarantees that a minimum amount of General Fund spending be devoted to public education, has become a ceiling instead of a floor, effectively closing off any debate about additional, much-needed funding. There are fewer community college to university "slots" per 18-year-old now than in 1991 when such slots are needed to make ever-more expensive four year colleges affordable. And arguably one of the State's signature achievements – the Cal State and University of California universities – inch by inch become out of reach as fees inexorably climb and as the cost of raising a child in California to majority soars above \$50,000, not including retirement and college financing.

Where child poverty is concerned, Temporary Assistance for Needy Families (TANF) benefits continue to decline in real terms with cost-of-living increases denied year after year. Moreover, while CalWORKs implementation of the federal Personal Responsibility Act (PRA) welfare reform law has laudably put some parents to work, children of other parents have been plunged into even deeper poverty as a disturbing number of parents lack both employment and public assistance to aid their children. TANF and Food Stamps benefits – together the key safety net for poor California children – are now at about 60% of the federal poverty line; a record low. Even



so, unlike New York, California does not have an earned income tax credit, despite the fact that such credits are among the most effective and inexpensive ways to ameliorate child poverty.

As all of these examples reveal, we are to a very real degree balancing the budget on the backs of children: failing to spend the money required to enroll them in health insurance plan they are by law eligible for; failing to redress grotesque differences in the quality of education; utterly failing transition age foster youth who are still in the main kicked out into the streets as an eighteenth birthday present, forced to steal or enter the sex trade to survive; increasing the fees and tuition paid by our youth; enacting bonds and entering into long-term retirement obligations that burden their futures, etc., all the while failing to ask the adults who pay taxes to make any sacrifice even though they have nation-wide enjoyed upwards of \$37 billion in tax breaks from the cuts enacted in 2001 and 2003.

Policymakers are balancing this and future budgets on the backs of children not because children deserve fewer resources, but because children have fewer resources — resources of the kind that electeds heed. This is the only reason children are always the Omega when they should be the Alpha, and that says nothing good about us as a state or as a community.

2007 Notable Legislative Victories for Children. Arguably the most noteworthy “victory” — if it can be called that — is that the Governor did not succeed in getting substantial cuts in children’s programs as a way of balancing the budget. If avoiding a cut can be called a victory, then certainly turning aside the Governor’s effort to take money literally out of the hands of 200,000 impoverished children by eliminating their CalWORKs cash assistance is arguably the year’s most noteworthy accomplishment.

Other noteworthy accomplishments include:

- **SB 39 (Migden).** This CAI-sponsored bill could revolutionize the way we hold state and local governments accountable for the deaths of children caused by abuse or neglect. Before SB 39, in order to obtain the barest information revealing the circumstances underlying the death of a child, members of the public had to file a full-blown lawsuit. Worse, the statutes providing the opportunity to sue were ambiguous, providing recalcitrant counties ample opportunity to drive up litigation costs, delay the disclosure of unpleasant facts until after public attention had waned, and generally frustrating efforts to hold governments accountable. SB 39 will allow for a broad degree of administrative disclosure and has streamlined



the petition process, making it truer to the purposes for which it was enacted in the first place.

- **AB 1331 (Evans).** This bill requires a county to screen each foster youth in foster care who is at least 16 years and 6 months of age and not older than 17 years and 6 months of age in order to determine whether the youth is eligible for federal SSI benefits. Too many youth transition out of foster care without obtaining the federal benefits they are owed. However, the bill would make compliance with this requirement contingent upon the ability of the county to use state AFDC-FC resources for the foster youth pending the application for federal benefits.

- **SB 241 (Kuehl).** This bill requires a court, if a child ward or proposed ward is furnished legal counsel for a guardianship proceeding, to determine whether the parent or parents or the estate of the ward is financially unable to pay all or a portion of the cost of appointed counsel. The bill requires that any portion of the cost of that counsel that the court finds the parents or the estate of the ward is unable to pay be paid by the county.

- **THP-Plus Extension and Expansion.** The Transitional Housing Placement Plus (THP-Plus) Program provides affordable housing and comprehensive support services for up to 24 months to help former foster care and probation youth ages 18 to 24 make a successful transition to independent living. The program is administered by the state Department of Social Services, which distributes THP-Plus funds to counties. The county department of social services then provides the services directly or contracts for services with nonprofit THP-Plus providers. The Governor's

Budget included \$35.7 million for this Program and an additional \$10.5 million reimbursement for the counties on program-related expenses last year. The additional money will allow 1,200 former foster youth to take advantage of THP-Plus — which highlights the good news and bad news about the program. The good news is that the program is truly comprehensive, providing welcome aid to former foster youth. The bad news is that the program is extremely expensive and places the youth in institutional group home settings, costing overall between \$30,000 to \$50,000 per year per youth when many youth may want a less restrictive, more flexible (and less costly) alternative. The expense of the program means that for the foreseeable future, THP-Plus will reach just a fraction of the transition age foster youth population. Moreover, not all former foster youth require the intensive therapeutic services provided by the Program.

Hence, CAI's Transition Guardian Plan approach is an option that the state should offer. Under the Plan, a transition age foster youth has a trustee appointed by a court, and the three of them together craft a plan to spend the corpus over time as-needed, just as a parent or guardian would. This plan — far less expensive than THP-Plus — would attract those youth who no longer want to live in an institution (who have understandably had enough of the system) and who now confront what is for them a Hobson's choice: live in an institution that may not be right for them or face homelessness if self-sufficiency is the aim.

- **SB 783 (Torlakson).** Children are uniquely vulnerable to dangerous amusement park attractions. In 1999 CAI was instrumental

in securing passage of the Permanent Amusement Inspection Safety Program which, among other things, requires inspections, employee training, and reporting of serious accidents to the State. This bill extends these same protections to carnivals and other settings where amusement rides are temporary.

But, of course, with nearly one million children uninsured although eligible for healthy Families or Medi-Cal; with the foster care system in crisis because of foster parents fleeing the system due in part to inadequate reimbursement rates; with the State still tolerating the inhumane policy of evicting abused and neglected children to the street to fend for themselves on their eighteenth birthday; with the State still tolerating a *Plessy v. Ferguson* like division in performance between schools in wealthy communities and those in underprivileged ones; with child support collections still too low; and with no pathway in sight to re-orient our legislative priorities to match our familial ones such that children are taken care of first, it is hard to classify any of the above bills — good as they may be — as victories that will transform the lives of children right now.

Work Unfinished. Some noteworthy examples of bills that failed passage include:

- **AB 273 (Jones).** For the second year in a row, the Senate Appropriations Committee killed a bill that would have required annual check-ups for foster children who, by definition, are abused and neglected.
- **AB 324 (Beall).** Foster parenting is in crisis, with the number of foster parents plummeting 30% statewide in the last few years. This is in part due to the fact that foster parents have not received an increase in reimbursements since 2001. This steep decline translates into children having to be placed in more expensive group institutions. So in sum, this policy is worse for abused and neglected children and more expensive for taxpayers. AB 324 would have raised foster parents' reimbursement 5% while creating a program to train and retain foster parents. Although the 5% increase was included in the budget, it was expanded to apply to all caregivers, and the rest of the bill — far more meaningful for foster children than the modest \$25 a month reimbursement increase — was held in Assembly Appropriations Committee.

The failure of this bill prompted CAI to file suit in federal court challenging the State's low foster parent reimbursement rates.

- **AB 1330 (Evans).** This bill required the Department of Social Services to collect and maintain data on all youth in foster care that are prescribed psychotropic medication. At a recent informational hearing foster youth shared disturbing stories of their experiences with medication while in care. Those stories have suggested that psychotropic medication is used as a behavioral control mechanism rather than for treatment and that there is little medical oversight of their usage. They often point to the use of the medication within

group care as an example of abuse of the medication. The bill died in Assembly Appropriations Committee.

- **AB 1578 (Leno).** This measure would have enacted the Foster Youth Higher Education Preparation and Support Act of 2007. The bill would have provided current or former foster youth in their first year of postsecondary enrollment would be eligible for tuition and fee coverage under the Cal Grant B program (typically, only "access" awards are provided in the first year). This bill would also have enacted the California College Pathways Program to be administered by the California Student Aid Commission (CSAC), for the purposes of providing comprehensive support to current or former foster youth attending public postsecondary institutions of higher learning.

The greatest work that endures as unfinished is not reflected in the failure of these or other measures. Advocates and their legislative allies now self-select failure by not even introducing bills that would expend the resources required to meaningfully improve the lot of children dramatically. Hence, "big" bills to reverse education inequality, to provide the barest of safety nets for foster youth tossed into the street on their eighteenth birthday, to provide comprehensive health insurance for all children as a right, to provide intensive help to juvenile offenders to divert them from a lifetime of crime, all cry out for legislative action, yet there is none and none in sight as a Legislature deformed by various initiated efforts to reform it lurches from one budget crisis to another while children wait and wait for the kind of priority they morally deserve but politically — because they are, after all, children — will never be able to muster alone.

Children's Legislative Report Card. CAI's 2007 *Children's Legislative Report Card* attributes grades to California legislators for their votes on child-related legislation during the first year of the 2007–08 legislative session. The grades reflect each legislator's votes on 22 bills that ran through policy and fiscal committees and achieved votes on both the Assembly and Senate floors. The *Report Card* also includes two additional bills, an Assembly bill that was killed in the Suspense File of the Senate Appropriations Committee, and a Senate bill that was killed in the Suspense File of the Assembly Appropriations Committee. For those measures, each legislator in the house of origin will receive a "yes" or "no" vote, depending on how he/she voted when the bill came up for a floor vote. Each legislator in the other house—where the bill died—will receive a "no" vote, reflecting the fact that they allowed the bill to die in the Suspense File without an affirmative vote. Thus, the *Report Card* reflects each legislator's actions on 24 total measures.

The *Report Card* is intended to educate and inform the public of legislators' actions on a selection of bills that would have benefited children if enacted.



Legislative Awards. Each year, CAI selects legislators and legislative staff to honor for their hard work on behalf of children and youth. CAI presents three distinct awards: Legislator of the Year, the Children First Award, and Legislative Staff Member of the Year.

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. For 2007, the Legislator of the Year award was presented to the outstanding efforts of the **Senate President pro Tempore Don Perata**, who effectively worked to protect children's interests during 2007. CAI selected him for this honor because of his successful and effective leadership, despite severe fiscal and political pressures, in crafting and enacting a budget that protected funding sources essential to the future well-being of California's children, as well as his longstanding support of efforts to improve the status of California's children.

The **Children First Award** recognizes a legislator for who went against the status quo or resists political expediency to support children's issues, or takes political risks on behalf of kids, which may include voting in opposition to party recommendations or taking on controversial or unpopular issues. CAI selected two legislators to receive this honor in 2007. First, CAI acknowledged **Senator Carole Migden** for her courage in authoring and tenacity in fighting for SB 39, a landmark measure that will finally enable the California public to hold state and local government accountable for the deaths of children due to abuse or neglect and, through the reforms that can come only through sunshine, will save the lives of countless abused and neglected children throughout California.

CAI also presented the **Children First Award to Assembly-member Dave Jones**, who has shown a longstanding commitment to author and passionately advocate for legislation that would meaningfully improve the lives of California's children. According to CAI, Assemblymember Jones consistently puts children's interests ahead of all others and is a loyal and unyielding ally for children who stands up for the interests of children time after time, on issue after issue.

The **Legislative Staff Member of the Year** award is presented to legislative staff members whose dedication to children's issues has been exceptional over time, and who put forth exemplary effort in furtherance of legislation that would elevate the status of our state's children. CAI felt that four legislative staffers — **Fredericka McGee**, **Laura Metune**, **Gloria Ochoa**, and **Gene Wong** —deserved this award for 2007 because of their commitment and hard work leading to the enactment of SB 39 (Migden), a groundbreaking measure would not have been enacted without their outstanding efforts.

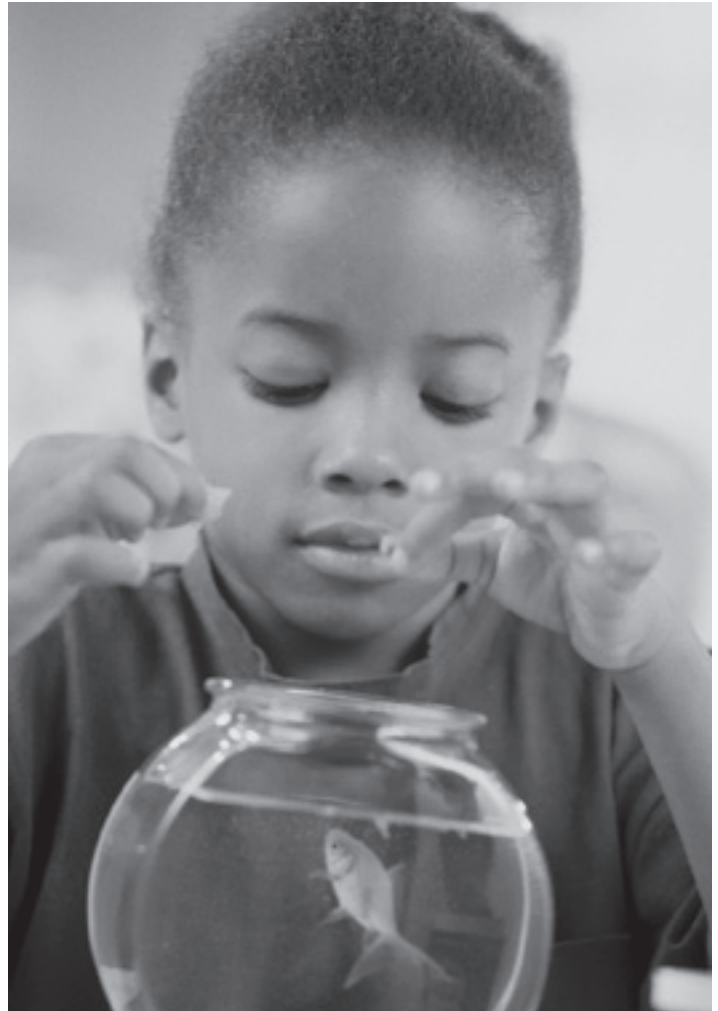
Advocacy in the Courts

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 in recent months.

Foster Family Home Rate Litigation. In 2007, CAI filed a lawsuit in U.S. District Court for the Northern District of California, on behalf of state-licensed foster parents in California, many of whom receive less assistance per month from the state than the average cost of kenneling a dog, challenging the lawfulness of California's low foster family home payments under federal law. CAI, with the pro bono assistance of **Morrison & Foerster LLP**, is representing the **California State Foster Parent Association, Legal Advocates for Permanent Parenting**, and the **California State Care Providers Association**, and is asserting that assistance rates set by the California Legislature have fail to adequately reimburse foster parents for necessities as required by federal law. Furthermore, the assistance rates have failed to keep pace with the California Necessities Index (CNI), a component of the Consumer Price Index (CPI) that has risen 25% since 2001. In 2008, the average assistance per child paid to licensed foster parents will be about \$530 a month.

Citing a recent study from the California Budget Project, a non-partisan and nonprofit fiscal reform group, the suit maintains that an average monthly payment of \$709 is required for the state to be in compliance with federal law. A joint report released in October 2007 by the University of Maryland School of Social Work and the National Foster Parent Association sets the minimum average rate for adequate care in California even higher — at \$777.

The federal law requires that licensed foster parents be paid enough to cover the actual cost of providing food, clothing, shelter, daily supervision, school supplies and daily incidentals. According





to the lawsuit, California foster-care payments currently cover only a fraction of these costs, resulting in a steep and steady decline in recent years in the number of Californians willing to become foster parents. Some counties – for example, Sacramento and San Bernardino – have seen the number of willing foster families drop by more than 50 percent. Perversely, this costs the state money, the lawsuit says, because a shortage of foster parents means that abused and neglected children are placed in far more expensive group homes. Tight state purse strings also tend to make it more difficult to keep foster siblings together in a family or in families that live near one another.

The lawsuit comes on the heels of the defeat earlier in 2007 of AB 324 (Beall), which would have required a 5% increase (about \$25 a month) in payments to families, tied future family support increases to upticks in the California Necessities Index, and established a program to educate and train foster parents (*see above* for more information on AB 324).

Foster Child Fatality Data Litigation. In 2003, CAI sponsored AB 1151 (Dymally) 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 several Public Records Act requests of each California county (each request covering different time periods), requesting the “tombstone information” authorized for disclosure 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 responses to its Public Records Act requests from most counties. However, Orange County did not comply with CAI’s Public Records Act request and CAI was forced to file a Petition for Writ of Mandate requesting the Orange County Superior Court to direct Orange County to provide the information to CAI. After the filing of CAI’s petition, Orange County Juvenile Court revised its policy regarding the dissemination of the requested information; based on this change in Juvenile Court policy, the Orange County Social Services Agency provided the fatality data to CAI. CAI and the Orange County defendants subsequently entered into a settlement agreement to dismiss the case, and the defendants provided CAI with \$12,000 in costs and attorneys’ fees.

Amicus Curiae Activity. During 2007, CAI participated as an *amicus curiae* — friend of the court — in several ongoing cases, including the following:

■ In *Daniels v. Philip Morris*, No. 07-740, CAI submitted an *amicus curiae* brief to the U.S. Supreme Court, in support of petitioners' Petition for Writ of Certiorari. In the underlying decision, *In Re Tobacco Cases II* (2007) 41 Cal. 4th 1257, 63 Cal. Rptr. 3d 418, the California Supreme Court dismissed a class action complaint alleging the deliberate targeting of children for the marking and sale of cigarettes in violation of the state's Unfair Competition Law. Specifically, the court held that the Federal Cigarette Labeling and Advertising Act concerning health and safety advertising preempts California's Unfair Competition Law because health and safety considerations underlie protection of sales to minors and hence, such marketing is subject to exclusive federal control under the statute; the court also held that the advertising of tobacco is subject to commercial speech protection shielding it from the allegations. In its *amicus* brief, CAI argued that the commercial speech rights of tobacco did not reach deceptive practices, nor the sale to minor limitations. CAI also argued that the rationale behind the tobacco sale-to-children prohibition extends beyond the health and safety ambit of the Federal Labeling Act, and reflects a major public policy disfavoring purchases of an addictive product — separate and apart from health consequences; the Federal Labeling Act's terms and legislative history extend only to health and safety representations, while the *Daniels* allegations go to the very different marketing practice of selling an addictive product to children, a practice properly subject to fair competition regulation with or without any health consequence; the fact of cigarette health and safety problems does not moot or subtract from a host of other reasons to limit sales to minors; the decision below transforms the deficit of health and safety threat into a perverse rationale for industry unfair competition immunity; the rationale of the court would logically moot all sale-to-minor prohibitions as "at bottom" health and safety regulation cancelled by the Federal Labeling Act; and caselaw relied upon by the California Supreme Court did not mandate federal preemption of sale-to-minors (or addictive substance sale) state regulation.

■ In *People v. Stockton*, No. SCD 202846 (San Diego Superior Court), CAI submitted comments as *amicus curiae* regarding the sentencing of a young woman who had been molested by her stepfather for several years (from age 11 until age 19), and had allegedly engaged in activity that assisted her stepfather in engaging in illegal activity with one of the young woman's friends. CAI argued that the woman exhibited behavior symptomatic of many molest victims, and that it is common for child molest victims to engage in passive submission to molestation, keep its existence secret (or deny it), facilitate its commission, and protect his/her perpetrator. CAI argued that the 8-year term in state prison recommended by the probation officer was inappropriate and excessive given the fact that the woman's behavior was typical of a child molest victim and was nothing more than the product of her stepfather's influence over her.

■ In *County of San Diego v. David Arzaga* (2007) 152 Cal. App. 4th 1336, CAI submitted an *amicus curiae* letter in support of the petition for review to the California Supreme Court. The appellate court decision held that de facto fatherhood status is not permitted where the alleged father thought he was the biological father, and functioned as the child's father from her birth until age 15, but then learns from a DNA test that he is not. The opinion describes this situation as "without precedent" to support estoppel. CAI argued that the concept of fatherhood by estoppel involves detrimental reliance — not just by the mother, not just by the alleged father, but also by the child. Contrary to the appellate court's holding, that aspect of estoppel not only has precedent, but is one of the bases for its definition as a form of presumed fatherhood under the Uniform Parentage Act.

■ In *Hall v. County of Los Angeles* (2007) 148 Cal. App. 4th 318, 55 Cal. Rptr. 3d 732, CAI filed an *amicus curiae* letter brief with the California Supreme Court in support of the petition for review of the appellate court decision. The underlying case challenged the payment of particular public employees at disparate levels — with a record well establishing discrimination and gender domination of the category impacted. Specifically, the Auxiliary Legal Services entity created by Los Angeles County to handle its dependency court caseload was 71% female, and the County well knew that its pay system and the underlying culture would see that percentage rise over time. By comparison, the Office of County Counsel was 77% male during the same period. CAI participated in this proceeding to inform the court about the role of minor's counsel in dependency proceedings; specifically that they represent someone who has been a victim, who has done nothing wrong, but now faces the loss of parents and family, and a future to be decided by strangers. CAI argued that child clients are often inarticulate, and rely entirely on the attorney to be their voice in the proceedings that will determine the rest of their childhood, and much beyond. CAI urged the court to acknowledge that the underlying proceeding is not a case of lower pay for comparable work — it is lower pay for harder work.

■ In *In re P.D.*, 2007 Cal. App. Unpub. LEXIS 682, CAI submitted an *amicus curiae* letter brief supporting the request of the Sacramento County Department of Health and Human Services Agency for review of the unpublished decision filed by the Third District Court of Appeal. CAI argued that there is an abundance of confusion — resulting in conflicting appellate district opinions — with regard to when notice is required pursuant to the Indian Child Welfare Act (ICWA), and that review and determination of this question by the California Supreme Court is required to settle this important question of law and help minimize the troubling delay and/or denial of permanency for the children involved in these proceedings.

- In *Perez-Olano v. Gonzalez*, CAI participated as an *amicus curiae* in a case before the U.S. District Court for the Central District of California, dealing with the Special Immigrant Juvenile Status (SIJS) provisions of the Immigration and Naturalization Act. Specifically, CAI expressed concern that the Department of Homeland Security, through regulations promulgated by the Bureau of U.S. Citizenship and Immigration Services, is unfairly and unlawfully terminating eligibility for SIJS at an arbitrary point in time, and that Immigration and Customs Enforcement is acting in an overly broad manner to strip juvenile courts of jurisdiction over young people in their territory.

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 2007. 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.

Appointment of Counsel for Children in Dependency Appeals. In late 2006, the Judicial Council released proposed regulatory changes and new form JV-810 to set forth the procedures for a child's trial attorney or Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem (GAL) to follow and factors for them to consider when requesting the appointment of a separate appellate attorney for a child in a juvenile dependency appeal. This proposal implements CAI-sponsored AB 2480 (Evans) (Chapter 385, Statutes of 2006), which provides that in all dependency cases in which the child is the appellant, the Court of Appeal shall appoint a separate attorney for the child, and in cases where the child is not the appellant, the Court of Appeal shall have discretion to determine whether a separate attorney is necessary. In order to assist the Court of Appeal in its decision, AB 2480 requires that the trial attorney make a recommendation to the Court of Appeal, "in any case in which the trial counsel or guardian ad litem determines that, for the purposes of the appeal, the child's best interests cannot be protected without the appointment of separate counsel."

In responding to the Judicial Council's proposed regulatory language in early 2007, CAI based its comments and testimony on the following six aspects of child appellate representation which properly inform rules to implement the statute:

(1) The child is a party to the proceeding in California by both statutory definition (Welf. & Inst. Code § 317.5(b)) and moral commendation. The outcome will determine where the child will live, with whom and under what conditions. There is perhaps no single judicial decision of greater moment to a party save a judicial judgment of death or life imprisonment.

(2) Although some appellate proceedings do concern a single issue adequately briefed by the county and parents' counsel, such

a stunted and binary view of dependency court litigation is often inapplicable. Rather, the court may well have at issue where a child will be placed and with whom, visitation rights, contact with siblings and grandparents, *et al.* The court will determine by act or by acquiescence to local social services agency virtually every detail of a child's life—from whether a visit from a possibly violent father should be supervised, to whether an aunt should be considered as an adoptive parent or guardian. The issues are as faceted and nuanced as they are legion, far transcending whether the child will live with one parent or neither. And even within the narrower rubric of "is this parent unfit", the child may have a unique perspective different than the other two parties. After all, what is at issue is not some kind of generic fitness, but fitness for this particular child given her particular and individual needs, background, challenges, and personality.

(3) Underlining the three-party-structure of these cases, the interests of county counsel are not necessarily consonant with the position taken by the child or by someone representing his or her best interests. Attorneys for the county will understandably represent the position taken by social service agency workers, and understandably tend to defend the decisions made thereby. County counsel represents county agencies, which may or may not support additional spending for purposes beneficial to a child. Indeed, the premise behind requiring counsel in dependency court rests on the implicit assumption that conflicts of interest necessarily involved in representation of the government, may often inhibit the proper and independent representation of the child. It is unclear why the rationale for such a third voice at the trial level is somehow mooted where the matter is elevated for a likely binding, final decision.

(4) The child has counsel. State law instructs that counsel be appointed for the juvenile court "proceeding." It has been and remains CAI's position that the appellate consideration of a juvenile dependency court case is not a separate "proceeding," but is ancillary to and determinative of the "proceeding" that will determine the child's parent and status. Indeed, in other proceedings, a lower court loses "jurisdiction" over a case when it is appealed. But juvenile dependency court is different even in this respect, for the juvenile trial court takes "jurisdiction" of the child and literally supplants parental authority. That jurisdiction is not transferred to the appellate court, but remains with the trial court throughout the relevant judicial process. In other words, it is one "proceeding" that effectively remains before the juvenile court as the entity taking "jurisdiction" of the child under Welfare & Institutions Code § 300 et seq. The statutory instruction that counsel be appointed for the child for that juvenile court "proceeding" logically includes any appellate stage thereof.

(5) The attorney appointed for the child at the trial court level has a fiduciary duty to his/her client. Since the 19th century this has been consistently held to be a fiduciary duty of the "highest character."

That duty prohibits counsel from abandoning a client, particularly during the pendency of a proceeding and after due reliance. The California Rules of Professional Conduct guide attorneys in their decisions to withdraw as counsel (Cal. Rules Prof. Conduct, Rule 3-700). Assuming an attorney believes in good faith that his/her representation is of benefit to his/her client, what is he/she to do when a third party interferes with that duty or facilitates a withdrawal without any basis under the Rules of Professional Conduct, or in violation of applicable fiduciary duty? Under what circumstance would a court suggest, much less compel, such an abandonment? What are the implications of a policy that establishes a prima facie system of abandonment unless some third entity agrees to allow continuation?

(6) Why would any appellate court decline to hear from a party in a proceeding who avers that he/she has helpful information to impart? Those children in dependency court are legally the children of the court, with parental jurisdiction supplanted by it. What parent would place barriers to hearing from her child? Why would any parent place any obstacle to that reception?

Dependency Court Performance Measures. In 2006, CAI was a co-sponsor of AB 2216 (Bass) (Chapter 384, Statutes of 2006), which requires the Judicial Council to adopt, through a rule of court, Dependency Court performance measures designed to complement and promote federal Child and Family Services Review outcome measures and all the California Child and Family Service Review System outcome indicators “so that courts are able to measure their performance and track their own progress in improving safety, permanency, timeliness, and well-being of children and to inform decisions about the allocation of court resources.” In late 2007, the Judicial Council published notice of its intent to adopt Cal. Rules of Court, Rule 5.505, to implement AB 2216. Although CAI fully supports the stated purpose of proposed Rule 5.505, CAI objected to the fact that the “performance measures” listed in subdivision (b)(1) of proposed Rule 5.505 were so basic that they provided no clear guidance regarding the data that is to be measured. The “performance measures” delineated are merely “child safety, child permanency, child and family well-being, hearing timeliness, and due process protection for parties, including tracking timely appointment of counsel for parties, timely notice of hearings, and the opportunity for parties to be present at every hearing.” These basic “performance measures” are more accurately described as categories regarding the areas that should be studied but are not, themselves, measurable and are thus incorrectly labeled “performance measures.”

Proposed Rule 5.505 acknowledged this deficiency by explaining, in subdivision (b)(3), that “detailed definitions of the performance measures and descriptions of the methods for producing the performance measures will be contained in the Implementation





Guide to Juvenile Dependency Court Performance Measures approved by the Judicial Council.” However, CAI is concerned that by adopting only very basic categories in the Rule of Court and delineating specific performance measure descriptions through an Implementation Guide, proposed Rule 5.505 does not meet the requirements of AB 2216. CAI suggested that proposed Rule 5.505 be amended to identify quantitative or qualitative characterization of performance, and to identify how to measure the specific characteristics of a particular performance and monitoring quality or quantity of that performance.

CAI submitted its formal comments to the Judicial Council in January 2008. The Judicial Council has since proposed new performance measures that are more specific. CAI will be submitting formal comments on the revised performance measures in June 2008.

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 2007, CAI staff had two opinion / editorial pieces published in major California newspapers:

■ In November 2007, the *San Francisco Chronicle* published CAI Executive Director Robert Fellmeth’s oped entitled, “**Parenting Our Foster Children,**” in which Fellmeth critiqued the state’s performance as a parent to the over 77,000 children in foster care:

[T]he final grade, as with recent performance, is not better than a D, reflecting California’s... continuing basic deficiencies.... We have heard the same song from legislators for the past 17 years of lobbying for children. “We just do not have any money....Impossible. Wish we could help.”

Meanwhile, both parties ignore the \$30 billion in annual state tax “expenditures” (special favors), and also the federal tax reductions giving California taxpayers more than \$37 billion a year since 2003. About 1 percent of either of these sources would provide prevention investment, adequate family foster care placements and more adoptions, and an eight-fold increase in assistance to emancipating foster kids - simply matching what private parents provide for their children.

That would discharge the state’s parental duties responsibly and earn it a B or better. But none of these proposals is on the table.

■ Also in November 2007, the *San Diego Union-Tribune* published an oped written by Fellmeth, entitled “**Medically Cover Our Children — The Net Cost Is Virtually Nothing, But Nothing Is What Is Likely to Happen,**” urging policymakers to provide public health coverage for the state’s children:

It is unlikely we shall get universal health coverage out of our structurally defective political system. But we should at least be covering our children.

We cover all of our elderly. And child health coverage costs per capita one-fifth the amount we pay for older adults....

Even the most conservative legislator should not want to put a Maginot line in front of child health coverage, not when presumptive eligibility means less government red tape, less bureaucracy, continued private coverage, and fair rates. And the other side of the aisle should be interested in removing barriers to coverage that deny medical treatment for so many children, or make it a financially catastrophic family event....

Currently, Illinois and other states, and every other industrial nation in the world, provide assured coverage for all children as a matter of course. It is time for us to join the civilized world. To continue to resist based on ideological slogans — when it costs virtually nothing financially from the state — is a test of ethical sensibility and basic math aptitude.



Collaboration & 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 and postings on CAI's website.

The Roundtable has recently started to make a concerted effort at building a grassroots campaign in opposition to the proposed budget cuts for children's programs; this effort will include the creation of a website dedicated specifically to this effort, where advocates can post and find issue papers on budget issues, stories of how the cuts would impact children across the state, and information on upcoming hearings and meetings, and the public can access that information and find out how they can voice their opposition to the proposed cuts.

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 2007, 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, CASAs, 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 professionals. 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 country. 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 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 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 Vice-Chair. 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 Board of Directors of **First Star**, 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

Improving Outcomes for Transitioning Foster Youth

In October 2005, CAI was awarded a three-year grant from **The California Wellness Foundation** to engage in a variety of activities aimed at improving outcomes for youth aging out of the foster care system. The project includes 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 75,000 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 challenges 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.

In January 2007, CAI released its master report entitled, ***Expanding Transitional Services for Emancipated Foster Youth: An Investment in California's Tomorrow***, at a press conference in the Governor's Press Room at the State Capitol. The report, written primarily by CAI Staff Attorney Melanie Delgado and San Diego attorney Karen Prosek McCready, details how state and federal laws and programs fail to provide California's emancipated foster youth with a meaningful opportunity to attain self-sufficiency. While some state and federal funding is available for former foster youth, it is sorely inadequate to provide the support necessary to enable these youth to transition to self-sufficiency. In California, current programs for emancipated foster youth are fragmented and underfunded, fail to provide comprehensive assistance and services, and do not reach a significant number of former foster youth in a meaningful way.

CAI also released details on its proposed **Transition Guardian Plan**, which would replicate as closely as possible the commitment of responsible parents during the transition of their children into independent adulthood.



Participants at the January 2007 State Capitol press conference for the release of CAI's report on expanding transitional services for emancipating foster youth included **Sophia Herman** and **Michelle Brunetta**, former foster youth who are now advocates with the San Diego Foster Youth Initiative; **Nancy O'Riley**, a former foster youth who now works with Connected By 25; **Melanie Delgado**, CAI Staff Attorney; **Kriste Draper**, Equal Justice Works Fellow and director of CAI's Homeless Youth Outreach Project; and **Robert Fellmeth**, CAI Executive Director and Price Professor of Public Interest Law at the University of San Diego School of Law.



Under CAI's proposal, former foster youth who opt to participate in the Transition Guardian Plan will receive a monthly stipend and support services. The stipend is sent to a court-appointed adult guardian who meets with the youth on a monthly basis to distribute the funds, plan for their use, and verify the youth's continuing progress toward self-sufficiency. The stipend would be based on the youth's needs, but would typically range from a high of \$850 per month in the first year of participation down to \$258 per month during the fifth year of participation, decreasing as the youth becomes more self-sufficient. An important element of the Transition Guardian Plan is the guardian position itself. Ideally, this guardian will be someone with a prior relationship with the youth — to accomplish the continuity otherwise lacking for many of these children. The guardian may be the foster care provider, a relative, a CASA, the youth's attorney, or some other person who is competent, responsible, cares about the youth and in whom the youth has confidence.

CAI also unveiled the results of the nation's first **transitional services cost-benefit analysis**, which shows that significant cost savings would be attributable to keeping former foster youth out of prison and off welfare, and helping them become self-sufficient, tax-paying members of society. Using just those three factors, CAI's analysis shows a benefit-to-cost ratio of 2.98 to 1 (or 1.85 to 1 present value) for one cohort and 3.1 to 1 (or 1.9 to 1 present value) for 40 cohorts.

Since the release of its report, CAI has worked hard to keep the issue of increased funding and services for transitioning foster youth a priority for advocates and policymakers. Some limited success for CAI and other advocates occurred in 2007, when policymakers gave the THP-Plus transitional housing program a modest but important increase in funding. CAI's ongoing work in this area includes the following activities:

- CAI continues to promote the **Transition Guardian Plan**, and has been hard at work to identify and pursue funding sources other than the General Fund for this effort. CAI is continuing to work with a coalition of stakeholders to refine the proposal and identify alternate means by which to implement it. CAI has also engaged in the following related activities:

- CAI is examining **Proposition 63, the Mental Health Services Act (MHSA)**, to determine how funding from this initiative may be leveraged to provide extended benefits and services to youth who age out of California's foster care system. Foster youth have a high incidence of mental health issues, and transition age foster youth should properly be a priority for MHSA funding. CAI is researching the MHSA and how it could best be used to benefit youth in and leaving foster care, and is advocating for funding to be specifically allocated to meet the needs of transition age foster youth.

- CAI is reviewing the counties' **Community Services and Supports (CSS)** plans and will be reviewing their **Prevention and**

Early Intervention plans as they are released. In 2008, CAI plans to release a report detailing how counties are spending MHSA funding for the benefit of transition age foster youth. CAI will also include in its report a framework for using MHSA funds to better address mental health issues faced by transition age foster youth.

■ CAI is continuing to examine the purpose, intent, and implementation of California Welfare and Institutions Code § 391, the “**emancipation checklist**”. As it is currently being utilized, CAI believes that the checklist is not an effective tool to gauge a youth’s ability to be self-sufficient.

■ In light of the state’s budget deficit, CAI anticipates that there will be major pressure to cut into the current level of funding for foster youth transitional services, including THP-Plus money, and is preparing to defend vigorously against any such proposals.

CAI is extremely grateful to The California Wellness Foundation for the opportunity to engage in this very worthwhile endeavor.

Related Activities. Although not funded by CAI’s grant from TCWF, CAI has been engaging in the following activities which are related to the goal of expanding transitional services — and improving overall outcomes — for emancipated foster youth:

■ In February 2007, CAI sponsored the introduction of **SB 348 (Migden)**, which would have authorized the Transition Guardian Plan; regrettably, however, the Transition Guardian language was subsequently amended out of this measure. CAI also actively supported several other bills, both federally and within California, with the objective of improving services for youth emancipating from foster care; for example, CAI supports **S. 2341 (Clinton)**, introduced in November 2007, which would facilitate the creation of Individual Development Accounts (IDAs) for former foster youth.

■ In September 2007, CAI became involved with a group of state and national organizations working with Sen. Barbara Boxer’s office to extend **AFDC-FC until age 21**. CAI has participated in several conference calls and a working meeting in Chicago in October to work out the details of the proposal. Bringing its expertise on issues surrounding transition age foster youth and California’s law and policies, CAI is remaining involved with this group and is using its influence and connections to bring together advocates in California to support the federal effort and to facilitate the creation of policies and legislation on a state level to ready the state for the federal change if and when it occurs.

In addition to the grant from **The California Wellness Foundation**, funding from **The Weingart-Price Fund** also supports CAI’s work to improve outcomes for youth aging out of foster care, as well as CAI’s efforts to improve the foster care experience for children and youth currently in the system.

Dependency Counsel Training Program

The **Governor’s Office of Emergency Services** has selected CAI

to receive a grant through the federal Children’s Justice Act, with the purpose of developing a curriculum and training attorneys who are new to Dependency Court practice. The purpose of this training is to ensure that attorneys appearing in Dependency Court — whether they are representing the county, parents, or children — are properly prepared for the extremely important, unique, and challenging work in which they are engaged.

During 2007, CAI convened an expert panel of practitioners, advocates, and scholars, and developed a comprehensive curriculum covering a wide range of information related to the Dependency Court process, including an overview of child welfare law and practice; discussions of mental health issues, community resources, child development, and substance abuse issues; a comprehensive discussion of each hearing in the Dependency Court process, including “tips” from lawyers representing parents, children, and the county; the appellate process and collateral proceedings; educational advocacy; and specific trial advocacy training. In addition, a special segment of the curriculum was taught by former foster youth, who discussed their own personal experiences with attorneys in the Dependency Court system and provided insights from their unique perspectives.

CAI then retained the assistance of these experts to provide the training in two 20-hour sessions for attorneys who are practicing in Dependency Court and have been doing so for one year or less. The 2007 sessions were held in San Diego on November 9–11, 2007, and in Sacramento on December 5–7, 2007. The sessions were provided free of charge to new Dependency Court counsel, and each participant was also given two important treatises for use in their day-to-day practice: *California Juvenile Courts Practice and Procedure* by Gary Seiser and the Hon. Kurt Kumli, and the National Association of Counsel for Children’s *Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases*, edited by Marvin Ventrell and Donald Duquette.

CAI is extremely grateful to the following experts who participated in the trainings:

Frank Birchak

Lisa Conradi

Katie Ford

Kara Hatfield

Dr. Marilyn Kaufhold

Candi Mayes

Prof. John E. B. Myers

John Passalacqua

Shannon Sullivan

Marvin Ventrell

Jenny Chung

Barbara Duey

Cassandra Harris

Sophia Herman

Martha Matthews

David Meyers

Michelle Neumann-Ribner

Princess Ramey

Robin Vanderlaan

Christopher Wu



Approximately 130 attorneys attended the trainings, from every area of the state. The attendees found the trainings to be extremely useful — overall evaluations of the trainings averaged more than 4.5 points out of 5. The San Diego segments were videotaped and are available for online viewing, as are the handouts for those segments, on CAI's website (www.caichildlaw.org).

CAI was honored to receive a second year grant from OES to conduct training sessions in 2008, and is currently planning and coordinating those events.

Public Disclosure of Child Abuse Deaths & Near Deaths

Approximately 1,500 children die every year as a result of abuse or neglect in the United States, and countless more children suffer near fatal injuries caused by abuse or neglect. Pursuant to the federal Child Abuse Prevention and Treatment Act (CAPTA), states receiving CAPTA funding must have provisions that “allow for public disclosure of the findings or information about” abuse or neglect cases that result in child death or life-threatening injuries. All 50 states and the District of Columbia accept federal funds under CAPTA.

During 2007, CAI legal intern Emily Reinig engaged in an extensive project to identify and analyze each state's public disclosure policy, and to grade the states based on the following criteria:

- Does the state have a public disclosure policy as mandated by CAPTA?
- Is the state's policy codified in statute, or is it contained in regulation or written (or oral) policy?
- What is the ease of access to the information (does the policy use mandatory or permissive language, and is the release of information contingent on conditions precedent)?
- What is the scope of information authorized for release, and are there exceptions that decrease the type of information that will be released?
- Does the state allow public access to Dependency Court (abuse/neglect) proceedings?

As part of her research, Emily contacted the State Liaison Officers for Child Abuse and Neglect, as well as other officials from state social services agencies and child fatality review teams across the country, and solicited their assistance and cooperation in providing information and reviewing her results. CAI staff is working closely with Emily to review the results of her research, which will be compiled into a major report that will be co-published by CAI and First Star, and released at a press conference in the U.S. Capitol in April 2008.

Foster Family Home Crisis

On May 22, 2007, CAI, the County Welfare Directors Association (CWDA), and Legal Advocates for Permanent Parenting (LAPP) co-sponsored a press conference at the State Capitol to release two reports detailing California's unprecedented inability to find licensed homes willing to accept the state's nearly 80,000 foster children, with some counties reporting an alarming 50% plummet in the number of such family placements. The reports — ***No Family, No Future***, produced by the CWDA and LAPP, and ***They Deserve a Family***, produced by CAI and written by CAI legal intern Jenna Leyton — document the impact the shortage of homes is having on foster children, including costly and unnecessary placement of children in group homes, and the ways in which an outdated rate structure is limiting the ability of families to care for foster children and youth.

The reports indicate an average 32% decline in licensed foster homes across the state, with counties such as Sacramento, Santa Clara, San Mateo, and Sonoma reporting losses of 45–50%. San Bernardino County has experienced a 61% decline. The reports show that as the number of licensed foster families has decreased, counties have had to turn to far more costly foster family agencies and group homes to provide care for children. Since 1999, foster care placements with foster family agencies and group homes have increased by 19% and 5%, respectively.



In California, licensed foster families receive \$425 to \$597 per month to provide care and support for foster children, depending on the age of the child. Foster family agencies and group homes, which are intended for children with higher levels of therapeutic need, cost far more. Foster family agencies receive \$1,589 to \$1,865 per month and group homes receive \$1,454 to \$6,371 per month per child.

The reports document that when foster children are placed in institutional settings such as group homes, they are at higher risk for developmental problems, long-term personality disorders and medical ailments. The reports also document that children stay in group homes and foster family agencies longer than they do with licensed foster families, and have less chance of being connected to family, are more likely to transition out of foster care alone, and are more likely to experience poorer outcomes as adults.

A critical theme in both reports is the relationship between the number of licensed foster families and monthly foster care payments. Both reports cite the ways in which insufficient payments are a key barrier. By analyzing various state and federal measures, including the California Necessities Index, the reports document the degree to which foster care rates have not kept up with inflation – noting that rates are 23–25% lower than they were in 2000 when adjusted for inflation. The report contrasts the average foster care rate of \$494

per month with the average cost to care for a child in California, which is significantly higher at \$707 per month.

In a telling contrast, the reports note that California pays less to care for foster children than the average kennel charges to board and feed a dog. Kennels charge an average of \$620 per month to care for a dog, compared to the average of cost of \$494 per month for basic board and care for a foster child.

The reports also note that foster care rates are not the only barrier to families providing care for foster children, noting research that shows as many as 60% of new foster parents quit within the first 12 months. The reports cite foster family surveys where families have consistently indicated the need for supports such as respite care, mentoring and ongoing access to experienced foster/adoptive parents, caseworkers and professionals. The chief recommendations called for in both reports include an immediate increase in foster care rates, ranging from 5–25%, and the provision of \$25 million in additional supports for foster and adoptive families. Both reports endorsed AB 324 (Beall), which would increase foster care rates by 5%, effective January 1, 2008, stating that the increase is a critical first step. Both reports also strongly endorse the Beall provision that would mandate annual cost of living increases in foster care rates, a provision that is currently in state statute but routinely suspended by lawmakers in lieu of other priorities.



Dr. **Gary Richwald**, CAI Council for Children Vice-Chair and President of the Price Child Health and Welfare Journalism Awards, presents plaques to 2007 First Place (tie) recipient **Caille Millner** of the San Francisco Chronicle...



...2007 First Place (tie) recipient **Joe Piasecki** of the Pasadena Weekly...



...and 2007 Special Interest Award recipient **Daniel Heimpel**.

School Nurse Shortage

The National Association of School Nurses recommends a ratio of one school nurse for every 750 students who require a normal level of care, and lower ratios for students who require additional care. However, no law currently requires California schools to have a school nurse on staff until after the school has clearly identified an individual student with a special need covered by federal disability law. In addition, several statutes undermine the role of a school nurse by providing for self-administered care by students, delegation of health care to other faculty, performance of services by non-credentialed nurses and outsourcing of health care to external nurses and physicians. This situation leaves many students at risk.

CAI has become concerned about this situation and is considering sponsoring legislation to remedy this situation. CAI legal intern **Shelly Kamei** is working on this issue, and is currently conducting research on the state of school nursing and provision of health care services in California public schools. As part of her research efforts, Shelly conducted a survey of California school nurses and administrators and received close to 500 responses from across the state. She is currently analyzing the results of the survey responses to gather data that will assist in the drafting of legislation that will protect the health of California's children while they are in school.

Price Child Health & 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.

The recipients of the 2007 Price Child Health and Welfare Journalism Awards were the following:

- 1st Place (tie): The **Pasadena Weekly** series, "**Throwaway Kids**," written by **Joe Piasecki**, a five-part series chronicling the dangers and pitfalls that await thousands of youth aging out of the foster care system each year.

- 1st Place (tie): The **San Francisco Chronicle** series of editorials and news stories entitled, "**No Refuge**," exposing the failings and deficiencies of California's foster care system, and urging positive change for the children involved.

- 3rd Place: The **Press-Enterprise** article entitled, "**No Rescue**," an in-depth report by **Paige Austin** on how social services agencies and others failed to protect two young boys from being tortured and eventually beaten to death.

•Special Interest Award: **Daniel Heimpel**, for “**Foreign Turf**,” a series of articles appearing in *Tu Ciudad Magazine* and *InsideLacrosse.com* on how a lacrosse team in South Los Angeles is offering high school students a positive alternative to gangs and drugs.

CAI gratefully acknowledges the dedication of the members of the selection committee who reviewed the numerous submissions: Chair Gary Richwald, M.D., M.P.H.; Robert C. Fellmeth, J.D.; Anne Fragasso, J.D.; 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.; Dr. Robert Valdez, Ph.D.; and Elisa Weichel, J.D.

Homeless Youth Outreach Project

Under the direction of Equal Justice Works Fellow Kriste Draper, CAI’s Homeless Youth Outreach Project provides 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 legal clinic to the homeless youth population of San Diego County through schools, shelters and outreach centers, such as Stand Up For Kids’ outreach center in downtown 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.

CAI is extremely grateful to Sony Electronics, Inc., as well as the Leon Strauss Foundation and the Kohala Foundation, for supporting this much needed effort to help homeless youth transition to safer environments and brighter futures.





An educational representative is also required to meet with the child at least once and as often as necessary to make educational decisions that are in the best interest of the child; be culturally sensitive to the child; comply with federal and state confidentiality laws; participate in, and make decisions regarding, all matters affecting the child's educational needs in a manner consistent with the child's best interest; and have knowledge and skills that ensure adequate representation of the child.

In San Diego County — and probably in most counties across the state — there is a severe undersupply of adults who are willing and able to serve as a foster child's educational representative. To be an educational representative, a person must be a responsible adult who does not have a conflict of interest, defined as any interests that might restrict or bias his/her ability to make educational decisions. If a court is unable to identify an educational representative for a child who is eligible for special education services, the court must then refer the child to the local school district to appoint a surrogate parent. This arrangement troubles many child advocates, who are concerned that some school district appointments are not always conflict-free. Further, if a court is unable to identify an educational representative for a child who is not eligible for special education services, the law does not specify how such an appointment is to be made — and these children often languish indefinitely with no adult available to make decisions regarding their education, unless the court takes on this role itself.

Educational Representatives

When a child is placed into foster care — and in particular when a child is put into a group home placement, as opposed to a foster family home — there is often no adult in the child's life who is willing and able to participate in making educational decisions on his/her behalf. For those children, the court is required to appoint educational representatives to represent the child in the identification, evaluation, and educational placement of the child and with the provision of the child's free, appropriate public education. This includes representing the child in all matters relating to the child's education including the stability of the child's school placement; placement in the least restrictive educational program appropriate to the child's individual needs; the child's access to academic resources, services, and extracurricular and enrichment activities; the child's access to educational supports necessary to meet state academic achievement standards; school disciplinary matters; and other aspects of the provision of a free, appropriate public education.

To help increase the supply of educational representatives, CAI has been working with the **Public Defender's Office of Child Advocacy**, the **San Diego County Office of Education's Foster Youth Services Program**, **Voices for Children**, the **San Diego Volunteer Lawyer Program**, and others to develop a program through which CAI will recruit, train, and supervise law students and others who are willing to serve as educational representatives for foster youth. CAI hopes to have this program up and running by Fall 2008.

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.

2007 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, 2007, and December 31, 2007, and/or in response to CAI's 2007 holiday solicitation:

Vickie Lynn Bibro and John H. Abbott

Prof. Larry Alexander

Mr. and Mrs. Victor N. Allstead

Anzalone & Associates

Maureen J. Arrigo

Prof. Carl A. Auerbach

Steve Barrow and Alexis Esparza

Jonathan E. Bejar

Bishop's School

Robert L. Black, M.D.

Bob and Lucinda Brashares

Prof. Roy L. Brooks (*in memory of Penny Brooks*)

Alan and Susan Brubaker (*in memory of James A. D'Angelo*)

Dana Bunnett

Prof. Karen Burke

Peter and Suzette Burnside

The California Wellness Foundation

Rod Cardoza

Carlos Carriedo

Prof. Nancy Carol Carter

Professor Laurence P. Claus

Joan B. Claybrook

Dean Kevin Cole

The ConAgra Foundation

Consumers First, Inc., Jim Conran

Consumers Union of United States, Inc.

Paula Cordeiro

Coughlin Stoia Geller Redman & Robbins LLP (*cy pres distribution*)

David and Sandra Cox

Prof. Lynne L. Dallas (*in memory of Mildred J. Allen*)

Mrs. Margaret Dalton

Hon. Peter T. and Joyce D'Angelo (*in memory of James A. D'Angelo*)

Steven Davis



Albert DeLeon
 David X. Durkin
 Mr. Charles Eggers
 Prof. Robert C. Fellmeth
 David Forstadt (*in memory of James A. D'Angelo*)
 Ronald F. Frazier
 Donna L. Freeman and Eugene F. Erbin
 Prof. C. Hugh Friedman
 Elizabeth Givens
 Joel C. Golden
 Dr. John Goldenring
 David and Constance Goldin
 Goodsearch.com
 James and Patricia Goodwin (*in memory of James A. D'Angelo*)
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 Adrienne Hirt & Jeff Rodman
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 Peter J. Hughes
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 Michael Jackman
 Dorothy and Allan K. Jonas
 Prof. Yale Kamisar
 Kazan, McClain, Abrams, Fernandez, Lyons &
 Farrise Foundation, Inc.
 Prof. Adam Kolber
 Kathryn E. Krug (*in memory of James A. D'Angelo*)
 Patricia Kuhi
 David Law
 Prof. Herbert and Jane Lazerow
 The Leon Strauss Foundation
 John W. and Joanne Higgins Leslie
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 Augustus Magee
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 Debra and David Maurer
 James and Gayle McKenna Family Trust
 Edwin L. Miller, Jr.

John and Margo Minan (*in honor of the Minan Family*)
 Ralph Nader
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 David Pugh and Cynthia Simpson
 Richard C. and Nanette B. Pugh
 Gary Redenbacher and Renae Fish
 Donald Rez
 Dr. Gary A. Richwald
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 Blair L. Sadler
 Gloria P. Samson
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 Donald and Darlene Shiley (*in memory of John McNamara*)
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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



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 (currently holding the office of NACC Vice-Chair), First Star, and the Maternal and Child Health Access Project Foundation; and he serves as counsel to the Board of Directors of Voices for America's Children.

Elisa Weichel is CAI's Administrative Director and staff attorney. Among other things, Weichel directs all of CAI's administrative functions, managing CAI's master budget and coordinating all fundraising, development, and outreach; oversees all of CAI's programs and grant projects; serves as Editor-in-Chief of CAI's *Children's Regulatory Law Reporter*; coordinates the drafting and production of the *Children's Legislative Report Card* and

the *CAI Annual Report*; supervises legal interns participating in CAI's academic program, as well as other volunteers; 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; oversees the CAI website; 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 the Center for Public Interest Law.

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 CPIL's master budget, 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.



Melanie Delgado serves as CAI Staff Attorney in the San Diego office, working on CAI grant projects, litigation, and related activities. Delgado has extensive expertise in the area of services, programs, and funding for youth aging out of the foster care system. 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, and was a co-recipient of the James A. D'Angelo Outstanding Child Advocate Award in 2006.

Kriste Draper serves as Equal Justice Works Fellow for the Children's Advocacy Institute, where she runs the Homeless Youth

Outreach Project. Draper has been an advocate for the homeless for several years, ever prior to starting law school. Draper is a graduate of the USD School of Law, where she participated in the CAI academic program, and was a co-recipient of the James A. D'Angelo Outstanding Child Advocate Award in 2006.

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

Lillian Clark serves as Executive Assistant in the Sacramento office, where she supports CAI's legislative advocacy program. Before joining 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.

Christina Falcone serves as Executive Assistant, performing 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.

Ed Howard is CAI's Senior Counsel, based in the Sacramento office. In addition to conducting CAI's legislative and policy advocacy, Howard performs litigation activities and chairs the Children's Advocates Roundtable, a network of 300 California child advocacy organizations representing over twenty issue disciplines. Howard's expertise in California legislative politics and policy stems from his years as Special Counsel and Chief Policy Advisor to a State Senator and Chief Consultant of two standing California legislative committees. Howard received his B.A. from The George Washington University's political science program in Washington, D.C. and received his J.D. from Loyola Law School, where he was awarded the American Jurisprudence Award for Constitutional Law and was selected as Chief Justice of the Moot Court. He is a member of the State Bar of California, and as well is admitted to practice law before the Ninth Circuit and United States Supreme Courts.

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.

CAI Council for Children



The CAI Council for Children:

Robert C. Fellmeth (CAI Executive Director, Price Professor of Public Interest Law); **Blair Sadler**; **Dr. Gary Richwald** (Council Vice-Chair); **Hon. Leon Kaplan**; **Gary Redenbacher** (Council Chair); **Gloria Samson**; **Dr. Robert Black**; **Dr. John Goldenring**; **Dr. Alan Shumacher**. Not pictured: Dr. Louise Horvitz; Hon. Jan Goldsmith; James McKenna; Tom Papageorge; Owen Smith.

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., J.D.

Consulting medical director, practicing pediatrician, attorney at law (San Diego)



Honorable Jan I. Goldsmith

Judge, San Diego Superior Court (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, Lanyers (San Diego)





Children's Advocacy Institute